

**OPERATING AGREEMENT**

**BETWEEN**

**THE CITY OF LOS ANGELES,  
DEPARTMENT OF AIRPORTS**

**AND**

**CURRENT ENERGY, LLC, A CALIFORNIA  
LIMITED LIABILITY COMPANY**

**REGARDING**

**ROOFTOP PHOTOVOLTAIC SOLAR POWER SYSTEM AT VAN NUYS**

**AIRPORT**

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OPERATING AGREEMENT  
BETWEEN THE CITY OF LOS ANGELES  
AND  
CURRENT ENERGY, LLC,  
A CALIFORNIA LIMITED LIABILITY COMPANY  
FOR THE ROOFTOP PHOTOVOLTAIC SOLAR POWER SYSTEM

7800 Woodley Avenue

THIS OPERATING AGREEMENT (this “Agreement” or “Operating Agreement”), is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2024, at Los Angeles, California, by and between the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Airport Commissioners (“Board”) of the Department of Airports also known as Los Angeles World Airports (collectively referred to as “City” or “LAWA”) and CURRENT ENERGY, LLC, a California limited liability company (“Operator”) (sometimes herein referred to individually as a “party” or together as “parties”).

RECITALS

WHEREAS, LAWA requires specialized services for the development, construction, installation, operation, management and maintenance of rooftop photovoltaic solar power systems at Van Nuys Airport (hereinafter “VNY” or “Airport”); and

WHEREAS, on May 27, 2022, LAWA issued a Request for Proposals for “Rooftop Photovoltaic Solar Power Systems For Van Nuys Airport Properties” (“RFP”) for up to eight potential site locations listed under Table 1 of the RFP; and

WHEREAS, LAWA received a proposal from Current Energy LLC (“Current Energy”), a California limited liability company, which proposal included development of six of these site locations and a summary of contemplated financing terms which included Current Energy as Operator; and

WHEREAS, Current Energy possesses extensive experience in the financing, development, construction, installation, operation, management, and maintenance of photovoltaic solar power systems and by virtue of training and experience, are well qualified to provide such specialized services to LAWA; and

WHEREAS, by reason of the nature and length of the specialized services required by LAWA, it is not economical or feasible for LAWA to have such specialized services performed by its own employees; and



WHEREAS, LAWA and Operator desire to enter into this Operating Agreement for Operator to develop, install, operate and maintain a photovoltaic (“PV”) solar power system (“PV System”) on the Airport property specified herein; and

WHEREAS, LAWA and Operator anticipate that, when available, Operator shall agree to enter into an operating agreement for the five other site locations indicated by Operator to be viable for rooftop solar power systems; and

WHEREAS, if additional site locations are available and presented by LAWA to Operator, Operator and LAWA shall enter into a Operating Agreement on substantially the same terms as provided in this Operating Agreement within thirty (30) days. Failure by Operator to accept the site location and enter in an operating agreement for such additional site location shall be deemed a waiver of Operator’s right to develop a rooftop solar power system on that site location under the RFP and will release LAWA to use such site location rooftop for other uses.

The parties hereto, for and in consideration of the covenants and conditions hereinafter contained to be kept and performed, DO HEREBY AGREE AS FOLLOWS:

## **ARTICLE 1: SPECIFIC TERMS AND PROVISIONS**

### **Section 1. Term of Agreement.**

1.1. Term. The term of this Agreement (“Term”) shall commence on the date upon which all parties have executed this Agreement (“Effective Date”) and shall expire (“Expiration Date”) on the twentieth (20th) anniversary of the PV System Commercial Operation Date (as defined below) of the PV System described in the PV System Activation Form (attached as Exhibit C), subject however, to earlier termination in accordance with the provisions set forth herein.

1.1.1. PV System Commencement Date. The “PV System Commencement Date” shall mean the date that is the earlier of: a) 365 days from the Site Location Delivery Date, as defined in Section 1.1.4 or b) the PV System’s Commercial Operation Date.

1.1.2. PV System Activation Form. The Commercial Operation Date shall be established in a written document in a form attached hereto as Exhibit C, (“PV System Activation Form”), without further action by the Board.

1.1.3. Commercial Operation Date. For the purposes of this Agreement, “Commercial Operation Date” shall mean the date the PV System is in full Commercial Operation with Energy sold to the City of Los Angeles Department of Water & Power (“LADWP”). “Energy” shall mean the electrical energy generated by the PV System expressed in units of kilowatt hours or kWh. “Commercial Operation” means completed permitting, construction, and testing of the PV System such that the PV System is both authorized and able to deliver Energy at full capacity

to the point of interconnection. At least seven (7) days prior to the Commercial Operation Date for the PV System, Operator shall deliver to LAWA written notice with documentation to evidence that the PV System is ready to begin Commercial Operation and written notice of the Commercial Operation Date.

If, other than by reason of LAWA's default hereunder, Operator has not achieved Commercial Operation for the PV System within two (2) years after the Site Location Delivery Date, or such later date as LAWA and Operator shall mutually agree in writing, LAWA, at its sole discretion, may terminate this Operating Agreement and Operator's License (as defined below) for the Site Location and LAWA and Operator shall thereafter be released and discharged from all obligations hereunder. Upon any such termination, Operator shall immediately remove all of Operator's equipment from the Site Location, repair any damage caused by installation and/or removal of the PV system in accordance with the terms hereof, and surrender the Site Location in a condition substantially similar to the condition of the Site Location on the date the Site License commenced, ordinary wear and tear excepted.

1.1.4. Delivery Date. The term "Site Location Delivery Date" shall mean the date that LAWA provides Operator possession and the right to use the Site Location, as defined in Section 2.1, to commence installation of the PV System on the Site Location, *provided that* the parties have entered into a License, as described in and pursuant to Section 3.5, for the Site Location. The Site Location Delivery Date for the Site Location shall be described in Exhibit D.

1.1.5. Inspection Access. From the Effective Date until the Site Location Delivery Date, Operator may enter the Site Location solely for inspections, environmental analysis, and other customary due diligence and analysis for the PV System, *provided that* (a) Operator delivers to LAWA at least forty-eight (48) hours prior written notice that it wishes to access the Site Location for the above purpose(s), (b) LAWA provides written approval of such entry and access by Operator (not to be unreasonably withheld, unreasonably conditioned or unreasonably delayed); and (c) Operator does not materially or unreasonably interfere with or disturb any existing uses at the Site Location.

1.2. Notwithstanding anything herein to the contrary, Operator acknowledges that it has no right to an extension of this Agreement or a right to a new operating agreement at the expiration of this Agreement.

## **Section 2. Rights Granted to Operator.**

2.1. Scope of Work. Operator shall finance, develop, construct, install, operate, manage, maintain and conduct any other related services for the PV System at the location identified in Exhibit A, which is attached hereto and incorporated by reference to this Agreement (the "Site Location"), or as otherwise may be agreed upon by LAWA and Operator in accordance with the terms and conditions set forth in this Agreement. Exhibit A identifies the Site Location, including

the buildings and/or portions of rooftops proposed for the PV System on the Site Location. With respect to this Agreement, Operator's responsibilities include, but are not limited to, financing, engineering, acquiring all required permits, procurement, installation (including utilities), security (including badging for Operator's employees and contractors at Operator's expense), operation and maintenance, transportation, labor, materials, and any temporary or interim facilities required to maintain essential existing functions in operation throughout the operational period at the Site Location. To the extent reasonably necessary for Operator to perform its responsibilities with respect to the PV System as described in this paragraph, LAWA shall cooperate with reasonable requests from Operator related to Operator's performance of such responsibilities, at no cost or expense to LAWA.

2.1.1. LAWA's Right for Other Sites. LAWA reserves the right to enter into or contract with any other companies or entities to allow use of any other sites, locations, or areas at VNY or other LAWA properties (other than the Site Location) for the installation and operation of solar power systems.

2.2. City of Los Angeles Los Angeles Department of Water and Power.

Operator shall comply with LADWP Feed-in Tariff Program ("FiT Program") Guidelines, which may be modified from time to time at the sole discretion of LADWP, as applicable to the PV System.

2.2.1. SOPPA. Operator shall be solely responsible for entering into a solar power purchase agreement to sell Energy from an Eligible Renewable Electricity Resource as defined in the FiT Program with LADWP (the "SOPPA"); provided that LAWA shall cooperate with Operator as reasonably necessary for entering into such SOPPA at no cost or expense to LAWA. Operator shall provide to LAWA a copy of the fully executed and final SOPPA which shall become Exhibit E to this Agreement without any further action of the Board. Operator shall comply with all the terms, conditions, and provisions of the SOPPA with LADWP. In the event LADWP and Operator amend the SOPPA or add supplemental documents to the SOPPA, Operator shall provide LAWA a copy of the fully executed and final amendment(s) and/or supplemental documents which shall be numbered and attached to this Agreement as Exhibit E-1, E-2, etc., as applicable without any further action of the Board.

2.2.2. SOPPA Subordinate to Operating Agreement. The SOPPA and any agreement entered into between Operator and LADWP related to the PV System shall be subordinate to this Operating Agreement.

2.2.3. Termination of SOPPA. Unless LAWA exercises its right to purchase the PV System pursuant its purchase right in Section 3.3, upon termination of Operator's SOPPA with LADWP, Operator shall notify LAWA of such termination and the PV System shall be removed at Operator's sole cost and expense and the Site Location shall be surrendered in accordance with Article 1, Section 4.1.2.

2.3. Operator's Representations, Warranties, and Covenants. Operator's representations, warranties, and covenants to LAWA as of the Effective Date shall be consistent with Operator's SOPPA with LADWP set forth in Exhibit E.

2.4. Intentionally Deleted.

2.5. Except as expressly provided otherwise in Section 6.2 and Section 6.3, Operator expressly agrees to pay all costs and expenses, direct and indirect, associated with the PV System, including but not limited to all costs associated with inspection, architectural, design and engineering and other professional or consultant services, permitting and inspection fees, project financing, utility relocation and upgrading, environmental review, landscaping, construction, maintenance and operation of the PV System, and other costs related to the PV System.

2.6 LAWA's Representations and Warranties. Except as provided otherwise in Section 2.1, LAWA represents and warrants to Operator that it holds fee title or otherwise controls the Site Location.

### **Section 3. PV System.**

3.1. Operator's PV System. Operator shall develop, construct and install the PV System. PV modules shall have a minimum PV USA Test Conditions ("PTC") rating of 400 watts and a minimum module efficiency of 18%. Inverters shall have a weighted efficiency of not less than 96%. Operator shall be required to submit a FiT Program application to LADWP to build and operate the PV System with a minimum capacity to generate at least eighty percent (80%) of the solar production capacity specified in Operator's Proposal to LAWA with respect to the PV System. If the PV System does not meet such 80% threshold, then Operator shall provide written notice to LAWA indicating that the proposed PV System does not meet such 80% threshold as provided above, prior to entering into any SOPPA and Interconnection Agreement (any such notice, a "Reduced System Notice"), and, in such case, the LAWA CEO (as defined below) may, in his or her sole discretion, terminate this Agreement by providing written notice thereof within thirty (30) days of receipt of the applicable Reduced System Notice. If the LAWA CEO fails to timely provide such written notice, then such right to terminate shall be null and void. In the case of such termination, Operator shall surrender the Site Location in a condition substantially similar to the condition of the Site Location on the date the License commenced, ordinary wear and tear excepted.

3.2. Ownership of PV System. LAWA and Operator acknowledge and agree the PV System is and shall remain the property of Operator and LAWA expressly waives any right, title, or interest in the PV System, except in the event of LAWA's exercise of its right to purchase the PV System pursuant to Section 3.3. LAWA agrees that the PV System shall be considered the property of Operator or a Financing Party (defined below) designated by Operator, and, even though



attached or affixed to or installed upon the Site Location, shall not be considered to be fixtures or a part of the Site Location and shall not be or become subject to the lien of any mortgage or deed of trust heretofore or hereafter placed on the Site Location by LAWA or any other owner of the fee title. Except in the event of LAWA's exercise of its right to purchase the PV System pursuant to Section 3.3, LAWA agrees to subordinate any rights it may have under the laws of the State of California, arising under this Agreement or otherwise, to any lien upon any item constituting part of the PV System to that of Operator's lender's security interest, any right to distress or attachment upon, or any other interest in, any item constituting part of the PV System. The PV System shall at all times retain the legal status of personal property as defined in the Uniform Commercial Code in effect in the State of California. Pursuant to Revenue & Taxation Code Section 107.6, LAWA hereby advises Operator that this Agreement entered into between LAWA and Operator may create a possessory interest, subject to property taxation. In the event Operator's interest in the Site Location, including the project improvements required to be constructed by Operator, becomes subject to the payment of property taxes levied on such interest, for purposes of this Agreement, Operator shall be responsible for the payment of such taxes to the taxing agency.

LAWA further agrees that all Tax Attributes belong solely to Operator, and Operator and LAWA agree that all Environmental Attributes shall be transferred to LADWP. As used herein, (a) "Environmental Attributes" shall mean, without limitation, carbon trading credits, renewable energy credits or certificates, emissions reduction credits, emissions allowances, green tags, tradeable renewable credits, or Green-e® products, and (b) "Tax Attributes" means investment tax credits (including any grants or payments in lieu thereof) and any tax deductions or other benefits under the Internal Revenue Code or applicable federal, state, or local law available as a result of the ownership and/or operation of the PV System or the output generated by the PV System (including, without limitation, tax credits (including any grants or payments in lieu thereof) and accelerated and/or bonus depreciation).

3.3. LAWA's Purchase Right. Beginning on the date that is seven (7) years following the Commercial Operation Date, LAWA shall have the right to purchase (the "Purchase Right") the PV System from Operator and terminate this Operating Agreement ("Equipment Purchase"), on each annual anniversary of the Commercial Operation Date for the PV System, for a purchase price equal to the Fair Market Value (as defined in Section 7.3) of the PV System. LAWA's exercise of the Purchase Right shall be delivered to Operator by notice pursuant to Article 2, Section 33.12 at least ninety (90) days prior to the applicable annual anniversary of the Commercial Operation Date or shall otherwise be deemed waived as to such year. The Purchase Right (and LAWA's purchase of the PV System pursuant thereto) shall require Operator's assignment to LAWA, or its designated operator, of its rights, which shall not be withheld, and LAWA's, or its designated operator's, assumption of Operator's obligations, under the SOPPA and Interconnection Agreement (and LADWP's consent to such assignment and assumption, if applicable).

3.4. Interconnection. Operator shall be solely responsible for extending and terminating the AC power from the PV System to the point of Interconnection (as defined below) to be confirmed by LADWP and in compliance with LADWP's voltage, phase, and frequency

requirements. Notwithstanding the foregoing, for the proposed location of Interconnection, LAWA shall review such Interconnection location to determine feasibility for providing a license and/or access rights as may be reasonably necessary for Operator to accomplish Interconnection at that proposed point of Interconnection location for the Site Location, as further provided in Section 3.5. For purposes of this Agreement, “Interconnection” shall be defined as a LADWP facility designed, constructed, owned, operated, and maintained by LADWP for the safe operation of the PV System in parallel with LADWP’s power distribution network. If providing a license or right of entry for Interconnection is not feasible for the Site Location, as may be determined by either party, then that party may terminate this Agreement and LAWA and Operator shall thereafter be released and discharged from all obligations hereunder.

3.4.1 Interconnection Agreement. Operator shall, at its sole cost and expense, negotiate and enter into an agreement with LADWP for Interconnection (“Interconnection Agreement”), as amended, supplemented or otherwise modified from time to time, provided that LAWA shall cooperate with reasonable requests from Operator related to entering into such Interconnection Agreement, provided that such cooperation is at no cost or expense to LAWA. Operator is responsible for compliance with all terms and conditions set forth in the Interconnection Agreement. The form of the Interconnection Agreement between Operator and LADWP is attached hereto as Exhibit G. Operator shall provide LAWA a copy of the negotiated Interconnection Agreement at least thirty (30) days prior to execution of same with LADWP for LAWA to review the Interconnection Agreement for consistency with the terms of this Agreement. LAWA shall have twenty-one (21) days to review the Interconnection Agreement prior to Operator executing the Agreement. If LAWA’s CEO, or designee, determines the Interconnection Agreement is inconsistent with the terms of this Agreement (provided such objection is provided to Operator within the 21-day period provided in the prior sentence), LAWA may object to the Interconnection Agreement and shall provide Operator with a list of inconsistent terms or provisions. In such case, Operator shall renegotiate with LADWP to ensure the Interconnection Agreement is consistent with this Agreement. If Operator and LADWP are unable to resolve the inconsistencies indicated by LAWA following good faith negotiations between Operator and LADWP, either party may terminate this Agreement and LAWA and Operator shall thereafter be released and discharged from all obligations hereunder. Notwithstanding the foregoing or anything to the contrary contained herein, LAWA shall have no right to object to, and Operator shall have no obligation to renegotiate with LADWP, any terms or provisions of the Interconnection Agreement to the extent the same are consistent with the form of Interconnection Agreement attached hereto as Exhibit G (and, for the avoidance of doubt, no termination right shall apply in such case). LAWA’s failure to provide any objection to the Interconnection Agreement within the time period stated above shall be deemed approval of the Interconnection Agreement. Operator shall provide to LAWA a copy of the fully executed and final Interconnection Agreement for the PV System, which shall be attached to this Agreement as Exhibit G-1 without any further action of the Board.

3.4.2 Interconnection Cost. Operator shall be responsible for the payment of any and all related study and Interconnection costs and fees for the PV System as charged by LADWP. LAWA shall not be responsible for any statements, invoicing, or any other billing related to

Interconnection costs charged by LADWP on Operator.

3.4.3 Subordinate to Operating Agreement. The Interconnection Agreement and any agreement entered into between Operator and LADWP related to the PV System shall be subordinate to this Agreement.

3.5. License and/or Right of Entry. LAWA agrees to grant to Operator a license or right of entry (as the case may be) to install the PV System and equipment on, over and/or under the Site Location (as defined below) as is reasonably necessary for the Permitted Use (as defined in Section 4.1) (the "License"); *provided, however*, that the License shall be in substantially the form attached hereto as Exhibit J and any undefined terms in such form, including the nature and location of such equipment, shall be mutually agreed upon by the parties prior to the Site Location Delivery Date and installation of the PV System on the Site Location by Operator. The agreed upon License for the PV System shall be promptly executed by the parties and attached as Exhibit J-1 without any further action of the Board. If the License has not been executed by the parties on or before the second (2<sup>nd</sup>) anniversary of the Site Delivery Date, then this Agreement shall terminate upon the written election of either party and LAWA and Operator shall thereafter be released and discharged from all obligations hereunder. In addition, Operator may terminate this Agreement within one hundred eighty (180) days of the Site Delivery Date in the event that Operator determines in its reasonable discretion that the Site Location is not suitable for the construction and/or operation of the PV System, which shall include if the Operator is unable to secure a binding written commitment for financing (whether via debt, equity investment, or otherwise) of the PV System despite its best efforts, by providing ten (10) days prior written notice to LAWA and, upon any such termination, Operator shall immediately remove all of Operator's equipment from the Site Location, repair any damage caused by Operator in accordance with the terms hereof, surrender the Site Location in a condition substantially similar to the condition of the Site Location on the date the Site Location Delivery Date and LAWA and Operator shall thereafter be released and discharged from all obligations hereunder (except for obligations which survive the termination of the Agreement).

#### **Section 4. PV System Site Location.**

4.1. Site Location. The PV System shall be installed and operated at the Site Location set forth in Exhibit A. This Operating Agreement does not provide authorization or approval for construction of the PV System prior to compliance with CEQA, NEPA and all other applicable laws. LAWA will serve as lead agency under the CEQA environmental review process and the lead coordinating sponsor with the Federal Aviation Administration on the NEPA environmental review process, as applicable. LAWA expressly reserves the right to exercise complete unfettered discretion and to consider all mitigation measures with respect to CEQA, NEPA and all other applicable laws for any proposed development, all alternatives, including the "no project" alternative for any proposed development, and the ability to adopt a Statement of Overriding Considerations pursuant to CEQA and NEPA. The parties agree that the installation of the PV System at the Site Location has independent utility and is not dependent upon the construction of

any other PV solar power system at any of the potential site locations listed under Table 1 of the RFP. Operator shall be required to enter into operating agreements with LAWA for the additional site locations listed under Table 1 of the RFP when presented by LAWA to Operator.

4.1.1. No Ownership Interest. Operator acknowledges that, except for the License expressly granted herein, no possessory interest in any part of the Site Location is conveyed or accrues under this Agreement. Ownership of the Site Location, including the real property, buildings, facilities, fixtures, equipment and other property constituting the Site Location shall remain with LAWA. Accordingly, LAWA and Operator agree that nothing in this Agreement shall entitle Operator to file any claim, lien, or notice against any real property owned by LAWA.

4.1.2. Acceptance and Surrender. Operator acknowledges and accepts the Site Location "AS IS", "WHERE IS", with all faults and limitations, provided that nothing herein shall be construed to negate any provision of this Agreement. LAWA makes no warranty or representation as to the condition of the Site Location, the compliance of the Site Location with codes or applicable law, or that the Site Location are suitable for Operator's use, it being assumed Operator has satisfied itself thereof and assumed all risk associated therewith. LAWA is under no obligation to perform any work or provide any materials to prepare the Site Location for Operator. Operator agrees that upon the expiration or earlier termination of this Agreement or the SOPPA, Operator shall immediately remove all Operator's equipment from the Site Location, repair any damage caused by installation and/or removal of the PV System and surrender the Site Location in a condition substantially similar to the condition of such Site Location on the date the License commenced, ordinary wear and tear excepted.

4.2. Site Location Modification. LAWA shall have the right to modify Exhibit A to correct any inaccuracies as to the location of the License after installation without any need for Operator's prior approval, but LAWA shall promptly provide a copy of any such modifications to Operator. If this Agreement is to be terminated for any reason as provided in this Agreement, LAWA's Chief Executive Officer or his/her designee (collectively referred to as "CEO" or "Chief Executive Officer"), in his or her sole discretion, may make substitute site location(s) available to the Operator. If such substitute site is offered to Operator, Operator and CEO shall enter into discussions to review substitute site(s). If a substitute site is identified and acceptable to both Operator and LAWA, that site will be made available on the same terms and conditions as set forth in this Agreement. The parties acknowledge that any change to the Site Location or any substitute site as contemplated herein may be subject to environmental review pursuant to CEQA and approval by the BOAC. If a substitute site is unacceptable to the parties, then Operator shall have no right to such substitute site and LAWA shall be free to offer such substitute site to other parties on such terms and conditions the LAWA CEO deems appropriate.

4.2.1. LAWA's Request for Temporary or Permanent Removal. Notwithstanding any other provision of this Agreement, but subject to Article 1, Section 7 (including, without limitation, Article 1, Sections 7.2 and 7.3), if, at any time during the Term of this Agreement, the CEO determines in his or her sole discretion that Operator must temporarily or permanently



remove any part of the PV System from or to temporarily or permanently cease operations of any part of the PV System due to LAWA Operations (as defined below), as necessary for Airport security, construction or operational purposes, including without limitation, for runway extension, taxiway extension, RSAs, RPZs, or OFAs, or pursuant to an order from the FAA, Operator shall promptly remove the PV System. "LAWA Operations" shall include but is not limited to any and all repair, maintenance, and improvements related to rooftops; any and all work, preparation and plans related to LAWA capital improvement projects; responsibilities, tasks and obligations as mandated by the Los Angeles City Charter, LAWA's existing contracts/leases, grant assurances or as otherwise required by local, state or Federal Law, including but not limited to Federal Aviation Administration (FAA) and/or the Department of Transportation (DOT) statutes or regulations; state or federal intervention; and/or Force Majeure events as set forth in Article 1, Section 6.4 of this Agreement.

4.2.1.1 Temporary Removal. Notwithstanding any other provision of this Agreement, but subject to Article 1, Section 7 (including, without limitation, Article 1, Section 7.2), during the Term of this Agreement, LAWA shall be expressly limited to four (4) requests, in the aggregate, of Operator to temporarily remove all or any part of the PV System under this Agreement ("LAWA Removal Limitation"), provided that in all cases, (i) LAWA shall avoid temporary removal of the PV System if a reasonable alternative is available that would not require such removal and such alternative would not materially affect LAWA, and (ii) in the case of a temporary removal, LAWA shall limit the scope of such temporary removal to the greatest extent possible. LAWA shall pay to Operator, solely in the form of a rent credit (except to the extent such payment exceeds the balance of rent payable hereunder, in which case LAWA shall pay such excess amount to Operator within thirty (30) days following the expiration or termination of this Agreement), the compensation specified in Article 7, Section 7.2 in the case of any temporary removal.

4.2.1.2 Permanent Removal. Permanent removal of a PV System shall be subject to Article 1, Section 7.3. LAWA shall have no restriction on the number of requests to permanently remove all or any part of the PV System, provided that in all cases, LAWA shall pay the compensation specified in Article 1, Section 7.3 and further avoid permanent removal of a PV System if a reasonable alternative is available that would not require such removal and such alternative would not materially affect LAWA.

4.3. Work on Site Location with LAWA Tenants. Operator acknowledges the Site Location may be used by LAWA's tenants and/or subtenants. Operator shall conduct all development, construction, installation, operation, management and maintenance work on sites occupied with LAWA's tenants or subtenants in accordance with the provisions set forth herein.

4.3.1. Coordination. Operator shall use reasonable and good faith efforts to coordinate all development, construction, installation, operation, management and maintenance work with LAWA and any of LAWA's tenants or subtenants operating at the Site Location prior to any commencement of work under this Agreement to minimize disruption to LAWA, VNY, and

tenant operations, as applicable. Operator shall notify LAWA of any known site impacts to tenants or subtenants on the PV System site that cannot be mitigated and provide LAWA with proposed solutions to those impacts.

4.3.1.1 No Interference. Neither Operator nor its agents, employees or subcontractors shall unreasonably interfere with any work being done by LAWA or any of its tenants or subtenants at the Site Location. All work shall be performed so that there is no unreasonable disruption to LAWA, VNY, or any of LAWA's tenants' or occupants' (as applicable) access to or use of leased or licensed space.

4.3.1.2 Compliance. Operator shall comply with all applicable present and/or future rules, regulations, restrictions, ordinances, statutes, laws, policies and/or orders of any federal, state, and/or local government authority ("Applicable Laws"). Operator shall be solely responsible for fully complying with any and all applicable present and/or future orders, directives, or conditions issued, given or imposed by the Chief Executive Officer which are now in force or which may be hereafter adopted by the Board of Airport Commissioners and/or the Chief Executive Officer with respect to the operation of LAWA property.

4.3.1.3 Performance of Work. All work shall be performed by labor with the proper jurisdictional qualifications. Operator's work shall be performed in accordance with the approved plans and in compliance with all applicable law.

4.3.1.4 Work Site. All parties performing all work as set forth in this Agreement shall park off site and shall not park in tenant's parking areas. Any lay down area used by the Operator for the purposes of this Agreement shall be coordinated with LAWA and tenants prior to the start of construction and be kept in a safe and secure condition at all times, and shall be free from waste materials, rubbish, debris, and other garbage, including liquid and non-liquid materials whether spilled, dropped, discharged, blown out or leaked.

#### 4.4. Improvements and Use.

4.4.1. Permitted Use. Operator shall use the Site Location solely for the purpose of the installation, development, construction, operation, management, interconnection, inspection, maintenance, repair, improvement, enhancement, alteration, replacement, and removal of the PV System and uses incidental thereto and for no other use or purpose (collectively, the "Permitted Use") and in accordance with this Agreement. Operator shall not change or alter the electrical output of the PV System, except for expected degradation and weather fluctuations, without the prior written approval of the LAWA.

4.4.2. Disclaimer. LAWA specifically disclaims any representation or warranty that there will be sufficient solar access for the PV System due to actions occurring on the Site Location leased by third parties or that are otherwise beyond LAWA's control (collectively, "Third Party Actions"), provided, however, that LAWA shall cooperate with Operator and use reasonable

efforts to mitigate or eliminate any reduction of solar access due to Third Party Actions.

4.4.3. Non-Interference; Other Uses. LAWA, and, where applicable, any tenant of the Site Location pursuant to such tenant's lease, reserves the right to use the Site Location, and the remainder of a roof of a building in the case of a rooftop PV System for any purpose, or grant easements or sublicenses in favor of third persons, for any purpose other than the Permitted Use, including, but not limited to, the installation or operation of telecommunications equipment, satellite dishes, antennae, building service equipment or other improvements (collectively, "Other Uses"), provided that such Other Uses do not cast shadows, block or restrict access to direct sunlight, or otherwise unreasonably interfere with Operator's Permitted Use or rights under this Agreement. Any Other Use or sublicense or easement entered into after the Effective Date of this Agreement therefor shall expressly provide that they are subject and subordinate in all respects to this Agreement and to the rights of Operator to the Site Location as set forth hereunder. Subject to the foregoing, Operator shall not unreasonably disturb any existing Other Uses on the Site Location.

4.4.3.1 Operator has no rights under this Agreement to install or use any antennae or telecommunications equipment on the roof or exterior of any building or structure on the Site Location or directly on any the Site Location, unless such installation or use is directly related to the conduct of Operator's business or the Permitted Use and in full compliance with LAWA's permit process and telecommunications policies, as may be modified from time to time at the sole discretion of the Chief Executive Officer. Operator may not license or sublicense to others the right to install or use antennae or other telecommunications equipment on the Site Location, unless such agreement has been approved by the Chief Executive Officer to use the Site Location for the Permitted Use, and such installation and use of antennae or telecommunications equipment is directly related to the conduct of such licensee or sublicense and is in full compliance with LAWA's permit process and telecommunications policies.

4.4.3.2 Operator, by accepting this Agreement, agrees for itself and its successors and assigns that it shall not make use of the Site Location in any manner which may interfere with the landing and taking off of aircraft from Airport or otherwise constitute a hazard to such operations; provided that the installation of the PV System in accordance with the requirements of this Agreement and provided all necessary clearances and approvals are obtained by Operator, in and of itself, shall not constitute an interference or hazard for purposes of the this Section 4.4.3.2. In the event that Operator interferes with any air traffic as described above, LAWA's CEO reserves the right, in his or her reasonable discretion, following Operator's failure to abate such interference within ten (10) days following written notice, to enter upon the Site Location under this Agreement and cause the abatement of such interference at the expense of Operator.

4.4.3.3 Operator is prohibited from installing or using any wireless workstations, access control equipment, wireless internet servers, application or system software

such as transceivers, modems, or other interface units that access frequencies from 2.0 Gigahertz to 6.0 Gigahertz, inclusive, without first obtaining approval from the LAWA Chief Executive Officer.

4.4.4. Excavations. If excavation is required, Operator or its contractor shall: (i) initiate the call to the applicable regional notification center at least two (2) business days prior to excavating to allow operators (namely, utilities) of subsurface installations (including but not limited to pipelines, conduit, duct, wire, or other structures) to field mark or locate their lines; (ii) contact owners of existing subsurface installations that may interfere with excavation work; (iii) determine and field mark locations of subsurface installations and structures not marked by owners, including those owned by LAWA, which is not a member of a regional notification center, does not participate in their activities, nor field marks its subsurface installations but will make its substructures records, including unpressurized drains (storms drains and sewers), available to the Operator or its contractor with prior notification; (iv) be responsible for field marking and location all subsurface installations prior to performing any excavation or underground work; (v) be responsible for exposing and protecting from damage all existing surface and subsurface installations; (vi) protect any structures or foliage from damage and replace all structures, landscaping, lawn and paving to the condition prior to the work performed by Operator; and (vii) refrain from preventing or impeding access to the Site Location due to any excavation work.

4.4.5. Damage to LAWA Property. Operator shall be responsible for the repair of any damage to the Site Location, tenant or subtenant property, and/or any other LAWA-owned property caused by Operator or its agents, employees, contractors, subcontractors, and/or invitees during the development, construction, installation, operation, management, and maintenance of the PV System.

4.4.6. Return of Site Location. Upon termination of this Agreement, Operator shall take all actions necessary to return the Site Location where the PV System is installed to the condition required in Article 1, Section 4.1.2, except in the case that LAWA exercises its Purchase Right as provided in Section 3.3.

4.4.6.1 Corrective Action. In the event of fire, destruction or damage caused by the PV System or by Operator and/or its employees, subcontractors, invitees, vendors, or independent contractors, Operator shall take all corrective actions to clean up, remove, repair or otherwise expiate any resulting harm to the Site Location, tenant or subtenant property, and/or any other LAWA-owned property.

4.5. Operator's Improvements. Except for the construction and installation of the PV System and its related components (which shall be governed by Article 1, Section 5 hereof), any improvements to the Site Location constructed by the Operator for the purposes of this Agreement shall be approved by LAWA prior to the start of construction. Upon the Expiration Date or termination as set forth in Article 1, Section 8, of this Agreement, all improvements (subject to the



Purchase Right in Article 1, Section 3.3) shall be removed at Operator's sole cost and expense, and the Site Location shall be surrendered in the condition required in Article 1, Section 4.1.2.

4.6. Rooftops.

4.6.1. Preparation of Rooftops for PV System Construction/Installation. The PV System shall be designed consistent with Section 5 hereof and the existing building roof structural capacities and warranty, and shall not require structural modifications to any building or the rooftop (unless approved in a prior written consent by LAWA, to be performed at Operator's sole cost and expense). Subject to LAWA's express obligations under Section 6.3, Operator shall accept the parking lot and rooftops at the Site Location in as-is condition. If roofing repairs and/or replacement is required to accommodate the construction and installation of the PV System, then Operator may, at its election, either (i) terminate this Agreement and LAWA and Operator shall thereafter be released and discharged from all obligations hereunder, or (ii) if Operator and LAWA mutually agree, perform, at Operator's sole cost and expense, such repairs or replacement, in compliance with all applicable laws, Section 5 hereof, and consistent with any applicable tenant rights on the Site Location.

4.6.2. Operator Responsibility of Rooftop and Parking Lot. Operator shall be responsible for the repair of all damage, destruction, or harm to the rooftops and/or parking lot caused by the development, construction, installation, operation, management and maintenance of the PV System by Operator, its invitees, employees, contractors, and its agents. Operator shall also be responsible for any structural retrofit required to install the PV System. The aforementioned work shall be performed in accordance with Article 1, Section 4.3 herein.

4.7. Site Location Conditions. Operator has accepted the Site Location as set forth in Article 1, Section 4.1.2 herein.

4.7.1. Baseline Conditions – Operator's Baseline Report. Operator may elect, at its sole cost and expense, to prepare a baseline report depicting the baseline condition of the Site Location ("Operator's Baseline Condition"), which upon completion must be approved by LAWA, in its sole but reasonable discretion, ("Operator's Baseline Report"). If prepared by Operator and approved by LAWA, the Operator's Baseline Report shall be attached hereto as Exhibit I and the Operator's Baseline Report shall establish the condition of the Site Location as of the PV System Delivery Date. Operator shall be responsible only for contamination above the Operator's Baseline Condition levels for those contaminants covered in the Operator's Baseline Report.

4.7.2. Remediation. Operator shall remediate or cause the remediation of any spill, discharge or any other contamination that occurs on the Site Location during the Term of this Agreement, to the extent caused by Operator or its agents, employees, contractors, subcontractors, and/or invitees, that contaminates or threatens to contaminate the rooftop, any interior portion of the Site Location, or soil, sediment, groundwater or air of the Site Location or of adjacent premises (including the soil, sediment, groundwater or air of those adjacent premises).

4.7.3. Operator Responsibility; Indemnity. Operator bears sole responsibility for full compliance with any and all applicable laws regarding the use, storage, handling, distribution, processing, and/or disposal of environmental or hazardous material by Operator or its agents, employees, contractors, subcontractors, and/or invitees. Operator agrees that any claims, damages, fines or other penalties asserted against or levied on LAWA and/or Operator as a result of noncompliance with any environmental laws by Operator or its agents, employees, contractors, subcontractors, and/or invitees shall be the sole responsibility of Operator and that Operator shall indemnify and hold LAWA harmless from any and all such claims, damages, fines and penalties, as well as any costs expended to defend against such claims, damages, fines and penalties, including attorneys' and experts' fees and costs that result from any Contamination (as defined below) or Operator's non-compliance during the Term regarding the use, storage, handling, distribution, processing and/or disposal of environmental or hazardous material. LAWA shall provide Operator with sixty (60) days' notice to comply with any claims, damages, fines and penalties, or if Operator has not complied with such claims, damages, fines and penalties, or if Operator has not requested a meet and confer to discuss compliance within such sixty (60) days, then LAWA, at its sole option, may pay such claims, damages, fines and penalties resulting from Operator's noncompliance with any environmental laws, and Operator shall indemnify and reimburse LAWA for any such payments.

4.7.3.1 Operator Environmental Reports. Operator shall provide to LAWA a full written environmental fact sheet associated with the PV modules installed upon the Commercial Operation Date for the PV System. Operator shall also provide to LAWA a written report for any PV modules broken during installation or removal of the PV System.

4.7.4. Rebuttable Presumption When Baseline Report Prepared. Operator acknowledges and agrees that a presumption shall exist that any contamination not specifically depicted and analyzed in the Operator's Baseline Report, constitutes contamination for which, as between LAWA and Operator, Operator is solely responsible. LAWA shall provide written notice of the existence of any such contamination to Operator. Operator may rebut such presumption by providing to LAWA, within ninety (90) days of LAWA's written notice, conclusive evidence demonstrating that such contamination did not occur during the Term of this Agreement or was otherwise not caused by Operator or its agents, employees, subcontractors, and/or invitees. Otherwise, such presumption shall be deemed confirmed making Operator solely responsible for such contamination. Whether any information submitted by Operator rebuts the aforementioned presumption shall be within LAWA's sole and absolute discretion, exercised reasonably and in good faith. This provision shall survive the expiration or earlier termination of this Agreement.

4.7.5. Operator Obligations In the Event of Contamination During the Term of the Agreement.

4.7.5.1 Duty to Remediate. Upon discovery of any contamination caused by Operator or its agents, employees, contractors, subcontractors, and/or invitees (a "Contamination"), Operator shall, at its sole cost, remediate the contamination in accordance with

the provisions set forth in this Agreement.

4.7.5.2 Compliance with Government Agency Orders. Operator shall report any Contamination to the respective government agencies as required by law and thereafter, if such government agency asserts jurisdiction over such Contamination, Operator shall, at its sole cost and expense as between LAWA and Operator, manage the Contamination and all associated issues consistent with environmental laws or the governmental agencies with jurisdiction, if any. If a schedule for such management of the Contamination is not prescribed by environmental laws, or by the governmental agencies with jurisdiction if any, LAWA shall reasonably prescribe such schedule in consultation with Operator.

4.7.5.3 Site Characterization. Whether a governmental agency asserts jurisdiction over the Contamination or not, Operator shall characterize (including sampling and analysis) and remediate all Contamination in conformity with environmental laws, and in compliance with LAWA standards and policies and to LAWA's reasonable satisfaction, to the extent LAWA standards and policies do not conflict with protocols established by any other governmental agency asserting jurisdiction over the Contamination.

4.7.5.4 Copies to LAWA. Operator shall provide copies to LAWA of all communications between Operator (and any third-parties acting for or on its behalf), and any governmental agency with jurisdiction regarding all contamination and remediation.

4.7.6. LAWA's Rights to Remediate. If Operator fails to wholly or partially fulfill any obligation set forth in Article 1, Section 4.7.5., LAWA may (but shall not be required to) take all steps it deems necessary to fulfill such obligation. Any action taken by LAWA shall be at Operator's sole cost and expense and Operator shall indemnify and pay for and/or reimburse LAWA for any and all costs (including any administrative costs) LAWA incurs as a result of any such action it takes.

4.7.7. Environmentally Regulated Material on Site Location. Operator shall not cause or permit any environmental material to be generated, brought onto, handled, used, stored, transported from, received or disposed of (hereinafter sometimes collectively referred to as "handle" or "handled") in or about the Site Location, except for: (i) limited quantities of standard office and janitorial supplies containing chemicals categorized as environmentally regulated material listed in the APP process (as defined in Article 1, Section 5.1) and the material safety data sheet which includes but is not limited to any and all hazardous materials and chemicals ("Material Safety Data Sheet") for the parts and equipment of the PV System; (ii) environmentally regulated material which are necessary for Operator to undertake the Permitted Uses; and (iii) environmentally regulated material handled in accordance with all state and federal rules, regulations, and environmental laws. Operator shall handle all such environmental material in strict compliance with environmental laws in effect during the term of this Agreement.

#### 4.7.8. Environmental Compliance.

4.7.8.1 Generally; Notice. In its use and occupancy of the Site Location, Operator shall comply (and shall immediately halt and remedy any incident of non-compliance) with: (a) environmental laws; and (b) all applicable environmental policies, rules and directives of LAWA. Operator shall immediately upon receipt provide LAWA with copies of any notices or orders or similar notifications received from any governmental agency regarding compliance with any environmental laws.

4.7.9. Waste Disposal. Operator shall dispose of any waste, equipment, or parts related to the PV System during the Term or at the Expiration Date of this Agreement in accordance with all state and federal rules, regulations and environmental laws. If Operator disposes of any waste, equipment, or parts related to the PV System contaminated with environmentally regulated material, within thirty (30) days of Operator's receipt of original documents, Operator shall provide LAWA copies of all records, including a copy of each uniform hazardous waste manifest indicating the quantity and type of material being disposed of, the method of transportation of the material to the disposal site and the location of the disposal site. The name of the City of Los Angeles, VNY, the Department of Airports or LAWA shall not appear on any manifest document as a generator of such material.

4.7.10. Laboratory Testing. In discharging its obligations under this Section, Operator shall perform any tests using a State of California Department of Health Services certified testing laboratory or other similar laboratory of which LAWA shall approve in writing. By signing this Agreement, Operator hereby irrevocably directs any such laboratory to provide LAWA, upon written request from LAWA, copies of all of its reports, test results, and data gathered.

4.7.11. Survival of Obligations. Except as otherwise provided in this Article 1, Section 4.7, this Section 4.7 and the obligations herein shall survive the expiration or earlier termination of this Agreement.

### **Section 5. Design, Construction and Installation of the PV System.**

5.1. Design. Operator shall design the PV System in accordance with the requirements described herein.

#### 5.1.1. Requirements.

5.1.1.1 Operator shall investigate the Site Location where the PV System shall be constructed and installed, including suitability of structures, location of utilities, and point of Interconnection for the proposed PV System and determine the construction and installation



methods required, including the preparation and submittal for approval by LAWA of structural calculations for the acceptable staging of equipment or materials on rooftops to avoid their overstressing.

5.1.1.2 Operator shall submit a plan to LAWA to develop, own, operate, and maintain complete the PV System at the Site Location, including financing, engineering, permitting, procurement, installation (including utilities), security, operation and maintenance, all transportation, labor, and materials, and any temporary or interim facilities required to maintain essential existing functions in operation throughout the operational period at the Site Location.

5.1.1.3 The PV System shall be designed consistent with the existing building roof structural capacities and warranty, and shall not require structural modifications (unless approved in a prior written consent by LAWA, to be performed at Operator's sole cost and expense). Any canopy or carport PV solar system on the parking lot areas shall be designed to ensure it meets minimum height requirements for vehicles and buses, which such height requirements shall be at minimum 15 feet from ground surface to the bottom of the canopy or carport.

5.1.1.4 Operator, at its sole cost and expense, shall undertake and complete all necessary design plans for the PV System at the Site Location and secure all necessary approvals for design of the PV System, in compliance with Section 5.3 herein. It is the responsibility of Operator to research the Site Location prior to design to confirm design and permitting requirements. LAWA maintains the right to request copies of design documents from Operator and add reasonable requirements related to compatibility of the PV System with existing power infrastructure and other Site Location-specific conditions.

5.1.1.5 Operator shall prepare all PV System plans, specifications, and estimates using engineers appropriately licensed in the State of California for the type of work to be performed.

5.1.1.6 Operator's submitted plans, specifications, and estimates shall comply with all applicable federal, state and local codes, rules and regulations.

5.1.2. Operator shall complete the Tenant Improvement Approval Process ("TIAP") for the PV System and obtain the necessary environmental clearance as specified in Article 1, Section 5.2.3.

5.1.2.1 Operator shall not start construction unless and until completion of the TIAP for the PV System.

5.1.2.2 LAWA maintains the right to approve all design documents and add reasonable requirements on compatibility with existing power infrastructure and other newly

added infrastructure, and requirements related to Site Location-specific conditions.

5.1.2.3 Operator shall prepare and file Interconnection applications for the PV System and diligently pursue and obtain an Interconnection Agreement with LADWP at the Site Location. LAWA will be the signatory on applications, permits, and utility agreements only where necessary and subject to the determination and discretion of LAWA.

5.1.2.4 Operator shall provide weekly status reports throughout the design phase, as well as any additional briefing requested by LAWA.

5.1.2.5 Operator shall submit final as-built engineering plans (in both AutoCAD and PDF formats), specifications (in PDF format), and estimates (in PDF format), including construction cost and as-built value for the PV System to LAWA no later than ninety (90) days after the Commercial Operation Date.

5.2 Construction and Installation. Operator shall construct and install the PV System in accordance with this Agreement.

5.2.1. Requirements.

5.2.1.1 Operator shall supply all equipment, materials, and labor necessary to: (1) install the PV System and (2) integrate the PV System at the point of interconnection.

5.2.1.2 Operator must ensure that throughout the project, LAWA controlled assets (i.e. roofing, etc.) will be protected. Operator is responsible for any damage to such assets caused by the acts, omissions, or negligence of Operator or its agents, employees, contractors, subcontractors, and/or invitees and sustained during the installation process and throughout the contract period. Operator will engage a California Licensed Structural Engineer to ensure that live and dead loads added by the PV System will not exceed the permissible loads for the respective building. Operator shall supply equipment weights and sizes to LAWA.

5.2.1.3 Operator will maintain a safe environment consistent with industry standards during the construction of the project. Operator will be responsible for its contractors, subcontractors and their employee's safety.

5.2.1.4 Operator will be responsible to mitigate any landscape, hardscape or building damage caused by Operator or its agents, employees, contractors, subcontractors, and/or invitees as part of the construction.

5.2.2. Status Reports. Operator shall provide weekly status reports during construction and installation and through commissioning of the PV System. Operator shall provide any additional briefing reasonably requested by LAWA.

5.2.2.1 Pre-Construction Meeting. Prior to the commencement of construction of the PV System, Operator shall contact LAWA to schedule preconstruction orientation meetings with Operator and with the general contractor to discuss the schedule of performance and proposed installation activities.

5.2.3. Environmental Regulations Compliance During Construction.

5.2.3.1 Compliance with CEQA. Compliance with CEQA, Pub. Res. Code, § 21000 *et seq.*, is a condition precedent to LAWA's obligations with respect to the construction and installation of the PV System under this Agreement. Operator shall not have any right to install the PV System until LAWA has fully complied with CEQA as it relates to the PV System, issued a statement to Operator attesting to the fact that LAWA has fully complied with CEQA as it relates to the PV System included in the Agreement ("CEQA Certification"), and issued a notice to proceed ("City NTP") to Operator.

5.2.3.2 If LAWA, in its reasonable discretion, determines that a negative declaration (ND), mitigated negative declaration ("MND") or environmental impact report ("EIR") is required to comply with CEQA, then LAWA shall promptly provide Operator with a written statement detailing the reasons that LAWA understands that an ND, MND or EIR is required to comply with CEQA and the estimated cost to comply with CEQA for the PV System. Unless Operator issues LAWA a written statement signed by an authorized representative of Operator agreeing to pay for all of the estimated costs to comply with CEQA within thirty (30) days of receipt of LAWA's written statement, then the Agreement shall terminate, and neither Operator nor LAWA shall have any liability to the other (other than any such liabilities that have accrued prior to such termination). If the LAWA proceeds to complete such environmental assessments, then BOAC (Board of Airport Commissioners) and perhaps City Council consideration and action (including the potential for selection of the "no project" alternative) would be required to adopt the ND, MND, or certify the EIR as required by law prior to commitment to the PV System.

5.3. Governmental Approvals. Operator understands and agrees that the ability of Operator to use the Site Location for the PV System is expressly contingent upon Operator, at its sole cost and expense, obtaining all certificates, permits, or other approvals (collectively the "Governmental Approvals") that may be required by any local, state or federal agencies, including but not limited to the Board of Airport Commissioners, City of Los Angeles Planning Department, City of Los Angeles Department of Building & Safety, and LADWP, California Public Utilities Commission, California Energy Commission, Federal Energy Regulatory Commission, and any local zoning authority (collectively referred to as "Governmental

Authority”). Operator shall diligently pursue all applications necessary to obtain Governmental Approvals from the requisite Governmental Authorities.

5.3.1. Cooperation. LAWA will (i) cooperate with Operator’s effort to obtain and maintain the Governmental Approvals and perform the development and construction of the PV System and (ii) take no action which would likely have a material adverse effect upon Operator’s ability to obtain and maintain Governmental Approvals. In connection with such cooperation, LAWA shall not be required at its expense to engage, pay or retain any third parties or to incur any out of pocket expenses in connection with any Governmental Approvals or the development and construction, and shall be reimbursed by Operator for any monies reasonably expended in connection therewith; provided that LAWA give Operator advance notice of such out-of-pocket expenditures.

#### 5.4. Milestones.

5.4.1. Generally. Operator shall meet all milestones as set forth in the master schedule detailed in Exhibit F (“Milestones”). Both LAWA and Operator agree that time is of the essence in connection with the completion of the PV System, and that Milestones for the development, financing, construction and Commissioning of the PV System must be achieved in a timely fashion.

5.5 PV System Inspection. Operator shall notify LAWA in writing of the contemplated Commercial Operation Date and Commissioning (as defined below) of the PV System. At discretion of LAWA, Operator will schedule and arrange for LAWA to conduct an inspection of the PV System. The inspection shall be scheduled for a date, mutually agreeable to Operator and LAWA, which is within ten (10) business days of Operator’s notification of the contemplated Commercial Operation Date of the PV System. Based on the inspection, LAWA may, within ten (10) business days of the inspection, prepare and provide to Operator a punch list of any observed defects or deficiencies in the construction work or discrepancies between installed equipment and workmanship and the requirements of this Agreement. Operator shall be responsible for completion, correction, or otherwise addressing issues identified by LAWA, and shall provide a written response to document actions taken in response to the punch list items. If requested by LAWA, Operator shall schedule and arrange a follow-up inspection for LAWA after all punch list items are resolved. All punch list items shall be resolved prior to the Commercial Operation Date of the PV System except those items specifically excepted by mutual agreement between LAWA and Operator.

5.6 Commissioning. Operator shall comply with all applicable requirements for Commissioning of the PV System. No later than fourteen (14) days prior to Commissioning, Operator shall notify LAWA of the date on which it intends to perform Commissioning. Within seven (7) days of the successful Commissioning, Operator shall provide to LAWA written

notification of the Commercial Operation Date for the PV System. For the purposes of this Agreement, "Commissioning" shall mean the inspection and testing of each component in the PV System to assure that they have been completely, properly, and safely installed before the PV System is turned on and that they are operating properly and within expected parameters after the PV System is turned on. The as-built condition of the PV System shall be documented during Commissioning. The PV System's performance will be benchmarked during Commissioning so it can be compared with future performance.

5.7 Mechanics Liens. Operator shall promptly pay for Operator's work contemplated hereunder in full when due and shall not permit any lien to attach to the Site Location or other property in which Operator has been granted the right to conduct the Permitted Uses. Operator will promptly discharge any such lien. LAWA shall have the right to post notices of non-responsibility.

## **Section 6. Operation and Maintenance (O&M).**

6.1. Operator's Operation Obligations. Operator shall operate the PV System in accordance with this Agreement and in accordance with all city, state and federal rules and regulations.

6.2. Monitoring System. Operator shall install, own and maintain, at its sole cost and expense, a monitoring system and services necessary to monitor, diagnose and track energy output during the Term of this Agreement and allow for remote reading of the PV System's performance and environmental benefits in real time through a secure website. Operator shall, at no cost to LAWA, provide LAWA complete performance data during the Term of this Agreement. LAWA shall, at its cost and expense, have the option to incorporate the PV System's data feeds into LAWA websites that will showcase the alternative energy systems within LAWA. The data must be accessible for reporting purposes.

6.3. Maintenance Obligations. Operator shall maintain or cause to be maintained the PV System consistent with the terms and conditions set forth in this Agreement. Operator shall maintain, at its sole cost and expense, the PV System, and any and all related equipment. The PV System shall be maintained in good condition and state of repair in conformance with this Agreement, all applicable laws and commonly accepted industry standards. Following the Commercial Operation Date of the PV System, LAWA shall maintain or cause to be maintained, at its sole cost and expense, in good condition and repair, the buildings located at the Site Location for the PV System, including, without limitation, the structural elements, foundations, exterior walls, and roof (other than as expressly provided otherwise in this Agreement) of such buildings. Prior to the Commercial Operation Date of the PV System, LAWA shall not be obligated to repair or replace any structural or non-structural element of such buildings as a condition for Operator to enter into this Agreement or construct the PV System on any such buildings, except as otherwise agreed to in writing by LAWA. In the event of any casualty, not caused by or due to the negligence of Operator, its members, Affiliates, agents, subcontractors, invitees, vendors, and independent



contractors, with respect to a Site Location that impacts the construction, development or operation of the PV System, Operator shall have the right to terminate the Agreement in accordance with Section 4.6.1 (i.e., in connection with roofing repairs and/or replacement).

6.4. Emergency Repairs. Operator shall notify LAWA within twenty-four (24) hours of actual knowledge of the occurrence of an emergency related to the PV System. In the event of such emergency affecting the Site Location, Operator shall make the repairs as required herein as quickly as possible without regard to the month of the year, but not later than five (5) business days' after notice thereof, subject to Force Majeure and to the extent such repairs can be practicably made in such period. For the purposes of this Agreement, "Force Majeure" shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, wildland fire or firestorm, storm or flood, or any order, regulation, or restriction imposed by governmental, military, or lawfully established civilian authorities (i) which prevents Operator or LAWA (as applicable) from performing any of its obligations under this Agreement; (ii) which could not reasonably be anticipated as of the date of this Agreement; (iii) which is not within the reasonable control of, or the result of negligence, or failure to maintain a PV System, willful misconduct, breach of contract, intentional act, omission, or wrongdoing on the part of the Operator or LAWA (as applicable); and (iv) which despite the exercise of reasonable efforts Operator or LAWA (as applicable) is unable to overcome or avoid or cause to be avoided.

6.5 O&M Costs. Operator shall be responsible for all operation and management costs.

6.6 Reporting. Operator shall submit Monthly Energy Production and Operational Status Reports no later than 30 days after the end of each calendar month throughout the term of the contract. The Monthly Energy Production and Operational Status Report shall include the following information:

- i. Time period covered by the report.
- ii. Operational status of project components (modules, inverters, transformers).
- iii. Description of any unusual operational events that occurred during the month.
- iv. Description of any unusual weather events that occurred during the month if they impact production.
- v. Description of improvements, expansion or repair to the system during the month.
- vi. List of needed and/or planned improvements, expansions or repairs
- vii. Energy production for the month in kWh, plane-of-array solar irradiance for the month in kWh/m<sup>2</sup>/day, and cumulative energy production to-date in kWh.
- viii. Description of any ownership, management, energy sales, or REC changes during the month.
- ix. Name and contact information for the individual responsible for preparing and submitting the report.
- x. Copies of any engineering reports or independent evaluations of any project

completed during the month.

xi. Maintain reasonable remote site security, including upkeep of proposed video or other measures. Interface with insurance company in event of trespassing, vandalism, natural act, or other cause for claim.

LAWA also may, at its discretion and with reasonable notice to Operator, require Operator within ten (10) days after the end of each calendar month, to report to LAWA certain operating statistical and financial data applicable to LAWA airports covering the previous calendar month in such form and content as shall reasonably be specified by the Chief Executive Officer.

## **Section 7. Compensation.**

7.1. Commencing on the PV System Commencement Date for the PV System at the Site Location (the "Payment Commencement Date"), Operator shall pay to LAWA a monthly payment (a "Monthly Payment") which shall be the greater of: 1) a "Site Location Fee" per month (as provided in Exhibit B), to be adjusted periodically as provided herein, and, 2) the Operating Payment, calculated as the amount equal to the product of (x) the megawatt hours (kW-Hr) of energy purchased by LADWP pursuant to the SOPPA during such calendar month, and (y) the amount of dollars per kW- Hr for the Site Location, as provided in Table A below and attached as Exhibit B, for each such kW-Hr so purchased (the product of (x) and (y) above for any month being the "Operating Payment" for such month), provided that for the first calendar year, or portion thereof, of operations following the Payment Commencement Date, Operator shall pay the Operating Payment for each calendar month within ten (10) days following Operator's receipt from LADWP of the payment under the SOPPA for energy purchased by LADWP during such month. The Site Location Fee shall be increased by two percent (2%) on the 5 year, 10 year, and 15 year, and if applicable 20 year anniversaries of the Payment Commencement Date, in accordance with City Charter 607.b requirements. In addition to the Monthly Payment, Operator shall also pay to LAWA an Interconnection Location Fee for the use of land for Interconnection for the Site Location, as indicated in Exhibit B.

Within ninety (90) days following the end of each calendar year hereunder, LAWA shall give to Operator a statement (the "Statement") which shall indicate the total annual amount due under the Site Location Fee formula and the total annual amount due under the Operating Payment, as provided above, and the annual amount paid by Operator relating thereto for the prior calendar year. If the amount paid by Operator is less than the amount due (the greater of the annual Site Location Fee due and the annual Operating Payment due, or portion thereof), Operator agrees to pay such deficiency to LAWA within thirty (30) days after receipt of the Statement. If the amount paid by Operator is more than the amount due (the greater of the annual Site Location Fee due and the annual Operating Payment due, or portion thereof), LAWA agrees to return to Operator such overpayment in the form of a rent credit (except to the extent such overpayment exceeds the balance of rent payable hereunder, in which case LAWA shall pay such excess amount to Operator within thirty (30) days following the expiration or termination of this Agreement).

If applicable, the amount of the Site Location Fee payable during any partial month during the Term shall be one-twelfth (1/12) of the Site Location Fee multiplied by the ratio of the number of days active divided by the total number of days in partial month. The amount of the Operating Payment payable during any partial month during the Term, if applicable, shall be based on the amount of kW-Hrs generated and purchased by LADWP during such partial month. If at the expiration of this Agreement, Operator has not paid LAWA its Operating Payment, if applicable, for any period occurring prior to or at the expiration of this Agreement because the corresponding payment from LADWP to Operator for such period has not been made, Operator's obligation to make such Operating Payments shall survive the expiration of this Agreement.

7.1.1 Guaranteed Rate. If Operator is to pay LAWA based on the Operating Payment, as defined in Section 7.1, LAWA shall be entitled to aggregate payments from Operator at not less than the rate indicated in Table A, below ("Guaranteed Rate"), as provided. If for any Year, the aggregate monthly Operating Payments are calculated at less than the Guaranteed Rate, then within thirty (30) days following receipt by Operator from LADWP of the last payment for such Year, Operator shall pay to LAWA the deficiency, if any, in the aggregate monthly Operating Payments for such Year. The first "Year" shall commence on the PV System Commercial Operation Date and end on the last day of the calendar month in which the first anniversary of the PV System Commercial Operation Date occurs, unless the PV System Commercial Operation Date occurs on the first day of a calendar month, in which case the first Year shall end on the day preceding the first anniversary of the PV System Commercial Operation Date. Each subsequent Year shall be the twelve (12)-month period commencing on the first day following the end of the preceding Year, except the final Year shall end on the expiration date of this Agreement.

TABLE A – Guaranteed Rate			
Site No.	Site Location/Address	Guaranteed Rate (\$/kWh)	Estimated Annual Revenue to LAWA
1	7800 Woodley Ave	See Exh. B	See Exh. B

7.1.2. Additional Investment Tax Credit.

For purposes of this Agreement, Operator has assumed it would receive an Investment Tax Credit ("ITC") of thirty percent (30%). In the event that Operator does not attain or receive a 30% ITC, and Operator is to pay LAWA based on the Operating Payment, Operator shall still pay and LAWA shall still receive Monthly Payments based on the Guaranteed Rate as described in Section 7.1.1 and Table A. In the event the PV System qualifies for any additional ITC adders and the ITC attained or received by Operator is increased by an amount equal to or greater than ten percent (10%) above the initial thirty percent (30%) ITC due to additional qualifiers, the Guaranteed Rate payable by the Operator to LAWA shall be increased based on the schedule



provided in Exhibit B. LAWA's Guaranteed Rate for the Site Location shall be increased, based on the rates for the Site Location provided in Exhibit B and Table B below, upon Operator's receipt of a 40% ITC, and again upon Operator's receipt of a 50% ITC, if applicable. Operator shall provide to LAWA documentation indicating the final ITC attained by the PV System and received by the Operator.

TABLE B – Guaranteed Rate for Additional ITC			
Site No.	Site Location/Address	Guaranteed Rate at 40% ITC (\$/kWh)	Guaranteed Rate at 50% ITC (\$/kWh)
1	7800 Woodley Ave	See Exh. B	See Exh. B

7.1.3. Delivery of Monthly Payments. The Monthly Payment required in Section 7.1 shall be paid by Operator to LAWA as described in Section 7.1. In the event the Payment Commencement Date falls on any date other than the first day of the calendar month, the applicable payment for that month shall be calculated pro rata according to the number of days during which the Site Location, or any part of same, was used by Operator during said month. All payments shall include the contract number, which is stamped on the first page of this Agreement, on each payment check and the remittance advice attached to the invoice, if any, delivered to Operator by LAWA. Upon written approval by the Chief Executive Officer, Operator may be approved to make electronic payments to LAWA.

7.1.4. Unless electronic payments are to be made as provided in Section 7.1.3, all payments shall be mailed to the following address:

City of Los Angeles  
Los Angeles World Airports  
P.O. Box 54078  
Los Angeles, CA 90054-0078

7.1.5. LAWA may, from time to time, designate another address to which Monthly Payments shall be made and will provide at least thirty (30) days advance written notice of such address change. Invoices may be sent by LAWA to Operator as a customer courtesy, and receipt of such invoice shall not be a condition prior to its Monthly Payment.

7.1.6. Operator waives the provisions of California Civil Code Section 1950.7 and all other provisions of law, now or hereafter in effect, that provide that LAWA may claim from the security deposit only those sums reasonably necessary to remedy defaults in the payment of rent, to repair damage caused by Operator, or to clean the Premises.

Any use of the term “rent” in this Agreement shall mean any and all amounts due and payable by Operator to LAWA pursuant to the terms of this Agreement.

7.1.7. Liquidated Damages for Delinquent Payment.

7.1.7.1. Operator’s payment of the Monthly Payment and any other charges due hereunder shall be delinquent if not received by LAWA within ten (10) days following the due date. Without waiving any rights available under this Operating Agreement or by law, in the event of delinquent payments, Operator recognizes that LAWA will incur certain expenses, the amount of which is difficult to ascertain. Therefore, in addition to payment(s) owing, Operator agrees to pay the liquidated damages set forth below to compensate LAWA for all expenses and/or damages and loss resulting from said delinquent payments by Operator.

7.1.7.2. The liquidated damages for delinquent payments shall be assessed each month at a rate of 1 percent interest (i.e., equivalent to twelve percent (12%) per annum compounded monthly) on the Average Daily Balance (as hereinafter defined) of the unpaid amount. “Average Daily Balance” shall mean the sum of Operator’s unpaid balance on each day of the monthly billing cycle divided by the number of days in the monthly billing cycle. LAWA may draw such delinquent payments from the FPG, as defined below, required pursuant to Article 2, Section 28 herein. FPG draw shall apply first to unpaid liquidated damages, then to remaining delinquent balances. Delinquent balance remaining after FPG draw shall continue to be assessed liquidated damages pursuant to this Section 7.1.7.2.

7.2 Temporary Removal Adjustment.

7.2.1 Rooftop PV System Temporary Removal. In accordance with, and subject to the terms of, Article 1, Section 4.2.1.1, for any part of the PV System that is mounted on the rooftop of a LAWA building, LAWA shall be entitled to have such part of the PV System removed for the purpose of roof replacement, major roof repair, or other temporary, reasonable activity related to the roof or PV System. Compensation to Operator for such removal will be payable solely in the form of a rent credit (except to the extent such payment exceeds the balance of rent payable hereunder, in which case LAWA shall pay such excess amount to Operator within thirty (30) days following the expiration or termination of this Agreement), and calculated as described in Section 7.2.3 below. In addition, the Monthly Payment shall be proportionally reduced based on the reduction in size of the PV System (in the case of the Operating Payment) and/or Site Location (in the case of the Site Location Fee) due to such temporary removal, during the period of such temporary removal. LAWA will notify Operator in writing of the need to temporarily remove the PV System in whole or in part with no less than sixty (60) days prior written notice including specification of the required date (which shall be no less than sixty (60) days from such notice) the PV System removal must be completed. Operator will complete the removal on or before the date specified in the notice. Removal will include all Operator equipment (PV modules, inverters, and panels as well as racking system and wiring and conduit, and associated apparatus) that would need to be removed in order to effect a roof repair or replacement. Operator is

responsible for removal and replacement of the PV System. LAWA, at its sole discretion, may provide a covered and secure location where the removed PV System and Operator equipment may be stored during removal. If LAWA does not provide a location as described in the preceding sentence, Operator shall be responsible to find such secured location to store the removed PV System and Operator equipment. Operator shall obtain LAWA's approval as to the location and cost of the proposed storage (not to be unreasonably withheld, conditioned or delayed) and, if approved, LAWA shall reimburse Operator's reasonable expenses with the temporary storage of the removed PV System and Operator equipment at the approved location. Should Operator not complete removal as scheduled (except in the event that the actions or omissions of LAWA or its agents are the cause of such failure to timely complete removal), LAWA shall be entitled to waive compensation for lost electrical production for the number of days that the removal is delayed beyond LAWA's specified date of removal completion.

**7.2.2 Other PV System Temporary Removal.** In accordance with Article 1, Section 4.2.1.1, for all PV System installations (ground or carport) other than those specified in Section 7.2.1, LAWA is entitled to a temporary removal for the purpose of major construction or required access to utilities and/or pipelines provided, as applicable, (i) the Monthly Payment Fee shall be proportionally reduced based on the reduction in size of the PV System (in the case of the Operating Payment) and/or Site Location (in the case of the Site Location Fee) due to such temporary removal, during the period of such temporary removal and (ii) LAWA shall pay the compensation as described in Article 1, Section 7.2.3 below. LAWA will notify Operator in writing of the need to temporarily remove the PV System in whole or in part with no less than sixty (60) days prior written notice including specification of the required date the PV System removal be completed. Removal will include all Operator equipment including but not limited to PV modules, panels, racking, wiring conduit, and associated apparatus, that would need to be removed in order to access utilities, pipelines, and/or complete any major construction required. Should Operator not complete removal as scheduled (except in the event that the gross negligence or willful misconduct of LAWA or its agents are the cause of such failure to timely complete removal), LAWA shall be entitled to waive compensation for lost electrical production for the number of days that Operator delays removal beyond LAWA's specified date of removal completion.

**7.2.3 Temporary Removal Adjustment Calculation.** Compensation from LAWA to Operator for the temporary removal of the PV System will be payable and calculated as follows:

**7.2.3.1** For either temporary removal situation, the time and date when the PV System stops and resumes delivering power to LADWP for compensation shall be documented and agreed upon by both Operator and LAWA in writing. Operator shall provide LAWA written notice of PV System stoppage and resumption, as described in the preceding sentence, on or before the dates of the respective action. Compensation for temporary removal of PV modules from a PV System will be calculated using electrical production data/revenue from the PV System operating nearest in distance ("PV Comparison Site") as installed by the Operator under the RFP. Nearest distance will be calculated based upon the shortest direct distance without consideration for roads, topography, water, or other real property improvements. Beginning on the day of disconnection

of the complete or partial removal of the PV System, Operator will keep records of the PV Comparison Site's energy production for each day the PV System has been removed by recording the total power produced each day as well as the revenue the PV Comparison Site generates based upon that individual day's LADWP electricity purchase rates.

**7.2.3.2 Revenue in Dollars per PV Panel per Day Calculation.** Operator will determine the total number of days including the number of PV modules removed within each calendar month. The amount of compensation from LAWA to Operator shall be determined by the following formula:

$$\begin{array}{c} \# \text{ PV MODULES} \\ \text{REMOVED} \end{array} \times \begin{array}{c} \# \text{ DAYS} \\ \text{REMOVED} \end{array} \times \left( \frac{\begin{array}{c} \text{TOTAL PRODUCTION REVENUE} \\ \text{IN \$ OF PV COMPARISON SITE} \\ \text{MODULES} \end{array}}{\begin{array}{c} \# \text{ OF PV MODULES IN} \\ \text{COMPARISON SITE} \end{array}} \right) = \begin{array}{c} \text{TOTAL MONTHLY} \\ \text{REIMBURSEMENT} \\ \text{AMOUNT} \end{array}$$

In the instance that the specification of PV modules at the PV Comparison Site are different from the removed PV System and there is not a PV module of the same original as installed efficiency specification to compare with, Operator will make adjustments to production revenue calculation based upon efficiency rating of each different PV module type as follows:

$$\frac{\begin{array}{c} \text{PV MODULE REMOVED EFFICIENCY} \end{array}}{\begin{array}{c} \text{PV COMPARISON SITE MODULE EFFICIENCY} \end{array}} = \begin{array}{c} \text{ADJUSTMENT FACTOR} \end{array}$$

$$\begin{array}{c} \# \text{ PV} \\ \text{MODULES} \\ \text{REMOVED} \end{array} \times \begin{array}{c} \# \text{ DAYS} \\ \text{REMOVED} \end{array} \times \left( \frac{\begin{array}{c} \text{TOTAL PRODUCTION REVENUE} \\ \text{IN \$ OF PV COMPARISON SITE} \\ \text{MODULES} \end{array} \times \begin{array}{c} \text{ADJUSTMENT} \\ \text{FACTOR} \end{array}}{\begin{array}{c} \text{---} \\ \# \text{ OF PV MODULES IN COMPARISON SITE} \end{array}} \right) = \begin{array}{c} \text{TOTAL MONTHLY} \\ \text{REIMBURSEMENT} \\ \text{AMOUNT} \end{array}$$

In the instance that no PV Comparison Site is available, the parties shall use the average of the electrical production/revenue data from the PV System from the equivalent month(s) of all prior years or the electrical production/revenue data from the equivalent month of the immediately prior year (if only one year of the Term has passed), as applicable, determine an appropriate calculation in accordance with the contemplated compensation provisions provided herein.

**7.2.3.3 Submission of Request for Compensation.** As soon as data from the comparison site is available, Operator shall provide written notice to LAWA requesting compensation based on the formula provided above and including the data supporting the compensation amount. LAWA shall review the request for compensation notice, and if in



agreement with Operator's request shall thereafter pay to Operator such amounts specified therein within forty-five (45) days of receipt of such form. LAWA reserves the right to audit Operator's revenue calculations as described in Article 1, Section 7 to assure accuracy of Operator's calculation of reimbursement due.

**7.2.4 Temporary Removal Adjustment Limitation.** In no event during any temporary removal period will the compensation (in the form of a rent credit (except to the extent such compensation exceeds the balance of rent payable hereunder, in which case LAWA shall pay such excess amount to Operator within thirty (30) days following the expiration or termination of this Agreement) to Operator from the removal of all or part of the PV System exceed the Agreement compensation to be paid to LAWA attributable to the PV System over the previous twelve (12) month period unless temporary removal exceeds twelve (12) months (in which case no such cap shall apply). In the event a temporary removal exceeds twelve (12) months, then Operator may, at its option, elect to treat such temporary removal as a permanent removal and the provisions of Article 1, Section 4.2.1 and Article 1, Section 7.3 shall apply (including payment of the compensation specified therein).

**7.3. Permanent Removal of the PV System.** Compensation from LAWA to Operator for the permanent removal of the PV System as set forth in Article 1, Section 4.2.1 will be based on the amount payable and calculated in accordance with the following provisions (the "Fair Market Value"). LAWA shall pay to Operator the compensation required in this Section 7.3 within sixty (60) days following the determination of such amount and approval of the Board, in each case in accordance with this Section 7.3. Upon LAWA's payment in full to Operator of such compensation, this Agreement shall terminate automatically.

**7.3.1.** LAWA and Operator will each hire an appraiser at their own expense who is experienced in the appraisal of machinery and equipment, with experience appraising PV solar power systems. The appraiser will value the PV System based upon its remaining expected cash flows from the expected shut down date to the end of the Term, which shall be the amount of compensation payable to Operator in connection with a permanent removal of the PV System (subject to the processes specified below for determining such amount). The following methodology will be used:

(i) Discounted Cash Flow Analysis taking into account the trends in rates paid by LADWP and any expected decreases in the efficiency of the PV System as demonstrated by previous years' electricity production declines, if any. The appraiser will consider the Agreement revenue that would have been due LAWA should the PV System never been removed as an expense to the Operator against their net revenue. Discounting of the cash flow will be based upon verified documentation of the Operator's cost of capital at the time of disconnection. Cash flows will also consider any salvage values for the PV modules being removed at the time of disconnection based upon their estimated useful remaining life as an expense to Operator, as if the reversion of the PV System would not have occurred until the end of the term of the Agreement. Should the removal of the PV System occur within the first seven (7) years of the Commercial



Operation Date, the appraiser will consider the loss of tax credits or any other tax benefits related to the PV System (collectively referred to as "Tax Incentives") the Operator incurred as a result of the early removal, and the value of such Tax Incentives shall be included as compensation payable to Operator as part of the Fair Market Value. Operator shall provide all such documentation and information attesting said loss of Tax Incentives to the appraiser to validate the value of the Tax Incentive loss. Operator will provide to LAWA with copies of any data or documentation provided to the appraiser for the calculation of any Tax Incentive loss derivation. The appraiser must be able to verify such Tax Incentive loss for it to be considered as part of the Discounted Cash Flow Analysis.

(ii) The following process will be followed:

(a) Parties May Negotiate in Good Faith. LAWA and Operator may (but are not required to), in good faith, negotiate the PV System reimbursement valuation applicable to the PV System within thirty (30) days following the applicable request for permanent removal. Such good faith negotiations, initiated by either party, may include the involvement of a third party reviewer to review and make nonbinding recommendations regarding each party's rate adjustment proposal, discussions regarding external and internal factors that may be unique to the land and/or improvements so that the reviewer(s) can take them into consideration when making the recommendations in substantially the same manner as corroborated by the parties and applicable to the PV System. The parties shall have continuing opportunities to negotiate in good faith in an attempt to reach agreement on the PV System reimbursement valuation notwithstanding each party's obligation to perform its duties as described under Section (b) below. If the parties are able to reach an agreement on the PV System reimbursement valuation, then, as of such agreement, said PV System reimbursement valuation shall be presented to the Board as a recommendation for approval and shall be payable by LAWA to Operator within sixty (60) days of the Board's approval of such PV System reimbursement valuation (as provided in the opening paragraph of this Section 7.3). However, if the parties are unable to reach final agreement during negotiation within the thirty (30) days specified above, the parties may continue to negotiate in good faith to attempt to reach agreement until arbitration commences pursuant to Section (f) below.

(b) Appraisal Process. If the parties cannot reach agreement on the PV System reimbursement valuation for the solar system(s) within the time period specified above or the Board does not approve the agreed upon PV System reimbursement valuation as described in Section (a) above, then the parties shall determine the purchase price by the procedures described in Article 1, Sections 5.11.4 7.3.1(c) through (f) below (the "Fair Market Value").

(c) Step 1: Independent Appraisals. LAWA and Operator shall each select an independent, third party appraiser, who is a member of the Appraisal Institute American Society of Appraisers (or their successor organization) and meets the Minimum Qualifications as defined within this Operating Agreement (a "Qualified Appraiser"). Either Operator or LAWA shall, when notified in writing by the other to do so, deliver to the other party the name and address of such appraiser (each, selected Qualified Appraiser, a "Main Appraiser"). The parties shall

mutually agree as to the time and place for a conference between the two parties and the Main Appraisers no later than fifteen (15) days from the date of the exchange of names and addresses of the Main Appraisers. At such meeting, both Operator and LAWA may have discussions with the Main Appraisers as to any externalities that may affect the derivation of the PV System reimbursement valuation and determine the appraisal scope. The Appraisal Instructions to be given to the Main Appraisers are as defined within this Agreement. LAWA and Operator shall each pay the fees and expenses of their respective Main Appraisers. The narrative appraisals must be completed according to the Uniform Standards of Professional Appraisal Practice (USPAP) for the year in which the appraisal is completed. No later than sixty (60) calendar days after the date of the appraiser meeting, a copy of the completed, final USPAP-compliant appraisal report procured by both LAWA and Operator will be made available for review by the other party on the same day. If either LAWA or Operator will be unable to deliver its appraisal report by the appraisal report delivery deadline, the late party will inform the other party in writing of the reason for the delay and the expected date on which appraisal reports will be exchanged. If either party's appraisal report cannot be delivered within ninety (90) days of the appraiser meeting, the complying party shall then have its appraisal report presented to the Board for approval. Upon exchange of the two appraisal reports, in the event that the determination of the compensation value in the two appraisal reports differs by fifteen percent (15%) or less, the recommended PV System reimbursement valuation that is the average of the determinations in the two appraisal reports shall be the compensation payable to Operator under this Section 7.3 and presented to the Board as a recommendation for approval within ninety (90) days of determination. If the PV System reimbursement valuations in the two appraisal reports differ by more than fifteen percent (15%), the parties shall proceed to Section (e) below.

(d) Step 2: Arbitration Appraiser Selection. The Main Appraisers selected by each party shall be instructed to agree upon and select an Arbitration Appraiser (as defined below) no later than four (4) weeks after the appraiser meeting described in Section (c). The Arbitration Appraiser shall be a Qualified Appraiser that is not (and has not been in the year preceding the date of selection) under contract with LAWA for appraisal services. If the Arbitration Appraiser selected is not available to perform the task pursuant to the instructions set forth in Section (f) below or is unwilling to execute a LAWA contract for the performance of appraisal services, then LAWA and Operator shall inform the Main Appraisers and require them to repeat the selection process again until an available Arbitration Appraiser is selected. If the Main Appraisers cannot come to agreement on the selection of an Arbitration Appraiser within four (4) weeks from the date of the appraiser meeting, the CEO shall select an Arbitration Appraiser, provided the same shall be a Qualified Appraiser that is not (and has not been in the year preceding the date of selection) under contract with LAWA for appraisal services and otherwise meets the requirements of an Arbitration Appraiser as specified herein.

(e) Appraisal Review Period. The parties shall have two (2) weeks to review each other's appraisal reports from the date of the appraisal exchange as described in (c) above. The parties may continue to negotiate the PV System reimbursement valuation during this period. Within fifteen (15) calendar days of the appraisal report exchange in Section (c) above,

the parties shall mutually fix a time and place for a negotiation meeting between the parties to be held no later than three (3) weeks from the date of the appraisal report exchange. At such meeting, the parties shall attempt to reach a final agreement on the PV System reimbursement valuation. Either party may include its Main Appraiser in the meeting, if desired. If Operator and LAWA reach agreement on the PV System reimbursement valuation, such agreed amount shall be the compensation payable to Operator under this Section 7.3 and, as of such agreement, will be presented to the Board as a recommendation for approval. If Operator and LAWA are unable to reach agreement on the PV System reimbursement valuation by the date that is fourteen (14) calendar Days from the date of the negotiation meeting, then the parties shall proceed to Section (f) below.

(f) Step 3: Appraiser Arbitration. LAWA and Operator shall each pay one-half of the fees and expenses of the Arbitration Appraiser. The arbitration appraiser (the "Arbitration Appraiser") selected by the two Main Appraisers or the parties, as the case may be, in Section (d) shall receive copies of both Operator and LAWA's final appraisal reports that were procured in Section (c). The Arbitration Appraiser shall be allowed twenty-one (21) days to review both appraisal reports. After review of the two appraisal reports, the Arbitration Appraiser will determine which of the PV System reimbursement valuations from the two appraisal reports are the most reasonable, considering comparable data selection, market information and applicable valuation methodology. The Arbitration Appraiser will communicate its decision in writing to both Operator and LAWA twenty-one (21) days after engagement. The Arbitration Appraiser's determination shall be the compensation payable to Operator under this Section 7.3 and shall be presented to the Board as a recommendation for approval within ninety (90) days of determination.

(g) Appraisal Criteria. The following appraisal criteria shall apply to Sections (c) through (f) (the "Minimum Qualifications"):

(i) Appraiser Minimum Qualifications. The Main Appraiser must possess, at a minimum, an MAI or SRPA designation and must be licensed in the State of California. The Main Appraiser must perform all of the calculations and technical portions of the appraisal report as well as derive the final value conclusions within the appraisal report. The Main Appraiser must have knowledge of PV solar power systems.

(ii) Main Appraisers must be in good standing with the California Bureau of Real Estate Appraisers (CBREA) or its successor organization and have no more than one complaint filed against him or her for any reason and no complaints that have resulted in any disciplinary actions. The Main Appraisers must certify in the appraisal report that he or she has never received any disciplinary actions from the CBREA. The Main Appraisers must be able to provide documentation of the sources of comparable PV System fee rate and sales data to the reasonable satisfaction of LAWA and Operator.

(iii) Appraisal Instructions. The Main Appraiser shall consider the following in completing the appraisal report:

(A) City of Los Angeles Administrative requirements that are in force upon Operator within this Agreement at the date of value.

(B) City regulations that may affect value.

(C) Any public or private easements, such as utilities or rights of way or water rights.

(h) LAWA and Operator shall have the right to modify any conditions of the appraisal process upon mutual written agreement of the parties.

(i) In the event that a matter is required to be presented to the Board for approval as provided herein (a "Board Matter"), then such Board Matter shall be considered by the Board within ninety (90) days following the agreement of the parties as to the reimbursement valuation or following the date the Arbitration Appraiser makes a determination regarding the reimbursement valuation.

#### 7.4. Recordkeeping and Audit Rights.

7.4.1. Operator shall keep and maintain full, complete and accurate books of accounts and records of the services performed under this Agreement in accordance with generally accepted accounting principles consistently applied, which books and records shall be readily accessible to and open for inspection and copying at Operator's southern California offices (as provided in Section 33.12.1 [Notices], below) by LAWA, its auditors or other authorized representatives. Such books and records shall be maintained by Operator for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved.

7.4.2 During the term of this Agreement, LAWA may audit, review and copy any and all writings (as that term is defined in Section 250 of the California Evidence Code) of Operator and subcontractors arising from or related to this Agreement or performance of the scope of work contemplated hereby, whether such writings are (a) in final form or not, and (b) prepared by Operator, subcontractors or any individual or entity acting for or on behalf of Operator or a subcontractor. Operator shall be responsible for obtaining access to and providing writings of subcontractors. Operator shall provide LAWA at Operator's sole cost and expense a copy of all such writings within twenty-one (21) days of a written request by LAWA. LAWA's right shall also include inspection at reasonable times of the Operator's office or facilities which are engaged in the performance of the scope of work contemplated hereby.



## **Section 8. Termination.**

8.1. Termination by LAWA. Any of the following shall constitute a “Default Event” by Operator under this Agreement and LAWA shall thereafter have the remedies specified in Section 8.2 hereof:

8.1.1 Operator’s failure to pay LAWA under Article 1, Section 7 of this Agreement if the failure continues for thirty (30) days after written notice of the failure from LAWA to Operator; provided that, in no event shall any failure of LADWP to pay LAWA be deemed a failure of Operator under this Section 8.1.1.

8.1.2 Operator’s breach of any term, provision or covenant of this Agreement and if (A) such breach can be cured within thirty (30) days after LAWA’s notice of such breach and Operator fails to so cure, or (B) Operator fails to commence and take reasonable steps to cure within such thirty (30) day period if a longer cure period is needed.

8.1.3 To the extent permitted by law:

8.1.3.1 A general assignment by Operator or any guarantor of the Agreement, or any rights granted to Operator hereunder, to, and for the benefit of the creditors, without written consent of LAWA;

8.1.3.2 The filing by or against Operator, or any guarantor, of any proceeding under an insolvency or bankruptcy law, unless (in the case of an involuntary proceeding) the proceeding is dismissed within sixty (60) days;

8.1.3.3 The appointment of a trustee or receiver to take possession of all or substantially all the assets of Operator or any guarantor, unless possession is unconditionally restored to Operator or that guarantor within thirty (30) days and the trusteeship or receivership is dissolved; and/or

8.1.3.4 Any execution or other judicially authorized seizure of all or substantially all the assets of Operator located on the premises, or of Operator’s interest in this Agreement, unless that seizure is discharged within thirty (30) days; and

8.1.3.5 Termination of Operator’s SOPPA with LADWP.

8.1.4. Cross Default. A material breach of the terms of any other lease, license, permit, or contract held by Operator with LAWA shall constitute a Default of the terms of this Agreement and shall give LAWA the right to terminate this Agreement for cause in accordance with the procedures set forth in this Section 8.1.



8.2 LAWA's Remedies on Operator's Default. Subject to Section 9.2.2, on the occurrence of Default Event, in addition to any other rights or remedies now or later available to LAWA at law or in equity, LAWA shall have the right to pursue any one or more of the following remedies. These remedies are not exclusive but are instead cumulative.

8.2.1. Terminate this Agreement and all rights of Operator under this Agreement, by giving Operator thirty (30) days written notice that this Agreement is terminated, in which case, LAWA may recover from Operator the aggregate sum of:

8.2.1.1. The worth at the time of award of any unpaid Monthly Payment, charges, fees or monies that had been earned at the time of termination;

8.2.1.2. The worth at the time of award of the amount by which (A) the unpaid Monthly Payment, fees, charges, or monies that would have been earned after termination until the time of award exceeds (B) the amount of monetary loss, if any, that Operator affirmatively proves could be reasonably avoided;

8.2.1.3. The worth at the time of award of the amount by which (A) the unpaid Monthly Payment, fees, charges, or monies for the balance of the term after the time of award exceeds (B) the amount of monetary loss, if any, that Operator affirmatively proves could be reasonably avoided;

8.2.1.4. Any other amount necessary to compensate LAWA for all the detriment caused by Operator's failure to perform Operator's obligations, including any such amounts ascertained or determined at any time after the Default Event; and

8.2.1.5. All other amounts in addition to or in lieu of those previously set out as may be permitted from time to time by applicable California law.

8.2.1.6. As used in Article 1, Sections 8.2.1.1. and 8.2.1.2., the "worth at the time of award" is computed by adding interest at the rate of ten percent (10%) per annum. As used in Article 1, Section 8.2.1.3, the "worth at the time of award" is computed by discounting that amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award plus one percent (1%).

8.2.2. Continue this Agreement, and from time to time, without terminating this Agreement, either

8.2.2.1. Recover all Monthly Payments and other amounts payable as they become due or,

8.2.2.2. Subject to Section 3.2, relet the Site Location or any part on behalf of Operator on terms and at the Monthly Payment that LAWA, in LAWA's discretion, may deem advisable, and apply the proceeds of reletting to the Monthly Payment and other amounts payable by Operator. To the extent that the Monthly Payment and other amounts payable by Operator under this Agreement exceed the amount of the proceeds from reletting, LAWA may recover the excess from Operator as and when due.

8.2.3. Upon the occurrence of a Default Event, but provided that the Financing Party (as defined below) is not then pursuing a cure of such Default Event in accordance with the terms of Article 1, Section 9.2.2 hereof, LAWA shall also have the right, with or without terminating this Agreement, to re-enter the Site Location and remove all property from the Site Location. LAWA may store the property removed from the Site Location at the expense and for the account of Operator.

8.2.4. None of the following remedial actions, alone or in combination, shall be construed as an election by LAWA to terminate this Agreement unless LAWA has in fact given Operator written notice that this Agreement is terminated or unless a court of competent jurisdiction decrees termination of this Agreement: (a) any act by LAWA to maintain or preserve the Site Location; (b) any efforts by LAWA to relet the Site Location; and/or (c) any re-entry, repossession, or reletting of the Site Location by LAWA pursuant to this Section. If LAWA takes any of the previous remedial actions without terminating this Agreement, LAWA may nevertheless at any later time terminate this Agreement by written notice to Operator, provided that no Financing Party is then pursuing a cure of such Default Event.

8.2.5. If LAWA relets the Site Location, LAWA shall apply the revenue from the reletting as follows: first, to the payment of any indebtedness other than Monthly Payment due from Operator to LAWA; second, to the payment of any cost of reletting; third, to the payment of the cost of any maintenance and repairs to the Site Location; and fourth, to the payment of Monthly Payment and other amounts due and unpaid under this Agreement. LAWA shall hold and apply the residue, if any, to payment of future amounts payable under this Agreement as the same may become due, and shall be entitled to retain the eventual balance with no liability to Operator. If the revenue from reletting during any month, after application pursuant to the previous provisions, is less than the sum of (i) LAWA's expenditures for the Site Location during that month and (ii) the amounts due from Operator during that month, Operator shall pay the deficiency to LAWA immediately upon demand.

8.2.6. After the occurrence of a Default Event, LAWA, in addition to or in lieu of exercising other remedies, may, but without any obligation to do so, cure the breach underlying the Default Event for the account and at the expense of Operator. However, LAWA must, by prior written notice to Operator (and any Financing Parties, if applicable) first allow Operator a reasonable opportunity to cure, except in cases of emergency, where LAWA may proceed without prior notice to Operator. Operator shall, upon demand, immediately reimburse LAWA for all costs, including costs of settlements, defense, court costs, and attorney fees, that LAWA may incur

in the course of any cure.

8.2.7. No security or guaranty for the performance of Operator's obligations that LAWA may now or later hold shall in any way constitute a bar or defense to any action initiated by LAWA or unlawful detainer or for the recovery of the Site Location, for enforcement of any obligation of Operator, or for the recovery of damages caused by a breach of this Agreement by Operator or by a Default Event, provided however that any recovery by LAWA under any such security or guaranty shall be applied to offset the damages incurred by LAWA and satisfy any amounts owed by Operator (i.e., LAWA shall not be entitled to double recovery).

8.2.8. Except where this is inconsistent with or contrary to any provisions of this Agreement, no right or remedy conferred upon or reserved to either party is intended to be exclusive of any other right or remedy, or any right or remedy given now or later existing at law or in equity or by statute. Except to the extent that either party may have otherwise agreed in writing, no waiver by a party of any violation or nonperformance by the other party of any obligations, agreements, or covenants under this Agreement shall be deemed to be a waiver of any subsequent violation or nonperformance of the same or any other covenant, agreement, or obligation, nor shall any forbearance by either party to exercise a remedy for any violation or nonperformance by the other party be deemed a waiver by that party of the rights or remedies with respect to that violation or nonperformance.

8.3 Termination by Operator. The following shall be considered a default of LAWA. Operator shall have the right to pursue remedies at law or in equity and all the rights and remedies and Operator may terminate the Agreement in accordance with the terms and conditions set forth in this Agreement:

8.3.1 LAWA's breach of any term, provision or covenant of this Agreement and if (A) such breach can be cured within thirty (30) days after Operator's notice of such breach and LAWA fails to so cure, or (B) LAWA fails to commence and pursue said cure within such thirty (30) day period if a longer cure period is needed.

#### 8.4. Limitation of Liabilities.

8.4.1 Except as otherwise specifically and expressly provided in this Agreement, neither LAWA nor Operator shall be liable to the other party under this Agreement for any indirect, special or consequential damages, including loss of use, loss of revenues, loss of profit, interest charges, cost of capital or claims of its buyers or members to which service is made.

8.4.2 Under no circumstances shall LAWA be required to make a termination payment or any other payment to Operator if Operator is then in default beyond any applicable notice and cure periods (except for payments due under this Agreement for performance prior to termination).

8.5. Survival of Obligations. In addition to any other provisions stated to survive expiration or earlier termination of this Agreement, including Article 1, Section 4.4.6.1, Section 4.7, and Section 4.7.5.1 shall survive the expiration or earlier termination of this Agreement.

**Section 9. Assignments, Transfers, and Delegations; Financing.**

9.1. Assignments; Transfers. Operator shall not, in any manner, assign or transfer this Agreement, or any portion thereof or any interest herein ("Assignment"; for avoidance of doubt, a sublease or termination thereof shall not constitute an Assignment), without the prior written consent of the Board, nor sublet or sublease the whole or any part of the Site Location, nor license or permit the use of the same, in whole or in part, without the prior written consent of the CEO, except as permitted under the Los Angeles World Airports Leasing Policy, as may be modified or amended from time to time. Any attempts to transfer, assign, or sublease without the consent required by this Section shall be void and shall transfer no rights to the Site Location. Consent to one Assignment, subletting, or use, or occupation shall not be deemed to be a consent to any subsequent Assignment, subletting, occupation, or use. This Agreement shall not nor shall any interest therein, be assignable as to the interest of Operator by operation of law without the prior written consent of Board. For purposes of this Agreement, an Assignment shall include any change in the majority ownership of or the power to vote, directly or indirectly, the majority of outstanding capital stock, membership interest or other ownership interests of Operator; provided, moreover, for purposes of this Section 9.1, a serial or cumulative transfer of more than fifty percent (50%) of the ownership interests of Operator within any consecutive twelve (12) month period shall also constitute an Assignment for purposes of this Agreement; provided, however, that a serial or cumulative transfer of fifty percent (50%) or less of the ownership interests of Operator shall not constitute an Assignment for purposes of this Agreement. Notwithstanding the foregoing, LAWA hereby approves the Assignment and/or sublease by Operator to 7800 WOODLEY FIT, LLC, a California limited liability company ("7800 Woodley FIT").

9.1.1 LAWA shall not unreasonably withhold its consent to the Assignment of this Agreement or the subletting of the Site Location or any portion thereon provided, however, that the use of said premises by any such assignee or sublessee must be consistent with the use authorized herein and the prospective subtenant and/or assignee must agree to execute LAWA's Consent to Sublease and/or Assignment Agreement. A request by Operator for consent to an Assignment (as required herein) shall be submitted to LAWA in writing at least ninety (90) days before LAWA's requested consent, along with a fully executed copy of the proposed assignment agreement, as well as a copy of all contracts or writings which set forth payments from assignee(s) to Operator and/or which describe the acts or services to be performed by or for the assignee(s) in connection with the use of the Site Location covered by this Agreement. A request by Operator for a Consent to Sublease (as required herein) shall be submitted to LAWA in writing at least thirty (30) days before LAWA's requested consent, along with a fully executed copy of the sub-Operating Agreement. Operator shall promptly advise LAWA of early termination of

## Assignments.

9.1.2 In the case of an Assignment, Operator, at LAWA's discretion, shall pay to LAWA a fee ("Assignment Fee") based on the following formulas:

9.1.2.1 If there are ten (10) years or more remaining on the Term of this Agreement when the Assignment occurs, Operator shall pay to LAWA an amount equal to twenty percent (20%) of the Net Transaction Value. For purposes of calculating the Assignment Fee, the "Net Transaction Value" shall be defined as the difference between the following: (1) the gross transaction value attributed to the Operating Agreement (including improvements thereon owned by Operator) and inuring to the benefit of Operator and/or its Affiliates (as defined below), such value as reasonably determined by LAWA and (2) the depreciated value of the Qualified Investments that Operator has made to the Site Location at the time of the Assignment.

9.1.2.2 If there are less than ten (10) years but more than five (5) years remaining on the term of this Agreement when the Assignment occurs, Operator shall pay to LAWA an amount equal to fifteen percent (15%) of the Net Transaction Value.

9.1.2.3 If there are five (5) years or less remaining on the term of the Agreement when the Assignment occurs, Operator shall pay to LAWA an amount equal to ten (10%) of the Net Transaction Value.

9.1.2.4 Notwithstanding the foregoing, no Assignment Fee shall be charged in the event of an assignment to 7800 Woodley FIT (including, without limitation, the assignment contemplated by Section 9.1) or any Affiliate of Operator, or an assignment, sublease or transfer of the Agreement to a Financing Party or otherwise in connection with Operator's financing under this Agreement, whether or not Operator receives any compensation for any such assignment or transfer, provided however, in the case of a transfer to an Affiliate of Operator, LAWA shall receive a reasonable administrative fee for costs reasonably incurred in connection with the processing of the consent to assignment and reimbursement of its attorneys' fees in connection with the review, preparation and processing of the consent to the assignment of the Agreement to the Affiliate. For purposes of this Agreement, "Affiliate" shall mean (i) any entity not less than fifty percent (50%) of whose outstanding ownership interest shall, at the time, be owned directly or indirectly by Operator or (ii) any entity which, directly or indirectly, controls or is controlled by or is under common control with Operator. For this purpose, control shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such entity, whether through the ownership of voting securities or by contract or otherwise.



## 9.2 Financing.

9.2.1 Financing Parties. As used herein, (a) “Financing Party” or “Financing Parties” shall mean any party (i) providing direct or indirect senior or subordinated construction, interim or long-term debt or equity financing or refinancing (including any Tax Equity Financing (as defined below) and tax credit sale financing) to Operator, to any permitted assignee of all or any portion of this Agreement, or to any Affiliates of Operator for or in connection with the development, construction, purchase, installation, ownership, or operation and maintenance of the PV System, whether that financing or refinancing takes the form of private debt, public debt or any other form (including debt financing or refinancing), including any equity investor directly or indirectly providing financing or refinancing for the PV System or purchasing equity ownership interests of Operator in connection with any such financing or refinancing (including, without limitation, as a participant in a Tax Equity Financing), and any trustee or agent acting on their behalf, (ii) providing direct or indirect interest rate protection agreements to hedge any of the foregoing obligations, and/or (iii) participating directly or indirectly in a lease financing, including any sale leaseback or leveraged leasing structure, with respect to the PV System, and of which Operator has provided LAWA with written notice; and (b) “Tax Equity Financing” shall mean with respect to Operator or its Affiliates or the PV System, any transaction or series of transactions resulting in a party (or successor in interest or assignee of such party) providing financing or refinancing for the PV System to Operator or its Affiliates and whose return is substantially derived from tax credits, and includes any leasing transaction (including a sale-leaseback, inverted lease or the like) that has the result of the foregoing.

9.2.2 Rights of Financing Parties. Notwithstanding anything in this Agreement to the contrary, Operator shall have the right to assign all or any portion of Operator’s interest in this Agreement, mortgage, encumber, pledge or hypothecate all or any portion of Operator’s interest in the PV System or this Agreement, or transfer title to the PV System and the other improvements constructed on the Site Location by Operator, in each case to or in favor of a Financing Party, with the prior written consent of the Chief Executive Officer, which consent shall not be unreasonably withheld, approved as to form by the City Attorney (“PV System Financing”). In such event, upon Operator’s written request to the Chief Executive Officer, LAWA shall execute an estoppel certificate in form and substance satisfactory to LAWA and the Financing Party. Any PV System Financing attempted without the prior written consent of the Chief Executive Officer shall be null and void and shall be a Default Event (as herein defined). In connection with Operator’s request for consent to any such PV System Financing, Operator shall submit for the Chief Executive Officer’s prior review and written approval any and all instruments and documents to be executed by, or binding upon, Operator in connection therewith (the “PV System Financing Documents”). In the event such PV System Financing is approved in writing by the Chief Executive Officer and the Agreement is so assigned, Operator’s interest in the PV System is so encumbered, or title to the improvements is so transferred, except as provided for herein, LAWA shall not be bound, nor shall the terms, conditions, and covenants of the Agreement nor the rights and remedies of LAWA hereunder be in any manner limited, restricted, modified, or affected by reason of the PV System Financing Documents. The following

provisions shall apply with respect to each of the approved Financing Parties: (a) provided that all monetary Default events provided in this Agreement have been cured any approved Financing Parties shall be permitted to foreclose on their respective interests in this Agreement, the PV System, Operator or its Affiliates (including any such foreclosure that results in a change in control), and to make sales or assignments of the PV System, Operator or its Affiliates after or in lieu of foreclosure, all with prior written notice to LAWA, (b) such Financing Party shall have the right, but not the obligation, to perform any act required to be performed by Operator under this Agreement, to prevent or cure a default by Operator, provided Financing Party provides written notice to LAWA, such act performed by such Financing Party shall be as effective to prevent or cure a default as if done by Operator, (c) each Financing Party shall have the same periods as are given Operator for remedying a Default Event or causing it to be remedied, plus, in each case, provided that the Financing Party shall pay all unpaid Monthly Payments owed under this Agreement and, to the extent susceptible of cure by the Financing Party, shall promptly commence and diligently pursue to completion any cure with respect to any other acts required to be performed by Operator under this Agreement, an additional period of thirty (30) days after the expiration thereof or after LAWA has served a notice or a copy of a notice of such Default Event upon the Financing Party, whichever is later, (d) LAWA shall be required to send each Financing Party a copy of any and all written notices of Default Events or notice to cure Default Events under the Agreement delivered to Operator related to this Agreement only if Operator has given LAWA written notice of such Financing Party pursuant to the terms of this Agreement, (e) within thirty (30) business days of the receipt of a written reasonable request from Operator or any Financing Party, LAWA shall execute or arrange for the delivery of documents reasonably requested by Operator or such Financing Party to confirm the status of this Agreement, provided Operator provides a form of such document with the request and such document is acceptable to the LAWA CEO and approved as to form by City Attorney, (f) LAWA agrees that no Financing Party shall be obligated to perform any obligation or be deemed to incur any liability or obligation provided in this Agreement on the part of Operator or shall have any obligation or liability to LAWA with respect to this Agreement except to the extent any Financing Party has expressly assumed the obligations of Operator hereunder and delivered written notice of same to LAWA; provided, that LAWA shall nevertheless be entitled to exercise all of its rights hereunder in the event that Operator or its Financing Parties fail to perform Operator's obligations under this Agreement within the cure periods specified in this Agreement, (g) LAWA will not exercise any right to terminate or suspend this Agreement unless it shall have given each Financing Party prior written notice of its intent to terminate or suspend this Agreement, and LAWA shall accept a cure performed by any Financing Party so long as the cure is accomplished within the applicable cure period provided above or otherwise agreed by LAWA and any Financing Party, and (h) LAWA agrees and acknowledges that the Financing Parties are third-party beneficiaries of the provisions of this Section 9.2.2.

9.2.3 An approved Financing Party may transfer the interest in the Agreement to a third-party successor ("Successor"), subject to the Board's prior written consent, which should not be unreasonably denied, conditioned, or delayed. This is on the condition that, (i) the Successor and/or its principal or management company demonstrates adequate financial capability to fulfill the remaining obligations under this Agreement as they become due, and (ii) the proposed

Successor is not on a list of businesses or entities with whom the City is prohibited from conducting business or entering into a contract. Upon such a succession or assumption of the interest, the Successor shall comply with all terms, conditions, and covenants of this Agreement and continue operations on the Site Location strictly for the purposes outlined in this Agreement, or for any purpose that the Chief Executive Officer may authorize in writing at that time. Furthermore, no succession by a Successor will relieve Operator from its responsibilities pursuant to this Agreement.

9.2.4 Once a Financing Party and the PV System Financing Documents are approved, two (2) copies of any and all PV System Financing Documents shall be filed with LAWA at least two (2) weeks prior to the effective date thereof, and Operator shall obtain Chief Executive Officer's prior written consent of any changes or amendments thereto. Upon and immediately after the recording of any approved PV System Financing Documents, Operator shall cause to be recorded in the Office of the County Recorder for the County of Los Angeles a request for a copy of any notice of Default Event and of any notice of sale, as provided in Section 2924b of the Civil Code of the State of California, duly executed and acknowledged by LAWA and specifying that said notice be mailed to LAWA at the address set forth in Section 33.12.

9.2.5 Consent by the Chief Executive Officer to one PV System Financing or one Financing Party shall not be a waiver of LAWA's rights under this Section as to any subsequent PV System Financing or assignment or other transfer by such Financing Party; and any such subsequent PV System Financing or successor Financing Party shall be subject to LAWA's review and approval in accordance with the terms and conditions of the Agreement. This prohibition against the transfer of any Financing Party's interest includes any transfer which would otherwise occur by operation of law.

## **ARTICLE 2: STANDARD TERMS AND PROVISIONS**

### **Section 10. Nondiscrimination and Equal Employment Practices/ Affirmative Action Program.**

#### **10.1. Federal Non-Discrimination Provisions.**

10.1.1. The Operator assures that it will comply with pertinent statutes, Executive Orders, and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This Section 10.1.1 obligates the Operator or its transferee for the period during which Federal assistance is extended to the airport program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases, this Section 10.1.1 obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or

benefits; or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property. This Section 10.1.1 binds Operator from the bid solicitation period through the completion of the Agreement. All sub-agreements awarded under or pursuant to this Agreement shall contain this provision.

## 10.2. Municipal Non-Discrimination Provisions.

10.2.1. Non-Discrimination In Use Of Airport. There shall be no discrimination against or segregation of any person, or group of persons, on account of race, religion, national origin, ancestry, sex, sexual orientation, age, physical handicap, marital status, domestic partner status, or medical condition in the Agreement, transfer, use, occupancy, tenure, or enjoyment of the Airport or any operations or activities conducted on the Airport. Nor shall Operator or any person claiming under or through Operator establish or contract any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of Operators, sub-Operators, or vendees of the Airport. Any assignment or transfer, which may be permitted under this Agreement, shall also be subject to all non-discrimination clauses contained in Section 10.2.

10.2.2. Non-Discrimination In Employment. During the term of this Agreement, Operator agrees and obligates itself in the performance of this Agreement not to discriminate against any employee or applicant for employment because of the employee's or applicant's race, religion, national origin, ancestry, sex, sexual orientation, age, physical handicap, marital status, domestic partner status, or medical condition. Operator shall take affirmative action to insure that applicants for employment are treated, during the term of this Agreement, without regard to the aforementioned factors and shall comply with the affirmative action requirements of the Los Angeles Administrative Code, Sections 10.8, et seq., or any successor ordinances or law concerned with discrimination.

10.2.3. Equal Employment Practices. Throughout the term of this Agreement, Operator agrees to comply with Section 10.8.3 of the Los Angeles Administrative Code ("Equal Employment Practices"), including any future amendments thereto, which is incorporated herein by this reference. A copy of Section 10.8.3 has been attached to this Agreement for the convenience of the parties as Exhibit K. By way of specification but not limitation, pursuant to Sections 10.8.3.E and 10.8.3.F of the Los Angeles Administrative Code, the failure of Operator to comply with the Equal Employment Practices provisions of this Agreement may be deemed to be a material breach of this Agreement. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard have been given to Operator. Upon a finding duly made that Operator has failed to comply with the Equal Employment Practices provisions of this Agreement, this Agreement may be forthwith terminated, cancelled, or suspended.

10.2.4. Affirmative Action Program. Throughout the term of this Agreement, Operator agrees to comply with Section 10.8.4 of the Los Angeles Administrative Code



("Affirmative Action Program"), including any future amendments thereto, which is incorporated herein by this reference. A copy of Section 10.8.4 has been attached to this Agreement for the convenience of the parties as Exhibit L. By way of specification but not limitation, pursuant to Sections 10.8.4.E and 10.8.4.F of the Los Angeles Administrative Code, the failure of Operator to comply with the Affirmative Action Program provisions of this Agreement may be deemed to be a material breach of this Agreement. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard have been given to Operator. Upon a finding duly made that Operator has failed to comply with the Affirmative Action Program provisions of this Agreement, this Agreement may be forthwith terminated, cancelled, or suspended.

10.3. All sub-agreements awarded under or pursuant to this Agreement shall contain similar provisions, and Operator shall require each of its sub-Operators to complete a certification and submit to Operator an Affirmative Action Plan acceptable to LAWA.

#### **Section 11. Insurance.**

11.1. Operator shall procure at its expense, and keep in effect at all times during the term of this Agreement, the types and amounts of insurance specified on Insurance, Exhibit M, attached hereto and incorporated by reference herein. The specified insurance shall also, either by provisions in the policies, by LAWA's own endorsement form or by other endorsement attached to such policies, include and insure LAWA, its Department of Airports, its Board and all of LAWA's officers, employees, and agents, their successors and assigns, as additional insureds, against the areas of risk described on Insurance, Exhibit M, hereof with respect to Operator's acts or omissions in its operations, use, and occupancy of the Airport or other related functions performed by or on behalf of Operator under this Agreement.

11.2. Each specified insurance policy (other than Workers' Compensation and Employers' Liability and fire and extended coverages) shall contain a Severability of Interest (Cross Liability) clause which states, "It is agreed that the insurance afforded by this policy shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company's liability," and a Contractual Endorsement which shall state, "Such insurance as is afforded by this policy shall also apply to liability assumed by the insured under this Agreement with the City of Los Angeles."

11.3. All such insurance shall be primary and noncontributing with any other insurance held by City's Department of Airports where liability arises out of or results from the acts or omissions of Operator, its agents, employees, officers, assigns, or any person or entity acting for or on behalf of Operator. Such policies may provide for reasonable deductibles and/or retentions acceptable to the CEO based upon the nature of Operator's operations and the type of insurance involved.



11.4. LAWA shall have no liability for any premiums charged for such coverage(s). The inclusion of LAWA, its Department of Airports, Board and all of City's officers, employees, and agents, their successors and assigns, as insureds is not intended to, and shall not, make them, or any of them, a partner or joint venturer with Operator in Operator's operations at Airport. In the event Operator fails to furnish LAWA evidence of insurance and maintain the insurance as required, LAWA, upon ten (10) days prior written notice to comply, may (but shall not be required to) procure such insurance at the cost and expense of Operator, and Operator agrees to promptly reimburse LAWA for the cost thereof plus fifteen percent (15%) for administrative overhead. Payment shall be made within thirty (30) days of invoice date.

11.5. At least ten (10) days prior to the expiration date of the above policies, documentation showing that the insurance coverage has been renewed or extended shall be filed with LAWA. If such coverage is canceled or reduced, Operator shall, within fifteen (15) days of such cancellation of coverage, file with LAWA evidence that the required insurance has been reinstated or provided through another insurance company or companies.

11.6. Operator shall provide proof of all specified insurance and related requirements to LAWA either by production of the actual insurance policy(ies), by use of LAWA's own endorsement form(s), by broker's letter acceptable to the CEO in both form and content in the case of foreign insurance syndicates, or by other written evidence of insurance acceptable to the CEO. The documents evidencing all specified coverages shall be filed with LAWA in duplicate and shall be procured and approved in strict accordance with the provisions in Sections 11.47 through 11.56 of City's Administrative Code prior to Operator occupying the Airport. The documents shall contain the applicable policy number, the inclusive dates of policy coverages, and the insurance carrier's name, shall bear an original signature of an authorized representative of said carrier, and shall provide that such insurance shall not be subject to cancellation, reduction in coverage, or nonrenewal except after written notice by certified mail, return receipt requested, to the City Attorney of the City of Los Angeles at least thirty (30) days prior to the effective date thereof. LAWA reserves the right to have submitted to it, upon request, all pertinent information about the agent and carrier providing such insurance.

11.7. LAWA and Operator agree that the insurance policy limits specified herein shall be reviewed for adequacy annually throughout the term of this Agreement by the CEO who may, thereafter, require Operator, on thirty (30) days prior, written notice, to adjust the amounts of insurance coverage to whatever reasonable amount the CEO deems to be adequate.

11.8. Submission of insurance from a non-California admitted carrier is subject to the provisions of California Insurance Code Section 1760 through 1780, and any other regulations and/or directives from the State Department of Insurance or other regulatory board or agency. Operator agrees, except where exempted, to provide LAWA proof of said insurance by and through a surplus line broker licensed by the State of California.

## **Section 12. Child Support Orders.**

12.1 This Agreement is subject to Section 10.10, Article I, Chapter 1, Division 10 of the Los Angeles Administrative Code related to Child Support Assignment Orders, which is incorporated herein by this reference. A copy of Section 10.10 has been attached hereto for the convenience of the parties as Exhibit R. Pursuant to this Section, Operator (and any sub-Operator of Operator providing services to LAWA under this Agreement) shall (1) fully comply with all State and Federal employment reporting requirements for Operator's or Operator's sub-Operator's employees applicable to Child Support Assignment Orders; (2) certify that the principal owner(s) of Operator and applicable sub-Operators are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (3) fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with California Family Code Section 5230, et seq.; and (4) maintain such compliance throughout the term of this Agreement. Pursuant to Section 10.10(b) of the Los Angeles Administrative Code, failure of Operator or an applicable sub-Operator to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders and Notices of Assignment or the failure of any principal owner(s) of Operator or applicable sub-Operators to comply with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally shall constitute a default of this Agreement subjecting this Agreement to termination where such failure shall continue for more than ninety (90) days after notice of such failure to Operator by LAWA (in lieu of any time for cure provided elsewhere in this Agreement).

## **Section 13. Equal Benefits Ordinance.**

13.1. Unless otherwise exempt, Operator shall comply with the applicable provisions of the Equal Benefits Ordinance ("EBO"), Section 10.8.2.1 of the Los Angeles Administrative Code throughout the term of this Agreement. Operator shall not, in any of its operations within the City of Los Angeles or in other locations owned by the City of Los Angeles, including the Airport, discriminate in the provision of Non-ERISA Benefits (as defined below) between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration. As used above, the term "Non-ERISA Benefits" shall mean any and all benefits payable through benefit arrangements generally available to Operator's employees which are neither "employee welfare benefit plans" nor "employee pension plans", as those terms are defined in Sections 3(1) and 3(2) of ERISA. Non-ERISA Benefits shall include, but not be limited to, all benefits offered currently or in the future, by Operator to its employees, the spouses of its employees or the domestic partners of its employees, that are not defined as "employee welfare benefit plans" or "employee pension benefit plans", and, which include any bereavement leave, family and medical leave, and travel discounts provided by Operator to its employees, their spouses and the domestic partners of employees.

13.2. Operator agrees to post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

“During the term of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles’ Equal Benefits Ordinance may be obtained from the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance at (213) 847-6480.”

13.3. The failure of Operator to comply with the EBO will be deemed to be a material breach of the Agreement by LAWA. If Operator fails to comply with the EBO, LAWA may cancel or terminate the Agreement, in whole or in part, and all monies due or to become due under the Agreement may be retained by LAWA. LAWA may also pursue any and all other remedies at law or in equity for any breach. Failure to comply with the EBO may be used as evidence against Operator in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40, et seq., Contractor Responsibility Ordinance. If the LAWA determines that Operator has set up or used its contracting entity for the purpose of evading the intent of the EBO, LAWA may terminate the Agreement.

#### **Section 14. Environmentally Favorable Operations.**

If applicable to this Agreement, Operator acknowledges for Operator and any sub-Operators that Operator’s and its sub-Operators’ activities under this Agreement will be subject to all LAWA policies, guidelines and requirements regarding environmentally favorable construction, use and/or operations practices (hereinafter collectively referred to as “LAWA Policies”) provided in writing to Operator prior to the Effective Date as such LAWA Policies may be promulgated, revised and amended from time-to-time (provided LAWA shall provide Operator with at least thirty (30) days advance written notice of any such LAWA Policies promulgated, revised or amended after the Effective Date).

#### **Section 15. Business Tax Registration.**

Operator represents that it has registered its business with the Office of Finance of the City of Los Angeles and has obtained and presently holds from that Office a Business Tax Registration Certificate, or a Business Tax Exemption Number, required by City’s Business Tax Ordinance (Article 1, Chapter 2, Sections 21.00 and following, of City’s Municipal Code). Operator shall maintain, or obtain as necessary, all such Certificates required of it under said Ordinance and shall not allow any such Certificate to be revoked or suspended during the term hereof.

**Section 16. Living Wage Ordinance and Service Contractor Worker Retention Ordinances.**

**16.1. Living Wage Ordinance.**

16.1.1. General Provisions: Living Wage Policy. This Agreement is subject to the Living Wage Ordinance ("LWO") (Section 10.37, et seq., of the Los Angeles Administrative Code) which is incorporated herein by this reference. A copy of Section 10.37 has been attached hereto for the convenience of the parties as Exhibit Q. The LWO requires that, unless specific exemptions apply, any employees of Operator or Operators on City property who render services on the leased premises or licensed premises are covered by the LWO if any of the following applies: (1) the services are rendered on premises at least a portion of which are visited by substantial numbers of the public on a frequent basis, (2) any of the services could feasibly be performed by City of Los Angeles employees if the awarding authority had the requisite financial and staffing resources, or (3) the designated administrative agency of the City of Los Angeles has determined in writing that coverage would further the proprietary interests of the City of Los Angeles. Employees covered by the LWO are required to be paid not less than a minimum initial wage rate, as adjusted each year. The LWO also requires that employees be provided with at least twelve (12) compensated days off per year for sick leave, vacation, or personal necessity at the employee's request, and at least ten (10) additional days per year of uncompensated time pursuant to Section 10.37.2(b). The LWO requires employers to inform employees making less than twelve dollars (\$12) per hour of their possible right to the federal Earned Income Tax Credit ("EITC") and to make available the forms required to secure advance EITC payments from the employer pursuant to Section 10.37.4. Operator shall permit access to work sites for authorized City representatives to review the operation, payroll, and related documents, and to provide certified copies of the relevant records upon request by the City. Whether or not subject to the LWO, Operator shall not retaliate against any employee claiming non-compliance with the provisions of the LWO, and, in addition, pursuant to Section 10.37.6(c), Operator agrees to comply with federal law prohibiting retaliation for union organizing.

16.1.2. Living Wage Coverage Determination. An initial determination has been made that this is an Agreement under the LWO, and, that it is not exempt from coverage by the LWO. Determinations as to whether this Agreement is covered by the LWO, or whether an employer or employee are exempt from coverage under the LWO are not final, but are subject to review and revision as additional facts are examined and/or other interpretations of the law are considered. In some circumstances, applications for exemption must be reviewed periodically. LAWA shall notify Operator in writing about any redetermination by LAWA of coverage or exemption status. To the extent Operator claims non-coverage or exemption from the provisions of the LWO, the burden shall be on Operator to prove such non-coverage or exemption.

16.1.3. Compliance; Termination Provisions And Other Remedies: Living Wage Policy. If Operator is not initially exempt from the LWO, Operator shall comply with all of the provisions of the LWO, including payment to employees at the minimum wage rates, effective on



the execution date of this Agreement. If Operator is initially exempt from the LWO, but later no longer qualifies for any exemption, Operator shall, at such time as Operator is no longer exempt, comply with the provisions of the LWO and execute the then currently used Declaration of Compliance Form, or such form as the LWO requires. Under the provisions of Section 10.37.6(c) of the Los Angeles Administrative Code, violation of the LWO shall constitute a material breach of this Agreement and LAWA shall be entitled to terminate this Agreement and otherwise pursue legal remedies that may be available, including those set forth in the LWO, if LAWA determines that Operator violated the provisions of the LWO. The procedures and time periods provided in the LWO are in lieu of the procedures and time periods provided elsewhere in this Agreement. Nothing in this Agreement shall be construed to extend the time periods or limit the remedies provided in the LWO.

16.1.4. Subcontractor Compliance. Operator agrees to include, in every subcontract or subagreement covering LAWA property entered into between Operator and any subcontractor, a provision pursuant to which such subcontractor (A) agrees to comply with the Living Wage Ordinance and the Service Contractor Worker Retention Ordinance with respect to LAWA's property; (B) agrees not to retaliate against any employee lawfully asserting noncompliance on the part of the subcontractor with the provisions of either the Living Wage Ordinance or the Service Contractor Worker Retention Ordinance; and (C) agrees and acknowledges that LAWA, as the intended third-party beneficiary of this provision may (i) enforce the Living Wage Ordinance and Service Contractor Worker Retention Ordinance directly against the subcontractor with respect to LAWA property, and (ii) invoke, directly against the subcontractor with respect to LAWA property, all the rights and remedies available to LAWA under Section 10.37.5 of the Living Wage Ordinance and Section 10.36.3 of the Service Contractor Worker Retention Ordinance, as same may be amended from time to time.

16.2. Worker Retention Ordinance. This Agreement may be subject to the Worker Retention Ordinance ("WRO") (Section 10.36, et seq, of the Los Angeles Administrative Code), which is incorporated herein by this reference. A copy of Section 10.36 has been attached hereto for the convenience of the parties as Exhibit P. If applicable, Operator must also comply with the WRO which requires that, unless specific exemptions apply, all employers under contracts that are primarily for the furnishing of services to or for the City of Los Angeles and that involve an expenditure or receipt in excess of \$25,000 and a contract term of at least three (3) months shall provide retention by a successor contractor for a ninety-day (90-day) transition period of the employees who have been employed for the preceding twelve (12) months or more by the terminated contractor or subcontractor, if any, as provided for in the WRO. Under the provisions of Section 10.36.3(c) of the Los Angeles Administrative Code, LAWA has the authority, under appropriate circumstances, to terminate this Agreement and otherwise pursue legal remedies that may be available if LAWA determines that the subject contractor violated the provisions of the WRO.



## **Section 17. City Held Harmless.**

17.1. In addition to the requirements of Article 2, Section 11, Insurance, herein, Operator shall, to the fullest extent permitted by law, defend (with counsel satisfactory to LAWA), indemnify and hold harmless City and any and all of its boards, commissioners, LAWA, officers, directors, agents, employees, assigns and successors in interest (collectively "City Defendants") from and against any and all allegations, suits, claims, causes of action, liability, losses, damages, demands or expenses (including, but not limited to, attorney's fees and costs of litigation) (collectively "Claims"), prosecuted by anyone (including Operator and/or Operator's agents, former and current employees, or competitors) by any reason of, arising out of, related to, connected with or pertaining to: (1) the acts or omissions of Operator, its agents, servants, employees or invitees; (2) Operator's breach of this Agreement; or (3) Operator or its agents, servants, employees or invitees occupancy of the Site Location, except in each case to the extent caused by LAWA's or any City Defendants' gross negligence or willful misconduct.

17.2. In Operator's defense of LAWA under Article 2, Section 17.1, including but not limited to the negotiation, compromise, and settlement of any action, LAWA shall retain discretion in and control of the litigation, negotiation, compromise, settlement, and appeals there from, as required by the Los Angeles City Charter, particularly Article II, Sections 271, 272 and 273 thereof.

17.3. Survival of Indemnities. The provisions under this Article 2, Section 17 shall survive the termination of this Operating Agreement. Rights and remedies available to LAWA hereinabove shall survive the termination of this Operating Agreement. Further, the rights and remedies are cumulative of those provided for elsewhere in this Operating Agreement and those allowed under the laws of the United States, the State of California, and the City of Los Angeles.

## **Section 18. Campaign Contributions.**

18.1. Operator, its suboperators and subcontractors, and their respective principals (hereinafter, "Principals") are obligated to fully comply with City of Los Angeles Charter Section 470(c)(12) and related ordinances, regarding limitations on campaign contributions and fundraising for certain elected City officials or candidates for elected City office if the contract or lease is valued at \$100,000 or more and requires approval of a City elected official. Additionally, Operator is required to provide and update certain information to the City as specified by law. Operator and any suboperator subject to Charter Section 470(c)(12) shall include the following notice in any contract or lease with a suboperator expected to receive at least \$100,000 for performance under this contract:

"Notice Regarding Los Angeles Campaign Contribution and Fundraising Restrictions" As provided in Charter Section 470(c)(12) and related ordinances, you are suboperator on City of Los Angeles contract #\_\_. Pursuant to City Charter Section 470(c)(12), suboperator and its principals are prohibited from making campaign contributions and fundraising for certain elected City officials or

candidates for elected City office for 12 months after the City contract is signed. The suboperator is required to provide to Operator names and addresses of the suboperator's principals and contact information and shall update that information if it changes during the 12 month time period. Suboperator's information included must be provided to Operator within 5 business days. Failure to comply may result in termination of contract or any other available legal remedies including fines. Information about the restrictions may be found at the City Ethics Commission's website at <http://ethics.lacity.org/> or by calling 213/978-1960.

18.2. Operator, its suboperators, and their Principals shall comply with these requirements and limitations. Violation of this provision shall entitle LAWA to terminate this Agreement and pursue any and all legal remedies that may be available.

**Section 19. Small/Very Small Business Enterprise Program and Local Business Preference Program.**

19.1. Pursuant to the provisions of Resolution No. 24820 of the Board of Airport Commissioners, LAWA's Small Business Enterprise (SBE) Program was created to provide additional opportunities for small businesses to participate in construction, non-professional, professional, and personal services projects valued over \$150,000. It is the policy of LAWA to provide Small Business Enterprises (SBE), Very Small Business Enterprises (VSBE) and Minority-Owned, Women-Owned, Disabled Veteran Business Enterprises and all Other Business Enterprises (MBE/WBE/DVBE/OBE) an equal opportunity to participate in the performance of all City contracts in all areas where such contracts afford such participation opportunities. Operator shall assist LAWA in implementing this policy and shall use its best efforts to afford the opportunity for SBEs, VSBEs, MBEs, WBEs, DVBEs, and OBEs to achieve participation in subcontracts where such participation opportunities present themselves and attempt to ensure that all available business enterprises, including SBEs, VSBEs, MBEs, WBEs, DVBEs, and OBEs, have equal participation opportunity which might be presented under this Agreement. See Exhibit N.

19.2. Based on the work to be performed, the mandatory SBE participation level for this PV System project has been set at 7% SBE.

19.3. Pursuant to the provisions of Resolution No. 24781 (for Bids) and Resolution No. 25919 (for Proposals) of the Board of Airport Commissioners, Los Angeles World Airports (LAWA) adopted a Local Business Preference Program (LBPP) for procurement of goods, equipment, and non-professional services, including design and construction to encourage businesses to compete for LAWA contracting opportunities, to locate operations and create jobs in the City and to encourage existing local business to refrain from relocating. Accordingly, it is also the policy of the LAWA to support an increase in local and regional jobs. LAWA's LBPP aims to benefit the Southern California region by increasing jobs and expenditures within the local and regional private sector. Operator shall assist the LAWA in implementing this policy and shall

participate in the program to afford the opportunity for Local Business Enterprises to achieve participation in subcontracts where such participation opportunities present themselves.

NOTE: Prior to being awarded a contract with the LAWA, Operator and all subcontractors must be registered on the City's Contracts Management and Opportunities Database, Los Angeles Business Assistance Virtual Network (LABAVN), at <http://www.labavn.org>.

**Section 20. Conflict of Interest.**

20.1. It is hereby understood and agreed that the parties to this Agreement have read and are aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the California Government Code relating to conflict of interest of public officers and employees, as well as the Los Angeles Municipal Code (LAMC) Municipal Ethics and Conflict of Interest provisions of Section 49.5.1 et seq. and the Conflict of Interest Codes of the City and the LAWA. All parties hereto agree that they are unaware of any financial or economic interest of any public officer or employee of LAWA relating to this Agreement. Notwithstanding any other provision of this Agreement, it is further understood and agreed that if such financial interest does exist at the inception of this Agreement, LAWA may immediately terminate this Agreement by giving written notice thereof.

**Section 21. Prevailing Wage.**

21.1. Work performed on LAWA property may require payment of prevailing wages. Operator is obligated to make that determination, and will be bound by and comply with the applicable provisions of the California Labor Code and Federal, State, and local laws related to the prevailing wage and labor. Operator will indemnify and pay or reimburse the LAWA for any damages, penalties or fines (including but not limited to, attorney's fees and costs of litigation) that the LAWA incurs, or pays, as a result of noncompliance with applicable prevailing wage laws in connection with the work performed under the contract.

21.2. The "General Prevailing Wage Rates" will be those rates as determined by the Director of the Department of Industrial Relations of the State of California. The general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in this locality for each craft, classification, predetermined increases, if applicable, or type of workman needed to execute this contract are from the State of California Director of the Department of Industrial Relations, and may be obtained by going to the website. Copies of these rates are also on file in the Office of Contract Compliance, Bureau of Contract Administration,

telephone (213) 847-1922 (the contact information is provided for convenience only, but it is the Operator's responsibility to obtain the current applicable phone numbers and websites in the event that those provided are no longer correct).

**Section 22. Improvement Bond and Performance Bond.**

22.1. After award of the contract, but before any work is performed under the contract, Operator will be required to file a Payment Bond with LAWA to be approved by LAWA. Operator shall provide the Payment Bond on a form provided by LAWA. The Payment Bond shall be for not less than 100 percent of the amount of the work of improvement proposed by Operator to satisfy claims of material suppliers, mechanics, laborers, and subcontractors employed by it on the work. The Payment Bond shall be issued by a surety who is authorized to issue bonds in California.

22.2. After award of the contract, but before any work is performed under the contract, Operator will be required to file a Performance Bond with LAWA to be approved by the LAWA. Operator shall provide the Performance Bond on a form provided by LAWA. The Performance Bond shall be for 100 percent of the amount of the work of improvement proposed by the contractor to guaranty faithful performance of all work. The Performance Bond shall be issued by a surety who is authorized to issue bonds in California.

**Section 23. Wage and Earnings Assignment Orders/Notices of Assignments.**

23.1. Operator and/or any subcontractor are obligated to fully comply with all applicable state and federal employment reporting requirements for Operator and/or subcontractor's employees.

23.2. Operator and/or subcontractor shall certify that the principal owner(s) are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignments applicable to them personally. Operator and/or subcontractor will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments in accordance with Cal. Family Code Sections 5230 et seq. Operator or subcontractor will maintain such compliance throughout the term of this Agreement.

**Section 24. Recitals Incorporated.** The Recitals set forth above and the Exhibits attached to this Agreement are each incorporated into the body of this Agreement as if set forth in full.

**Section 25. Assignment of Anti-Trust Claims.**

Operator may be subject to California Government Code Sections 4550 – 4554. If applicable, Operator offers and agrees that, it will assign to LAWA all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act or under the Cartwright Act, arising from purchases of goods, services, or materials by the Operator. Such assignment is made and becomes effective at the time LAWA tenders final payment to the Operator.



**Section 26. Title 14, Part 77; Solar Glare Hazard Analysis.**

26.1 Operator shall comply with Federal regulation, Title 14 Part 77 (14 CFR Part 77), for the Site Location. Operator shall be required to provide a Solar Glare Hazard Analysis for FAA review and approval for the Site Location. Once the Solar Glare Hazard Analysis for the Site Location is approved by FAA, Operator shall provide two (2) copies of the Solar Glare Hazard Analysis to LAWA prior to the Commercial Operation Date.

26.2. Operator specifically agrees that LAWA shall not be liable or responsible to Operator for any damage, injury, economic loss or deprivation which may develop or arise by reason of any denial or conditions placed upon Operator at the Site Location by FAA in its review of the Solar Glare Hazard Analysis or review of Operator's compliance with any other regulation. Operator agrees not to institute any legal action or make any claims with regard to any such FAA regulations or requirements.

**Section 27. Contractor Responsibility Program.**

Operator shall comply with the provisions of the Contractor Responsibility Program adopted by the Board. The Executive Directives setting forth the rules, regulations, requirements and penalties of the Contractor Responsibility Program and the Pledge of Compliance Form is attached hereto as Exhibit Q and incorporated herein by reference.

**Section 28. Faithful Performance Guarantee.**

28.1. Operator shall furnish to LAWA immediately upon LAWA's delivery to Operator of a Notice to Proceed to commence construction of the PV System the Site Location, and maintain throughout the term of this Operating Agreement and for sixty (60) days following expiration or earlier termination of this Agreement, a Faithful Performance Guarantee ("FPG") to secure the faithful performance by Operator of all the terms, provisions, and covenants contained herein including, but not limited to, the payment of the Monthly Payment and any other specified compensation or reimbursement for the planned improvements or maintenance not made by Operator. Such FPG shall be separate from any other guarantee(s) to LAWA by Operator. The initial amount of said FPG for the PV System at its the Site Location shall be as provided in Exhibit B and the total amount of the FPG shall be six (6) times the estimated Operating Payment. Any adjustments to the Monthly Payment, pursuant to Section 7 herein and or adjustment to Exhibit A, shall also result in a commensurate adjustment to the FPG, pursuant to Subsections 28.2 and 28.3 below but in no event shall the FPG be greater than six (6) times the amount of the total Monthly Payment. If all or any part of the FPG is used to pay delinquent account as set forth in Section 7.1.4.2, Liquidated Damages, for Delinquent Payment herein, Operator shall within sixty (60) days after draw down, replenish said FPG so that the FPG equals the amount stated in Exhibit B.

28.2. If Operator has previously provided such FPG to LAWA and if, for any reason, Operator's monthly monetary obligation to LAWA for use of the Site Location under this



Operating Agreement is thereafter increased in excess of ten percent (10%), then the amount of the FPG shall, within sixty (60) days after receiving written notice from LAWA, be correspondingly increased to a sum equal to six (6) times the new Monthly Payment amount prescribed under this Operating Agreement.

28.3. If Operator has previously provided such FPG to LAWA and if, for any reason, Operator's monthly monetary obligation to LAWA for use of the Site Location under this Operating Agreement is thereafter decreased in excess of ten percent (10%), then the amount of the FPG shall, within sixty (60) days following written notice to LAWA by Operator, be correspondingly decreased to a sum equal to three (3) times of the new Monthly Payment amount prescribed under this Operating Agreement.

28.4. FPGs of Twenty Five Thousand Dollars (\$25,000) or less shall be in the form of a Cashier's Check, Company Check, Money Order, Certificate of Deposit or Irrevocable Letter of Credit. FPGs in excess of Twenty Five Thousand Dollars (\$25,000) shall be in the form of an Irrevocable Letter of Credit. Letters of Credit shall be self-renewing from year-to-year and shall remain in full force and effect for a minimum period of ninety (90) days following termination or cancellation of the Operating Agreement. However, the Irrevocable Letter of Credit may be subject to termination upon sixty (60) days written notice (subject to Subsection 28.5), provided that, Operator shall first give LAWA notice in writing of its intent to terminate the Letter of Credit and provide a replacement Irrevocable Letter of Credit to LAWA so that there is no lapse in coverage. All FPGs must be approved as to form by the City Attorney.

28.5. Operator shall furnish the FPG upon issuance of the Notice to Proceed or within sixty (60) days following notice of adjustment of the Monthly Payment as provided above. If, for any reason, said FPG is not provided by Operator and/or is not thereafter maintained in sufficient amount throughout the term hereof, or replenished within sixty (60) days of drawdown and notice thereof to Operator, LAWA, may, upon giving Operator (and any Financing Parties, if applicable) a thirty (30) day advance written notice, and subject to Article 1, Section 9.2.2, pursue the remedies specified in Article 1, Section 8.2 following the occurrence of a Default Event. Within sixty (60) days of the expiration or earlier termination of this Operating Agreement, LAWA shall relinquish to Operator said FPG (or the balance remaining). The FPG shall be submitted to:

Los Angeles World Airports  
Attn: Accounting/Revenue FPG Administrator  
PO Box 92216  
Los Angeles CA 90009-2216

28.6. On the date that the LAWA consents to a new guarantor pursuant to Section 32, if any, but no later than one hundred eighty (180) days from the Site Delivery Date, and provided Operator is not otherwise in Default, the FPG shall be reduced to an amount equal to three (3) times the amount of the total Monthly Payment and LAWA shall return the difference to Operator no later than ten (10) Business Days following the date that LAWA provides written notice to

Current Energy that it consents to the replacement guarantor.

**Section 29. Audits.**

LAWA may, at its sole discretion and with reasonable notice to Operator, require Operator to provide access to all records and other information necessary to perform an audit of Monthly Payments, fees, other charges paid and payable to LAWA, and any required information for payments by LAWA to Operator, including but not limited to invoices and proof of payments related to reimbursement for Operator improvements and other Operator- required investments. LAWA shall have the right to access such records and information for five (5) years past the end of the fiscal year in which they were generated and up to five (5) years past the expiration or early termination of this Agreement. Operator shall retain all records and other information necessary to perform an audit as described above for a minimum of five (5) years.

**Section 30. Taxes, Permits and Licenses.**

30.1. Operator shall pay any and all taxes of whatever character that may be levied or charged upon Operator's improvements, fixtures, equipment, or other property thereon or upon Operator's use thereof. Operator shall also pay all license or permit fees necessary or required by law or regulation for the conduct of Operator's business or use of the Site Location.

30.2. If a claim is made against LAWA for any of the above charges, LAWA shall promptly notify Operator in writing; provided, however, that failure by LAWA to give such notice shall not constitute a waiver of Operator's obligation to pay such taxes, license and/or permit fees.

**Section 31. Attorney's Fees.**

If LAWA shall, without any fault, be made a party to any litigation commenced by or against Operator arising out of Operator's use or occupancy of the Site Location, then Operator shall pay all costs, expenses, and reasonable attorney's fees incurred by or imposed upon LAWA in connection with such litigation. Each party shall give prompt notice to the other of any claim or suit instituted against it that may affect the other party.

**Section 32. Guaranty Requirement.**

Upon execution of this Agreement, Operator shall furnish to LAWA and maintain throughout the Term and for sixty (60) days following expiration or earlier termination of this Agreement, a Guaranty ("Guaranty") from Current Energy, LLC (the "Guarantor"), in the form of Exhibit S attached hereto. This Guaranty shall become effective upon execution of this Lease. Notwithstanding the above, at such time as Current Energy enters into an agreement with a finance partner for the Site Location described in this Agreement, Current Energy may submit a written request to the LAWA CEO to replace the Guarantor with Current Energy's financing partner, subject to LAWA's review and approval. This Guaranty is intended to be a present obligation of a

future contingent commitment.

**Section 33. Miscellaneous Provisions.**

33.1. Fair Meaning. The language of this Agreement shall be construed according to its fair meaning, and not strictly for or against either LAWA or Operator.

33.2. Section Headings. The Section headings appearing herein are for the convenience of LAWA and Operator, and shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of this Agreement.

33.3. Void Provisions. If any provision of this Agreement is determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this Agreement, and all such other provisions shall remain in full force and effect. In the event that any of the provisions, or portions or applications thereof, of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, LAWA and Operator shall endeavor to negotiate an adjustment in the provisions of this Agreement with a view toward effecting the purpose of this Agreement, and the validity and enforceability of the remaining provisions, portions or applications thereof shall not be affected thereby.

33.4. Two Constructions. It is the intention of the parties hereto that if any provision of this Agreement is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

33.5. Laws of California. This Agreement, and every question arising hereunder, shall be construed, determined and enforced in accordance with the laws of the State of California. Venue shall lie in the appropriate U.S. Federal Court or California Superior Court located in Los Angeles County.

33.6. Gender. The use of any gender herein shall include all genders, and the use of any number shall be construed as the singular or the plural, all as the context may require.

33.7. Ordinance and Los Angeles Administrative Code (hereinafter referred to as "Code") Language Governs. Ordinance and Code Exhibits are provided as a convenience to the parties only. In the event of a discrepancy between the Exhibits and the applicable ordinance or code language, or amendments thereto, the language of the ordinance or code shall govern.

33.8. Waiver. The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of any other term, covenant, or condition, or of any subsequent breach of the same term, covenant, or condition. The subsequent

acceptance of any monies hereunder by LAWA shall not be deemed to be a waiver of any preceding breach by Operator of any term, covenant, or condition of this Agreement other than the failure of Operator to pay the particular monies so accepted, regardless of LAWA's knowledge of such preceding breach at the time of acceptance of such monies.

33.9. Entire Agreement. This Agreement, including its Exhibits, contains the entire agreement between the parties hereto and supersedes any and all prior written or oral agreements between them concerning the subject matter contained herein. There are no representations, agreements or understandings, oral or written, between and among the parties relating to the subject matter contained in this Agreement which are not fully set forth herein. This is an integrated Agreement.

33.10. Amendments to Ordinances and Codes. The obligation to comply with any Ordinances and Codes that have been incorporated into this Agreement by reference shall extend to any amendments which may be made to those Ordinances and Codes during the term of this Agreement.

33.11. Force Majeure. Notwithstanding any other provision hereof, neither the Operator nor the LAWA shall be held responsible or liable for failure to meet their respective obligations under this Agreement, if such failure shall be due to Force Majeure or other causes beyond the Operator's or LAWA's control. Such causes include but are not limited to: strikes, fire, flood, civil disorder, acts of God or the public enemy, acts of the Federal Government or any unit of state or local government in either sovereign or contractual capacity, insurrection, epidemics, freight embargos or delay in transportation, and changes in federal, state or local laws.

33.12 Notices. Written notices to LAWA hereunder shall be sent to the Chief Executive Officer with a copy sent to the City Attorney of the City of Los Angeles and addressed to said parties at:

Deputy Executive Director  
Commercial Development Group  
Department of Airports  
1 World Way  
Post Office Box 92216  
Los Angeles, CA 90009-2216

Chief Executive Officer  
Department of Airports  
1 World Way  
Post Office Box 92216  
Los Angeles, CA 90009-2216

With a copy to:

City Attorney  
Department of Airports  
1 World Way  
Post Office Box 92216  
Los Angeles, CA 90009-2216

or to such other address as LAWA may designate by written notice to Operator. Copies of all notices shall also be e-mailed to [CDG-Tenant-Notices@lawa.org](mailto:CDG-Tenant-Notices@lawa.org).

33.12.1. Written notices to Operator hereunder shall be given by registered or certified mail, postage prepaid, and addressed to:

Current Energy LLC  
Attn: Legal Department  
230 Park Avenue, Suite 845  
New York, NY 10169

25876 The Old Road #418  
Stevenson Ranch, CA 91381

or to such other address as Operator may designate by written notice to LAWA.

33.12.2. The execution of any such notice by the Chief Executive Officer shall be as effective as to Operator as if it were executed by Board or by Resolution or Order of said Board, and Operator shall not question the authority of the Chief Executive Officer to execute any such notice.

33.12.3. All such notices, except as otherwise provided herein, may either be delivered personally to the Chief Executive Officer or to the Office of the City Attorney, Airport Division, in the one case, or to Operator in the other case, or may be deposited in the United States mail, properly addressed as aforesaid with postage fully prepaid by certified or registered mail, return receipt requested, and shall be effective five (5) days after deposit in the mail, or may be delivered by a nationally recognized overnight commercial courier service that requires the recipient's signature for delivery, and shall be effective one (1) business day after delivery to such courier.

33.13 Counterparts and Electronic Signatures. This Agreement and any other document necessary for the consummation of the transaction contemplated by this Agreement may be executed in counterparts, including counterparts that are manually executed and counterparts that are in the form of electronic records and are electronically executed. An electronic signature means a signature that is executed by symbol attached to or logically associate with a record and adopted by a party with



the intent to sign such record, including facsimile or e-mail signatures. All executed counterparts shall constitute one agreement, and each counterpart shall be deemed an original. The parties hereby acknowledge and agree that electronic records and electronic signatures, as well as facsimile signatures, may be used in connection with the execution of this Agreement and electronic signatures, facsimile signatures or signatures transmitted by electronic mail in so-called PDF format shall be legal and binding and shall have the same full force and effect as if a paper original of this Agreement had been delivered that had been signed using a handwritten signature. All parties to this Agreement (i) agree that an electronic signature, whether digital or encrypted, of a party to this Agreement is intended to authenticate this writing and to have the same force and effect as a manual signature; (ii) intended to be bound by the signatures (whether original, faxed, or electronic) on any document sent or delivered by facsimile or electronic mail or other electronic means; (iii) are aware that the other party(ies) will rely on such signatures; and, (iv) hereby waive any defenses to the enforcement of the terms of this Agreement based on the foregoing forms of signature. If this Agreement has been executed by electronic signature, all parties executing this document are expressly consenting, under the United States Federal Electronic Signatures in Global and National Commerce Act of 2000 ("E-SIGN") and the California Uniform Electronic Transactions Act ("UETA") (California Civil Code §1633.1 et seq.), that a signature by fax, e-mail, or other electronic means shall constitute an Electronic Signature to an Electronic Record under both E-SIGN and UETA with respect to this specific transaction.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, LAWA has caused this Agreement to be executed on its behalf by Chief Executive Officer and Operator has caused the same to be executed by its duly authorized officers, all as of the day and year first hereinabove written.

**APPROVED AS TO FORM:**

**CITY OF LOS ANGELES**

By signing below, the signatory attests that they have no personal, financial, beneficial, or familial interest in this Contract.

\_\_\_\_\_  
City Attorney

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Deputy/Assistant City Attorney

By \_\_\_\_\_  
Chief Executive Officer  
Department of Airports

**ATTEST:**

**CURRENT ENERGY, LLC**

By                       
Secretary (Signature)

CHRISTOPHER CHOI  
Print Name

[SEAL]

By                       
Signature

PATRICK DELBOP  
Print Name

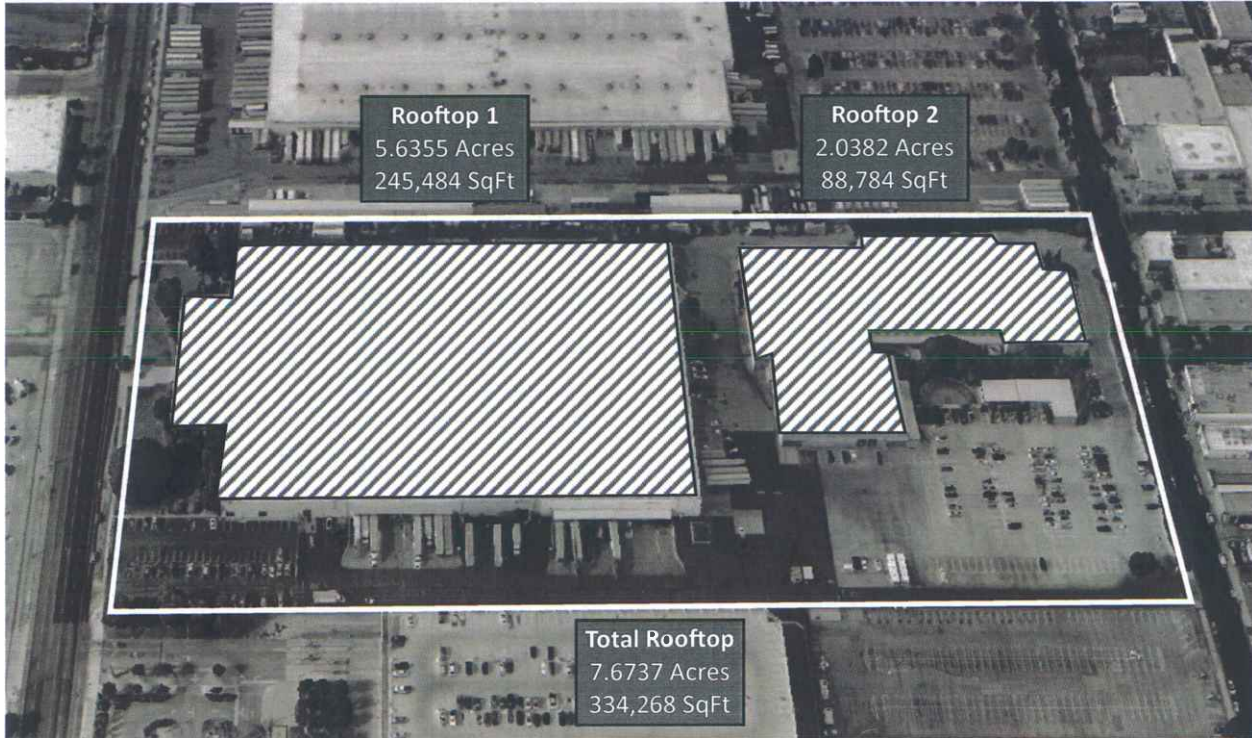
MANAGING PARTNER  
Print Title

**EXHIBIT A**  
**SITE LOCATION**

# Exhibit A

## Site Location No. 1

**Site Location #1: 7800 Woodley Ave**



**EXHIBIT B**  
**PAYMENT SCHEDULE**



**Exhibit B**  
**Payment Schedule**  
**Current Energy LLC**  
**Site Location No. 1**  
**7800 Woodley Avenue**

**PAYMENTS**

Fees and other charges will commence on the Commercial Operation Date. Operator shall pay to LAWA as a monthly payment the greater of Site Location Fee and Operating Payment.

**Payment Schedule From Commercial Operation Date**

			<b><u>Monthly</u></b>
<b><u>Site Location Fee:</u></b>			<b><u>Payment</u></b>
[Rooftop #1:	5.6355	Acres @ \$10,230.97 Per Acre Per Year/12] <sup>1</sup>	<b>\$4,804.72</b>
[Rooftop #2:	2.0382	Acres @ \$10,230.97 Per Acre Per Year/12] <sup>1</sup>	<b>\$1,737.73</b>
<b><u>Operating Payment:</u></b>			
[\$0.0415 per kWh of energy purchased by DWP <sup>2, 3</sup> ] (estimated monthly average) <sup>4</sup>			<b>\$17,238.83</b>
<b><u>Interconnection Fee:</u></b>			
[Interconnection Site	1,600	SqFt @ \$ 1.79 Per Square Feet Per Year/12] <sup>1</sup>	<b>\$238.67</b>
<b><u>System Size</u></b>			
3.08928 MW or 3,089.28 kW			
Operator shall pay to LAWA as a monthly payment the greater of Site Location Fee and Operating Payment			
<b>Total Site Location Fee at Commercial Operation Date:</b>			<b>\$6,542.45</b>
<b>Total Estimated Operating Payment at Commercial Operation Date:</b> <sup>5, 6</sup>			<b>\$17,238.83</b>
<b>Interconnection Fee:</b>			<b>\$238.67</b>
<b>Initial Amount of the FPG ( Section 28.1):</b> <sup>7</sup>			<b>\$40,686.70</b>
<b>FPG due upon Notice to Proceed to construct PV System:</b> <sup>5</sup>			<b>\$52,432.50</b>

**Investment Tax Credit:**

Operator assumes a 30% Investment Tax Credit (ITC), as outlined in Section 7.1.2.

If Operator's ITC is 30%, its guaranteed rate will be 0.0415/kWh.

If Operator's ITC exceeds 30%, its guaranteed rate will increase by an additional \$0.0113/kWh.

If Operator's ITC exceeds 40%, its guaranteed rate will increase by an additional \$0.0217/kWh.

For example, should the PV System qualify for 40% ITC, the total monthly payment to LAWA will be based on a guaranteed rate of \$0.0528/kWh (0.0415+0.0113) and at 50% ITC, the total monthly payment to LAWA will be based on a guaranteed rate of \$0.0745/kWh (0.0528+0.0217).

<sup>1</sup> Subject to fixed 2% adjustment every 5 years as outlined in the Operating Agreement.

<sup>2</sup> Guaranteed Rate of \$0.0415 per kilowatt hour as outlined in the Operating Agreement

<sup>3</sup> PV System 3.08928 megawatt (3,089.28 kW) as outlined in the Operating Agreement

<sup>4</sup> Operating Payment is a projected figure in conjunction with a 3.08928 MW system (3,089.28 kW). The final determination of Operating Payment will be contingent upon the provisions outlined in the Operating Agreement

<sup>5</sup> Based on Operating Payment & Interconnection Fee <sup>4</sup> a projected figure calculated using estimates. Subject to change based on final PV System size.

<sup>6</sup> Monthly Operating Payment will fluctuate based on seasonal changes.

<sup>7</sup> Subject to Operating Agreement Section 28.6.

**EXHIBIT C  
PV SYSTEM  
ACTIVATION FORM**

## EXHIBIT C

### PV System Activation Form

RE: Van Nuys Airport (VNY) - Site Location 1

Between: THE CITY OF LOS ANGELES, DEPARTMENT OF AIRPORTS (LAWA) and  
Operator \_\_\_\_\_, a \_\_\_\_\_.

Operating Agreement Commencement Date (Section 1.1): \_\_\_\_\_, 2023

Operating Agreement Expiration Date (Section 1.1): \_\_\_\_\_, 20\_\_\_\_

Site Location Delivery Date (Section 1.1.4): \_\_\_\_\_, 202\_\_\_\_

Commercial Operation Date (Section 1.1.3): \_\_\_\_\_, 202\_\_\_\_

PV System Commencement Date (Section 1.1.1): \_\_\_\_\_, 202\_\_\_\_

PV System Term (Section 1.1.1): \_\_\_\_\_, 202\_\_\_\_ (“PV System Commencement  
Date”) to \_\_\_\_\_, 20\_\_\_\_ (“PV System Expiration Date”)

Extension Right (Section 1.2): NONE

In the event of a conflict between the Operating Agreement and this PV System Activation  
Form, the Operating Agreement will prevail.

**EXHIBIT D**  
**SITE LOCATION**  
**DELIVERY DATES**

**Exhibit D**  
**Site Location Delivery Dates**

Site location	Site Location Delivery Dates
Site Location #1: 7800 Woodley Ave	



**EXHIBIT E**  
**POWER PURCHASE AGREEMENT**  
**[SOPPA]**  
**[to be attached after the PV System**  
**PV System Commencement Date]**

**EXHIBIT F**  
**MILESTONE OBJECTIVES**

# EXHIBIT F

## MILESTONE OBJECTIVES

PROJECT 7884 WOODLEY AVE

SITE NO. 1

	ITEM	DESCRIPTION	NOTES	Q3-2024			Q4-2024			Q1-2025			Q2-2025			Q3-2025			Q4-2025			Q1-2026			Q2-2026			Q3-2026		
				JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
ADMINISTRATIVE AND DESIGN PHASE	1	SITE CONTROL DOCUMENT SIGNED FIT APPLICATION SUBMITTED	*URGENT/CRITICAL																											
	2	FULL DESIGN AND ENGINEERING PACKAGE TO LAWA AND AHJ																												
	3	OBTAIN LADWP FINAL DESIGN PACKAGE / P DRAWING	*URGENT/CRITICAL																											
	4	START FABRICATION OF LONG LEAD TIME ITEMS	*URGENT/CRITICAL																											
	5	OBTAIN ALL PERMITS AND NTP FROM LAWA																												
	6	OBTAIN SOPPA AND IA SIGNATURE FROM LADWP	*URGENT/CRITICAL																											
CONSTRUCTION PHASE	7	FULL SITE SURVEY AND VERIFICATION OF ALL EXISTING CONDITIONS																												
	8	PROJECT SAFETY AND CONTROLL SET UP - BARRIER POSTS AND ROOF SAFETY																												
	9	UNDERGROUND AND CIVIL WORK																												
	10	INSTALL SWITCHGEAR																												
	11	INSTALL PV MODULES AND INVERTERS																												
	12	MAKE ALL FINAL CONNECTIONS																												
	13	INTERCONNECT SYSTEM, CONNECT TO GRID																												
CLOSE OUT	14	TEST AND COMMISSION, TROUBLESHOOT AND VERIFY MONITORING																												
	15	PTO ISSUANCE																												
	16	PUNCHLIST ITEMS CLOSEOUT																												
	17	FINAL CLOSE OUT PACKAGE, AS BUILT ISSUANCE																												

\* NOTE: LADWP LEAD TIMES ARE SUBJECT TO CHANGE AND THEY CAN AND DO IMPACT PROJECT SCHEDULE / TIMELINES.

\*\* LONG LEAD TIME SWITCHGEAR ORDER

**EXHIBIT G**  
**FORM OF INTERCONNECTION**  
**AGREEMENT AND EXECUTED**  
**INTERCONNECTION AGREEMENT**

STANDARD OFFER  
FOR FEED-IN TARIFF CUSTOMER GENERATION  
INTERCONNECTION AGREEMENT

BETWEEN

\_\_\_\_\_  
(INTERCONNECTION CUSTOMER)

AND

CITY OF LOS ANGELES  
ACTING BY AND THROUGH THE  
DEPARTMENT OF WATER AND POWER

Project Location \_\_\_\_\_

\_\_\_\_\_

LADWP NO. \_\_\_\_\_



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### ATTACHMENTS

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This Agreement is made and entered into by and between CITY OF LOS ANGELES ACTING BY AND THROUGH THE DEPARTMENT OF WATER AND POWER (LADWP) and \_\_\_\_\_, an LADWP customer (Customer), sometimes referred to singularly as "Party" and collectively as "Parties", who agree as follows:

1. **RECITALS:** This Agreement is made with reference to the following facts, among others:

1.1 Customer is currently purchasing retail Electric Service from LADWP at the Customer's Site Location:

\_\_\_\_\_  
\_\_\_\_\_

Electric Service at this location is being provided pursuant to the terms and conditions of the applicable Rate Ordinance(s) or rate contract(s).

1.2 Customer currently has, or intends to design, construct, own, operate, and maintain, at its sole risk and expense, a Generation Facility to operate in parallel with LADWP's electric system. The Generation Facility has or will have an installed nameplate rating of \_\_\_\_\_ kilowatts (kW). The Generation Facility is more fully described in Exhibit A of this Agreement.

1.3 If it is deemed necessary by LADWP to do so after evaluating the Generation Facility specifications, LADWP will design, construct, own, operate, and maintain an LADWP Facility and make any necessary modifications to LADWP's electric system for the intended safe operation of the Generation Facility in parallel with LADWP's electric system. Customer agrees to reimburse LADWP for all actual costs (direct and indirect) incurred in performing such work. If the LADWP Facility is constructed, a description of the LADWP Facility will be attached as Exhibit B of this Agreement after such construction.

2. **DEFINITIONS:** The definitions, terms, conditions, and requirements provided in the applicable Rate Ordinance(s) or rate contract(s), the Electric Service Requirements, the Standard Offer Power Purchase Agreement, and the Rules are incorporated in and made a part of this Agreement by reference. The following additional terms, when initially capitalized, whether in the singular or plural tense, shall mean:

2.1 **Agreement:** This Standard Offer for LADWP Feed-in-Tariff Customer Generation Interconnection Agreement.

- 2.2 Authorized Representative: The representative or designated alternate of a Party appointed in accordance with Section 13 of this Agreement.
- 2.3 Capacity: The total nominal nameplate alternating current rating; however, for a Customer Generation Facility utilizing solar photovoltaic (PV) technologies, Capacity shall mean the CEC-AC system rating.
- 2.4 CEC-AC: The solar PV system alternating current rating based upon the product of the Photovoltaics for Utility Scale Applications (PVUSA) Test Conditions rating of the module, module quantity, and the inverter efficiency.
- 2.5 Customer: The LADWP customer or Feed-In Tariff applicant required to establish a customer account for the project at the Customer Site Location.
- 2.6 Customer Generation Facility: All of Customer's electrical and mechanical equipment associated with the generation of electricity at the Customer's location.
- 2.7 Customer's Site Location: As described in Subsection 1.1 of this Agreement.
- 2.8 Effective Date: As defined in Section 26 of this Agreement.
- 2.9 Electric Service: As defined in the Rules.
- 2.10 Electric Service Requirements: Requirements prescribed in writing by LADWP in effect at the time this Agreement is executed, and all revisions thereto or replacements thereof, which are necessary and proper for the regulation of any electric service installed, operated, and maintained within the City of Los Angeles. The Electric Service Requirements shall be in conformance with the Charter of the City of Los Angeles and the Rules.
- 2.11 Emergency Condition: A condition or situation: (1) that in the good faith judgment of the Party making the claim is imminently likely to endanger life or property; or (2) that, in the case of LADWP, is imminently likely (as determined in the sole judgment of LADWP) to cause a material adverse effect on the security of, or damage to, the LADWP interconnection facilities or the electric systems of LADWP or others to which the electric system of

LADWP is directly connected; or (3) that, in the case of the Customer, is imminently likely (as determined in a non-discriminatory manner in good faith) to cause a material adverse effect on the security of, or damage to, Customer's Generation Facility or Customer's interconnection facilities. System restoration and LADWP's black start shall be considered Emergency Conditions. Customer is not obligated by this Agreement to possess black start capability.

- 2.12 Generation Facility: All of Customer's electrical and mechanical equipment basically described in Exhibit A that is associated with the generation of electricity at Customer's Site Location. A single-line diagram of the Generation Facility shall be attached as part of Exhibit A of this Agreement.
- 2.13 In-Service Date: The date of initial interconnection of the Generation Facility to LADWP's electric system.
- 2.14 Interconnection Costs: All reasonable costs, as determined by LADWP in accordance with Prudent Utility Practices, including, but not limited to, planning, engineering, design, supervision, material procurement, construction, quality assurance and inspection, testing, metering, maintenance, negotiation, contract administration, protection, expediting, accounting, budgeting, and other activities reasonably necessary for the interconnection and intended safe parallel operation of the Generation Facility to LADWP's electric system.
- 2.15 LADWP Facility: Electrical and mechanical equipment required and installed, owned, operated, and maintained by LADWP for the intended safe parallel operation of the Generation Facility. This equipment, further described in Exhibit B and Exhibit E of this Agreement, is deemed by LADWP to be appurtenant and/or incidental to the Generation Facility and will be located at the site of the Generation Facility.
- 2.16 Laws: All applicable statutes, ordinances, rules, orders, regulations and codes of the City of Los Angeles, the State of California, and/or Federal governmental authorities having jurisdiction, including, but not limited to, the Charter of the City of Los Angeles as amended.
- 2.17 Prudent Utility Practices: Those practices, methods, and equipment, as changed from time to time, that are commonly used in prudent engineering and operations to design and operate electric equipment lawfully and with safety, dependability, efficiency, and economy.



- 2.18 Rate Ordinance: An ordinance, in accordance with City of Los Angeles Charter Subsection 676(a) or any amendments to or replacements of that subsection, approving the rates fixed by the Board of Water and Power Commissioners of the City of Los Angeles (Board) for electric energy or surplus energy.
- 2.19 Rules: The Rules Governing Water and Electric Service in the City of Los Angeles adopted by the Board under Resolution No. 56, dated September 8, 1983, and all amendments, revisions, and replacements thereof.
- 2.20 Standard Offer Power Purchase Agreement (SOPPA): The Standard Offer Power Purchase Agreement between the LADWP and Customer, relating to the feed-in tariff project at the Project Location, as may be amended, supplemented or otherwise modified from time to time.
- 2.21 Service Point: The point of interconnection between Customer's Site Location and the LADWP electric system. If, as of the date when Customer executes this Agreement, LADWP is already using any meter(s) for Customer's account at the Customer's Site Location, such meter(s) are described in Exhibit C.
3. **AGREEMENT**: In consideration of the terms and conditions contained herein and the mutual benefit to be derived by this Agreement, the Parties further agree as follows:
- 3.1 Customer shall purchase electric service at the Customer's Site Location, as needed, solely from LADWP according to the terms and conditions of the applicable Rate Ordinance(s) or rate contract(s).
- 3.2 Customer shall pay LADWP for all costs associated with the interconnection and intended safe parallel operation of the Generation Facility in accordance with the terms and conditions contained herein.

- 3.3 LADWP may, without any liability therefor, and without prior notice, interrupt Electric Service to the Customer's Site Location in the event of an Emergency Condition. In such a case, LADWP may apportion its available supply of electricity among all customers and in a manner that appears to it most equitable under the prevailing circumstances and conditions. The restoration of interrupted Electrical Service to the Customer's Site Location, in such a case, will be performed by LADWP as rapidly as practicable and in the manner which, in the opinion of LADWP, will result in the greatest overall public benefit.
- 3.4 LADWP and Customer shall comply with the applicable Interconnected Operating Procedures set forth in Exhibit D.
- 3.5 Customer agrees to accept electric service and supply from LADWP subject to the conditions of supply as is provided by LADWP at the Customer's Site Location. LADWP will exercise reasonable diligence and care to furnish and deliver a continuous and sufficient supply of Electric Service to the Customer's Site Location, and to avoid any shortage or interruption of delivery. LADWP cannot, and does not, however, guarantee a continuous or sufficient supply of electrical current, or freedom from fluctuations of voltage, interruption of service, or shortage or insufficiency of supply.
- 3.6 Customer agrees to fully and completely hold harmless and release the City of Los Angeles, LADWP, their boards, officers, agents, employees, assigns, successors-in-interest, contractors, and sub-contractors from any equitable, tort, or statutory causes of action arising from the supply of electric service to Customer's Site Location, including, but not limited to, those due to electric voltage, fluctuations of voltage, interruptions of service for any reason or duration, shortage or insufficiency of supply, and negligence. Neither LADWP nor Customer shall be liable under any legal theory, including indemnity, warranty, contract, strict liability, or any other theory of liability, for any consequential, special, indirect or incidental damages, including, but not limited to, loss of profit, loss of use, cost of capital, or replacement power. LADWP will not be liable to Customer for interruption, shortage, or insufficiency of supply to the Customer's Site Location caused by LADWP's ordinary negligence, the negligence of others, or any cause beyond LADWP's control, or the ordinary negligence of LADWP's employees, servants, or agents. Furthermore, to the extent of liabilities expressly assumed by Customer hereunder, Customer shall provide a complete waiver of subrogation rights in favor of LADWP from all insurance carriers providing coverage to Customer.

**4. RESPONSIBILITIES OF THE CUSTOMER:**

- 4.1 Customer shall own, at its sole risk and expense, the Generation Facility in compliance with all applicable codes, Laws, Electric Service Requirements, Rules, and Prudent Utility Practices. A person or entity acting on Customer's behalf may operate and maintain the Generation Facility in compliance with all applicable codes, Laws, Electric Service Requirements, Rules Prudent Utility Practices, and this Agreement. Meeting this requirement shall not relieve Customer of its obligations pursuant to the terms and conditions of this Agreement.
- 4.2 When Customer has executed the Agreement and submits it to LADWP for LADWP's execution, Customer shall also submit the following information:
  - 4.2.1 Electrical plans including load schedules and single-line diagrams; and
  - 4.2.2 Plot and site development plans showing generator, disconnect, and metering equipment locations and LADWP access to generator, disconnect, and metering equipment locations; and
  - 4.2.3 Energy Source Information:
    - (1) Maximum kilowatt rating
    - (2) Nominal voltage output
    - (3) Voltage regulation
    - (4) Maximum fault current contribution; and
  - 4.2.4 Protective system information:
    - (1) Protective system plan
    - (2) Manufacturer's data sheets and maintenance requirements for protective equipment; and
  - 4.2.5 Any additional information required by LADWP.
- 4.3 If the LADWP Facility is modified or constructed, a written description of the LADWP Facility will be attached as Exhibit E of this Agreement after construction.
- 4.4 Review by LADWP of Customer's original specifications or of any changes or modifications to those specifications shall not be construed as confirming

or endorsing the design or as implying any warranty of safety or durability of the Generation Facility.

- 4.5 LADWP shall not, by reason of review or failure to review, be responsible for strength, details of design, adequacy or capacity of the Generation Facility or its constituent equipment, nor shall LADWP's acceptance be deemed to be an LADWP approval or endorsement of the Generation Facility.
- 4.6 Within thirty (30) calendar days following the In-Service Date or at a date mutually agreed to between the Authorized Representatives, Customer shall submit in writing to LADWP's Authorized Representative that the Generation Facility meets the standards set forth in the applicable Electric Service Requirements.
- 4.7 Customer shall operate and maintain the Generation Facility in accordance with the applicable Electric Service Requirements, Prudent Utility Practices, and this Agreement.
- 4.8 Customer shall not energize, at any time, a de-energized portion of LADWP's electric system without express written permission from LADWP's Authorized Representative.
- 4.9 The Parties recognize that, from time to time, certain improvements, additions, or other changes in the interconnection and protection equipment at the Generation Facility or elsewhere at Customer's Site Location may be required for the intended safe parallel operation of the Generation Facility with LADWP's electric system. Such improvements, additions, or other changes shall be in accordance with applicable Laws, Rate Ordinance(s), rate contract(s), Electric Service Requirements, Rules, and Prudent Utility Practices. LADWP shall have the right to require Customer to make those changes upon reasonable advance written notice from LADWP's Authorized Representative.
- 4.10 Failure of Customer to comply with Subsection 4.9 within a reasonable period of time after receipt of such written notice as provided in Subsection 4.9 may result in the Generation Facility being disconnected from LADWP's electric system pursuant to Section 7.

**5. RESPONSIBILITIES OF LADWP:**

- 5.1 LADWP shall be the sole provider of electric service required by Customer at Customer's Site Location. Electric Service provided by LADWP shall be provided in compliance with all applicable Laws, Rate Ordinance(s), rate contract(s), Electric Service Requirements, Rules, and Prudent Utility Practices.
- 5.2 If it is deemed necessary by LADWP to do so after evaluating any improvements, additions, or other changes to the Generation Facility's plans, LADWP will design, construct, own, operate, and maintain an LADWP Facility and make any necessary modifications to LADWP's electric system for the intended safe operation of the Generation Facility in parallel with LADWP's electric system, consistent with applicable Laws, Rate Ordinance(s), rate contract(s), Electric Service Requirements, Rules, and Prudent Utility Practices.
- 5.3 LADWP reserves the right to make measurements or other tests on the Generation Facility, from time to time, as specified in the Electric Service Requirements, subject to Section 11. If the measurements or tests determine that the Generation Facility does not meet the specifications of the Electric Service Requirements, LADWP will require Customer to disconnect the Generation Facility from LADWP's electric system pursuant to Section 7. Customer shall make, or cause to be made, the appropriate changes to the Generation Facility before reconnection to LADWP's electric system.
- 5.4 The Parties recognize that, from time to time, certain improvements, additions, or other changes in LADWP's electric system may be required for the intended safe parallel operation of the Generation Facility. Such improvements, additions, or other changes will be in accordance with Prudent Utility Practices. LADWP shall have the right to make those changes upon reasonable advance written notice from LADWP's Authorized Representative to Customer. LADWP shall bill Customer for such improvements, additions, or other changes in accordance with Section 8 of this Agreement.
- 5.5 LADWP shall bill Customer for the actual costs to perform work incurred in the implementation of this Agreement pursuant to Subsections 1.3, 3.2, 5.2, 5.4, 8.2, 8.4, and 8.5 of this Agreement.



## **6. METERING:**

- 6.1 LADWP shall install, at Customer's sole expense, metering equipment and recorders at the Service Point and at the output point of the Generation Facility to measure electric energy and other electric parameters, as deemed appropriate by LADWP. Such metering equipment and recorders shall be independent from and not connected to the Generation Facility's control system. Customer shall provide and maintain a dedicated analog telephone service line solely for the purpose of delivering data from metering equipment, if required, as determined by LADWP.
- 6.2 For Generation Facilities with nameplate ratings of at least 1,000 kW, Customer shall provide LADWP with the capability to remotely monitor the Generation Facility. LADWP shall install, at Customer's sole expense, telemetering equipment at the Service Point and at the output point of the Generation Facility to monitor the electrical generation at LADWP's Energy Control Center.
- 6.3 LADWP meters shall be sealed with LADWP seals only. The seals shall not be broken except when the meters are inspected, tested, or adjusted by LADWP. LADWP shall test the meters, at its own expense, in accordance with its routine practice and the Rules.
- 6.4 Customer may request testing of meters prior to their normally scheduled test dates, and LADWP shall test the meters upon request within a reasonable time. Customer shall be given reasonable notice to have a representative present at the time of meter testing. Customer shall pay for the cost of the requested meter testing if the meters are found to be within the tolerances specified within the Rules.
- 6.5 Disputes concerning alleged meter discrepancies shall be resolved in accordance with applicable Laws, Rate Ordinance(s), rate contract(s), and the Rules.

## **7. DISCONNECTION OF THE GENERATION FACILITY:**

- 7.1 LADWP shall require Customer to disconnect the Generation Facility from LADWP's electric system if Customer does not comply with the covenants of this Agreement and applicable Laws, Rate Ordinance(s), rate contract(s),

Electric Service Requirements, or Rules. Unless Subsection 7.2 applies, LADWP's Authorized Representative shall provide Customer with thirty (30) calendar days' written notice of such intent and identify the issue(s) of non-compliance before LADWP may disconnect the Generation Facility. If Customer determines that any such issue(s) cannot be cured within thirty (30) days, Customer shall so notify LADWP with written notice within thirty (30) days of receiving LADWP's written notice. Customer's written notice shall contain a statement of the reasons why the issue(s) cannot be cured or complied with within thirty (30) days, and Customer will provide an estimated schedule for curing the non-compliance. Upon receipt of such written notification from Customer, LADWP's Authorized Representative, at his or her sole discretion, may establish, after consultation with Customer, a new date to achieve compliance. If Customer cures the non-compliance issue(s) by the established date to achieve compliance, then LADWP will take no further action regarding that issue of non-compliance.

- 7.2 In accordance with procedures established in the Electric Service Requirements, LADWP shall require Customer to disconnect the Generation Facility immediately from LADWP's electric system (i) upon the occurrence of an Emergency Condition involving the Generation Facility or (ii) to allow LADWP to repair, replace, or maintain any equipment associated with LADWP's electric system.
- 7.3 Each Party shall endeavor to correct the condition on its respective electric system or equipment that resulted in the separation and shall coordinate reconnection of the Generation Facility for parallel operation.
- 7.4 LADWP shall provide for reconnection of the Generation Facility to LADWP's electric system when reasonable to do so in accordance with applicable Laws, Rate Ordinance(s), rate contract(s), Electric Service Requirements, Rules, and Prudent Utility Practices.
- 7.5 LADWP shall not be liable to Customer or any person or entity acting on Customer's behalf, including, but not limited to, any agent, designee, contractor, or lessee, for damages (of any type or nature whatsoever) resulting from the connection or disconnection of the Generation Facility from LADWP's electric system.

## **8. INTERCONNECTION BILLING DETERMINANTS:**

This Section 8 shall apply (i) if, after initial review of the Generation Facility plans and specifications or after review of any proposed improvements, additions, or other changes to the Generation Facility plans and specifications, LADWP determines that an LADWP Facility must be constructed or modifications must be made to LADWP's electric system for the intended safe operation of the Generation Facility in parallel with LADWP's electric system, or (ii) LADWP otherwise determines that modifications must be made to LADWP's electric system for the intended safe operation of the Generation Facility in parallel with LADWP's electric system.

- 8.1 For each detailed cost estimate and detailed design for the LADWP Facility and modifications to LADWP's electric system, LADWP shall bill Customer a nonrefundable amount equal to ten percent (10%) of the preliminary estimate of the Interconnection Costs. The estimate made shall be based on Generation Facility specifications, pursuant to Subsection 4.2. Upon receipt of the nonrefundable amount, LADWP shall prepare a detailed cost estimate and a detailed design in a timely manner.
- 8.2 LADWP shall bill Customer for the amount of the Interconnection Costs based on the detailed cost estimate, less the ten percent (10%) previously advanced pursuant to Subsections 1.3 and 8.1.
- 8.3 Upon receipt of the necessary funds, LADWP shall proceed with the LADWP Facility and any necessary modifications to the electric system for the intended safe parallel operation of the Generation Facility.
- 8.4 If it is determined, at the completion of the LADWP Facility, that Customer has advanced funds which are greater or less than the actual Interconnection Costs, LADWP's Authorized Representative shall make the appropriate adjustment within ninety (90) calendar days after the in-service date of the new or modified LADWP Facility. Payment shall be made within thirty (30) calendar days thereafter.
- 8.5 If it is determined, pursuant to Subsection 5.2 or 5.4 of this Agreement, that LADWP must make improvements, additions, or other changes to either the LADWP Facility or to LADWP's electric system, LADWP shall bill Customer for all costs incurred for such improvements, additions, or other changes.

**9. ELECTRIC SERVICE BILLING DETERMINATIONS:**

LADWP shall bill Customer for Electric Service after the end of each billing period. The bill shall be calculated using the applicable rate(s) in the appropriate rate schedule(s) in the applicable Rate Ordinance(s) or rate contract(s) and recorded billing data that shall consist of metered values deemed required by LADWP. The recorded billing data shall be obtained from LADWP revenue meters and recorders. Customer shall send the payment to the address specified in Subsection 10.2.

**10. BILLINGS AND PAYMENTS:**

10.1 Billings and payments pursuant to Section 8, Interconnection Billing Determinants, shall be transmitted to the following addresses:

10.1.1 If to LADWP:

Department of Water and Power of the City of Los Angeles  
PO Box 30870, Room 434  
Los Angeles, California 90030-0870  
Attention: General Accounting

10.1.2 If to Customer:

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10.2 Billings and payments pursuant to Section 6, Metering, Section 9, Electric Service Billing Determinations, and Section 13, Administration, shall be transmitted to the following addresses:

10.2.1 If to LADWP:

Department of Water and Power of the City of Los Angeles  
PO Box 51111

Los Angeles, CA 90051-5700  
Attention: Accounts Receivable

10.2.2 If to Customer:

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- 10.3 Either Party may change, by written notice to the other Party, the name or address of the person to receive invoices or payments pursuant to this Agreement.
- 10.4 All bills for Electric Service, except as provided otherwise in this Agreement, are due and payable by Customer upon presentation. Payment shall be made in accordance with the Rules.
- 10.5 If the correctness of any bill for Electric Service, or any part thereof, or if the correctness of other charges or practices of LADWP is disputed by Customer, LADWP shall conduct an investigation in accordance with the Rules.

**11. INGRESS AND EGRESS:**

- 11.1 LADWP shall have, at all times, the right of ingress to and egress from Customer's premises for the following reasons:
- 11.1.1 Any purpose related to furnishing or receiving electric energy, including, but not limited to, inspection and maintenance; or
- 11.1.2 In order to exercise any and all rights secured to LADWP by law, this Agreement, or the Rules.
- 11.2 While on Customer's premises, LADWP shall abide by Customer's safety rules and regulations.



**12. INDEMNIFICATION:**

- 12.1 Customer shall indemnify, defend, and hold harmless the City of Los Angeles, the Board, LADWP, and their officers, agents, and employees from and against any and all liability, costs, losses, claims, demands, judgments, actions, and causes of action for personal injury, including, but not limited to, bodily injury, or for any property destruction or damage, to third parties or to either Party to this Agreement, attributable to, in whole or in part, or resulting from, the errors, acts, or omissions of Customer or any person or entity acting on Customer's behalf, including, but not limited to, any agent, designee, contractor of any tier, or lessee, in any manner arising from or in connection with this Agreement.
- 12.2 LADWP shall not be indemnified under this Section 12 for liability or loss resulting from its sole negligence or willful misconduct.

**13. ADMINISTRATION:**

- 13.1 Within thirty (30) calendar days after the effective date of this Agreement, Customer and LADWP's Director of Resource Planning, Development, and Programs or designee shall each designate, by written notice to the other, a representative who is authorized to act in each Party's behalf with respect to those matters delegated to the Authorized Representatives. Each Party may designate an authorized alternate with full authority to act in the absence of the Authorized Representative. Each Party shall have the right to change its Authorized Representative or authorized alternate by written notice to the other Party.
- 13.2 The Authorized Representatives shall provide liaison between the Parties and a means of securing effective cooperation, interchange of information, and consultation on a prompt and orderly basis concerning the various matters that may arise, from time to time, in connection with this Agreement.
- 13.3 The Authorized Representatives shall review and attempt to resolve any disputes between the Parties under this Agreement. Should the Authorized Representatives be unable to resolve a dispute, the matter shall be referred to Customer and LADWP's Director of Resource Planning, Development, and Programs who shall use their best efforts for resolution.

- 13.4 Prior to the In-Service Date, the Authorized Representatives shall agree on written procedures pertaining to the synchronization, operation, maintenance, administration, and other activities that may require coordination between the Parties and that are not already contained in Exhibit D.
- 13.5 All actions, agreements, resolutions, determinations, or reports made by the Authorized Representatives shall be made in writing and shall become effective when signed by the Authorized Representatives.
- 13.6 Any expenses incurred by an Authorized Representative or authorized alternate in connection with their duties shall be paid by the Party they represent unless otherwise agreed to in writing by Customer and LADWP's Director of Resource Planning, Development, and Programs.
- 13.7 The Authorized Representatives shall have no authority to modify this Agreement, except that they may mutually make any improvements, additions, or changes to the Interconnected Operating Procedures set forth in Exhibit D.

**14. DEFAULT:**

- 14.1 Default by Customer: The occurrence of any of the following shall constitute a material breach and default of this Agreement by Customer:
- 14.1.1 Failure by Customer to make payment to LADWP of uncontested amounts within the times set forth in this Agreement; or
- 14.1.2 Failure by Customer to comply with requirements pertaining to the safety of persons or property set forth herein or in the applicable Laws, Rate Ordinance(s), rate contract(s), the Electric Service Requirements, or the Rules; or
- 14.1.3 Failure by Customer to substantially observe and perform any other material provision of this Agreement within thirty (30) calendar days of receiving written notice from LADWP of the provisions of this Agreement with which LADWP believes Customer has not complied. If Customer determines that any such provision cannot be complied with within thirty (30) days, Customer shall so notify

LADWP in writing within thirty (30) days of receiving LADWP's written notice. Customer's written notice shall contain a statement of the reasons why the provision cannot be complied with within thirty (30) days, and Customer shall provide an estimated schedule for compliance with the provision. Upon receipt of such written notification from the Customer, LADWP's Authorized Representative, at his or her sole discretion, may establish, after consultation with Customer, a new date to achieve compliance. If Customer complies with the provision by the established date to achieve compliance, then LADWP will take no further action regarding that instance of non-compliance.

14.1.4 Default by Customer under the SOPPA or any Ancillary Document (as defined in the SOPPA).

14.2 Default by LADWP: Failure by LADWP to substantially observe and perform any material provision required by this Agreement, where such failure results in a condition materially harmful to Customer and continues for thirty (30) calendar days after receipt of written notice from Customer, shall constitute a material breach and default by LADWP of this Agreement, provided, however, that if the nature of such default is curable, but that the same cannot with due diligence be cured within the thirty (30) calendar day period, LADWP shall not be deemed to be in default if it commences to cure the default within the thirty (30) calendar day period and thereafter diligently prosecutes the same to completion.

15. **REMEDIES UPON DEFAULT**: Either Party shall be entitled to monetary damages based on proof of actual damages resulting from default of the other Party. The non-defaulting Party shall have the right to terminate this Agreement upon the occurrence of any of the events of default described in Section 14.

16. **FORCE MAJEURE**: Neither Party shall be considered to be in default in the performance of any of its obligations under this Agreement (other than obligations of said Party to make payments due) if failure of performance shall be due to an uncontrollable force. The term "uncontrollable force" shall mean any cause beyond the control of the Party affected, including, but not limited to, failure of or threat of failure of facilities, flood, earthquake, storm, fire, lightning, epidemic, war, civil disturbance or disobedience, labor dispute, labor or material shortage, sabotage, restraint by court order or public authority, and action or nonaction by or inability to obtain authorizations or approvals from any governmental agency or authority, which by exercise of due diligence it shall be unable to overcome.

Nothing contained herein shall be construed so as to require a Party to settle any strike or labor dispute in which it may be involved. Either Party rendered unable to fulfill any obligation under this Agreement by reason of uncontrollable force shall give prompt notice of such fact to the other Party and shall exercise due diligence to remove such inability with all reasonable dispatch.

**17. AUTHORIZATIONS AND APPROVALS:**

17.1 Each Party shall obtain all the necessary authorizations, licenses, approvals, and permits from Federal, State, or local agencies having jurisdiction.

17.2 This Agreement and all operations hereunder are subject to the applicable Laws.

**18. EFFECT OF SECTION HEADINGS:** Section headings appearing in this Agreement are inserted for convenience only and shall not be construed as interpretations of text.

**19. NONWAIVER:** None of the provisions of this Agreement shall be deemed waived unless expressly waived in writing. Any omission or failure of either Party to demand or enforce strict performance of provisions of the Agreement shall not be construed as a waiver or as a relinquishment of any rights. All provisions and rights shall continue and remain in full force and effect as if such omission or failure had not occurred.

**20. NONDEDICATION OF FACILITIES:** This Agreement shall not be construed as a dedication of any properties or facilities, or any portion thereof, by either Party to each other or the public.

**21. NO THIRD-PARTY BENEFICIARIES:** This Agreement is for the sole benefit of the Parties hereto and shall not be construed as granting rights to any person or entity other than the Parties or imposing on either Party obligations to any person other than a Party.

**22. NOTICES:**

22.1 Any written notice under this Agreement shall be deemed properly given if delivered in person or sent by registered or certified mail, postage prepaid, to the person specified below unless otherwise provided for in this Agreement:

22.1.1 If to LADWP:

Department of Water and Power of the City of Los Angeles  
PO Box 51111, Room 1255  
Los Angeles, California 90051-5700  
Attention: Director of Resource  
Planning, Development, and Programs

22.1.2 If to Customer:

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22.2 Either Party may, by written notice to the other Party, change the name or address of the person to receive notices pursuant to this Agreement.

23. **TRANSFER OF INTEREST:** Neither Party shall assign or transfer this Agreement, in whole or in part, without the prior written consent of the other Party. The consent to assign or transfer shall not be unreasonably withheld. LADWP's Director of Resource Planning, Development, and Programs or designee shall execute assignment or transfer of this Agreement or the consent to assign or transfer this Agreement.

24. **SEVERAL OBLIGATIONS:** Except as otherwise required for public entities under California Government Code Section 895 et seq. or any amendments to or replacements of that chapter, the duties, obligations, and liabilities of the Parties are several and not joint or collective. Nothing contained in this Agreement shall be construed to create an association, trust, partnership, or joint venture or to impose a trust or partnership duty, obligation, or liability on or with regard to either Party. Each Party shall be individually and severally liable for its own obligations under this Agreement.

25. **SEVERABILITY:** If any paragraph, sentence, clause, phrase, or word shall become without full effect due to any judicial decision or change in applicable



Laws, the balance of this Agreement shall remain in full force and effect provided that the purposes of this Agreement can still be fulfilled.

**26. EFFECTIVE DATE AND TERM:**

26.1 This Agreement shall become effective upon the "Effective Date", which is the first day upon which the Agreement has been executed by both Parties.

26.2 Unless terminated earlier under Section 15, this Agreement shall remain in full force and effect until terminated by mutual written agreement of the Authorized Representatives of the Parties.

26.3 Upon the date of termination of this Agreement, all rights to services provided hereunder shall cease, and neither Party shall claim or assert any continuing right to such services hereunder. However, such termination shall not affect the rights and obligations to pay money for transactions occurring prior to termination. Following the termination of this Agreement, the provisions of Section 12 shall survive for periods when Customer owns the Generation Facility.

**27. GOVERNING LAW AND VENUE:** This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the State of California and the City of Los Angeles, without regard to conflict of law principles. All litigation arising out of, or relating to, this Agreement shall be brought in a State or Federal court in the County of Los Angeles in the State of California. The Parties irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of California and waive any defense of forum non conveniens.

**28. UNDERSTANDING:** This Agreement contains the entire understanding between the Parties with respect to the subject matter hereof, and there are no other promises, terms, conditions, obligations, understandings, or agreements between the Parties with respect thereto. This Agreement supersedes all previous communications, representations, understandings, and agreements, either oral or written, between the Parties with respect to the subject matter hereof.

**29. REPRESENTATION:** Each Party has been represented by legal counsel in the negotiation and execution of this Agreement.

**30. EXHIBITS:** Exhibits A through E attached hereto are incorporated herein by this reference. All terms used in Exhibits A through E, when initially capitalized,

whether in the singular or plural tense, shall have the meaning used in this Agreement.

31. **EXECUTION:** IN WITNESS WHEREOF, the signatories hereto represent that they have been appropriately authorized to enter into this \_\_\_\_\_ - LADWP Customer Generation Interconnection Agreement on behalf of the Party for whom they sign. This Agreement is hereby executed on the day and year written below.

\_\_\_\_\_  
(Customer)  
By:

Name (Signature): \_\_\_\_\_  
Name (Print): \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

CITY OF LOS ANGELES ACTING BY AND THROUGH THE  
DEPARTMENT OF WATER AND POWER

By:  
Name (Signature): \_\_\_\_\_  
Name (Print): Martin L. Adams  
Title: General Manager and Chief Engineer  
Date: \_\_\_\_\_

**EXHIBIT A**  
**CUSTOMER GENERATION DATA SHEETS**

Facility Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Owner/Company: \_\_\_\_\_  
Contact Person: \_\_\_\_\_ Phone: \_\_\_\_\_  
Primary Product/Service of Facility: \_\_\_\_\_  
Unit Start-Up Date: \_\_\_\_\_

**SYSTEM CHARACTERISTICS**

Type of Facility [generation type]:

☐ 1. Solar photovoltaic:

Total capacity of Facility [KW DC]: \_\_\_\_\_

Total capacity of Facility [KW AC]: \_\_\_\_\_

Total capacity of Facility [KW CEC-AC]: \_\_\_\_\_

☐ 2. Other Non-Solar Photovoltaic RPS-Eligible Technology:

Generation Type: \_\_\_\_\_

Total Capacity of Facility [KW AC]: \_\_\_\_\_

Thermal \_\_\_\_\_ BTU/Hr \_\_\_\_\_ lbs/hr

Operations: Schedule \_\_\_\_\_ hours/day \_\_\_\_\_ days/year

Typical Daily Profile, O = On and X = Off

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24

**INTERCONNECTION WITH LADWP**

\_\_\_\_\_ Isolated, no connection to power grid

  X   Parallel, connected to grid to purchase power

\_\_\_\_\_ Parallel, connected to grid, utility owned or operated

\_\_\_\_\_ Electric load including planned expansions

GENERATION FACILITY DESCRIPTION

Schematic Diagram and/or Single-Line Diagram

Written Description

(Attach additional pages to this Exhibit A if necessary)

ANNUAL PLAN PRODUCTION/USE CHARACTERISTICS

OUTPUT:      Electric      \_\_\_\_\_ kWh  
                 Thermal      \_\_\_\_\_ Billion BTUs  
                 Mechanical      \_\_\_\_\_ HP-hr

CONSUMPTION: Electric      \_\_\_\_\_ kWh  
                 Thermal      \_\_\_\_\_ MM BTUs

PEAK DEMAND: Electric      \_\_\_\_\_ kWh

System Efficiency:      \_\_\_\_\_ percent

Net Heat Rate:      \_\_\_\_\_ percent

ECONOMIC CHARACTERISTICS

Capital Costs: \_\_\_\_\_

O&M Costs: \_\_\_\_\_ \$/year Fuel

Costs: \_\_\_\_\_ \$/year

Cost of Generated Electricity: \_\_\_\_\_ cents/kWh

FOR LADWP USE ONLY:

ACCOUNT REPRESENTATIVE \_\_\_\_\_

IS No. \_\_\_\_\_ VOLTAGE CONNECTION \_\_\_\_\_



## **EXHIBIT B**

### **SINGLE-LINE DIAGRAM AND EQUIPMENT LIST FOR THE LADWP FACILITY**

If the LADWP Facility is constructed, a single-line diagram and equipment list for the LADWP Facility will be attached to this Exhibit after the LADWP Facility has been designed and constructed. LADWP's Authorized Representative will provide a copy of Exhibit B for Customer's files.

## **EXHIBIT C**

### **METERS USED BY LADWP AT CUSTOMER'S SITE LOCATION**

The meter(s) that are already being used by LADWP for Customer's account at the Customer's Site Location as of the date when Customer executes this Agreement are:

## **EXHIBIT D**

### **INTERCONNECTED OPERATING PROCEDURES**

**1.0 EXHIBIT D DEFINITIONS:** For purposes of this Exhibit D only, the following terms, when initially capitalized, whether in the singular or plural tense, shall mean:

- 1.1 Accident Prevention Tags:** Temporary signs with preprinted instructions and markings that are used to restrict operation or other action so that personnel, systems, and components are protected, warn that the tagged system or component is in a condition associated with test or maintenance activities, or indicate that the system or component is under the operating jurisdiction of an organizational unit other than that of the operating personnel. Commonly used Blocking Devices, or warning devices, such as Blocking Caps, Bank in Service Caps, and Coat Hangers can be used to apply tags but are not Accident Prevention Tags.
- 1.2 Authorized Person:** A person who is authorized to receive Work Authorities on circuits and equipment from the Load Dispatcher, or from the Load Dispatcher's Field Representative. Certification as an Authorized Person is required in order to hold any form of Work Authority.
- 1.3 Blocking Device:** A blocking cap, cover, or other device that is intended to provide a physical obstacle, or a visual reminder, to aid in the prevention of incorrect or unintentional operations. Blocking devices may be used as a means to attach Accident Prevention Tags to a circuit or piece of equipment, but they may never take the place of an Accident Prevention Tag.
- 1.4 Bulk Power System:** Consists of the LADWP Power System's Generation and Transmission System.
- 1.5 Business Day:** Any day that is not a Saturday, a Sunday, or a day on which commercial banks are authorized or required to be closed in Los Angeles, California, or New York, New York.
- 1.6 Clearance:** For LADWP, a Work Authority issued by the Load Dispatcher, or from the Load Dispatcher's Field Representative, that states that the specified circuit, circuit component, or equipment is Disconnected or

## **EXHIBIT G**

### **Form of Interconnection Agreement**

isolated from specified sources of energy. It is assurance to the Authorized Person receiving the Clearance that the specified circuit, circuit component, or equipment will remain so Disconnected or isolated until the holder of the Clearance releases it. For Customer, a Work Authority that states the specified circuit, circuit component, or equipment is Disconnected or isolated from specified sources of energy. A Clearance permits the performance of work specified on the Clearance request.

- 1.7 Customer's Operational Agent: \_\_\_\_\_
- 1.8 Disconnected: As used in the preparation of electrical circuits and equipment for a Work Authority, means that a required open gap, usually visible, exists between specified sources of electric energy and the circuit component that is cleared.
- 1.9 Electric Station: Any power system facility used for the generation, transmission, or distribution of electrical energy.
- 1.10 Energy Control Center (ECC): LADWP headquarters for conducting Bulk Power System and Electric Station monitoring and control for all operation, maintenance, and modification to the power system.
- 1.11 Field Representative: An Authorized Person who is employed by LADWP and designated by that person's Superintendent to receive Work Authorities and reissue them to Authorized Persons in charge of the work, and who originates Local Work Authorities on circuits and equipment under that person's jurisdiction.
- 1.12 Industrial Station: A transformer installation located on the customer's premises and supplied from the Department's 34,500-volt electric system.
- 1.13 Load Dispatcher: A North American Electric Reliability Corporation (NERC)-certified LADWP Power System employee who is responsible for the daily operation of the LADWP Power System during normal and emergency conditions.
- 1.14 Local Work Authority: A Work Authority that originates from a facility Field Representative, rather than the Load Dispatcher. It applies to a circuit or piece of equipment not under control of the Load Dispatcher. It can include a Local Clearance or Local OK TO.
- 1.15 OK TO: For LADWP, regarding any electrical circuit or equipment, a statement from the Load Dispatcher or representative that specified work

may be done on or near the circuit or equipment. For Customer, regarding any electrical circuit or equipment, a statement from its control center that specified work may be done on or near the circuit or equipment. It is a type of Work Authority.

- 1.16 Outage Coordinator: A Senior Load Dispatcher or Load Dispatcher whose job function is to schedule outages and to take requests for Work Authorities on circuits and equipment under the jurisdiction of the ECC or the ECC Bid Desk.
- 1.17 Safe Work Area: An area that has been made ready for the specified work to be performed. Safe Work Areas are created by work preparation activities such as switching and tagging with Accident Prevention Tags, ventilation, and/or installation of barriers or barricade tape.
- 1.18 Work Authorities: For LADWP, any Clearance or OK TO issued by the Load Dispatcher or the Load Dispatcher's Field Representative to an Authorized Person for the performance of specified work by LADWP. LADWP Work Authorities can be (1) Primary Work Authorities issued by Load Dispatchers either to Field Representatives for reissue to Authorized Persons or directly to Authorized Persons, (2) Secondary Work Authorities issued by Field Representatives to Authorized Persons, or (3) Local Work Authorities issued by Field Representatives to Authorized Persons on circuits or equipment under local jurisdiction.

## 2.0 **GENERAL RESPONSIBILITIES:**

- 2.1 Except where explicitly specified in Subsection 2.2, LADWP has the sole authority and responsibility to operate and maintain any and all of its Industrial Stations at the Customer's Site Location.
- 2.2 Customer has the sole authority and responsibility to operate and maintain

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- 2.3 Customer shall comply with reliability-based directives and orders issued by LADWP in LADWP's role as Transmission Operator and Load Serving Entity unless such actions would violate safety, equipment, regulatory or statutory requirements. Under such circumstances, Customer shall immediately inform LADWP of its inability to perform the directive in accordance with NERC Standard TOP-001-1a R3.
- 2.4 LADWP shall notify at least one of the Customer contacts listed in Subsection 10.2 whenever it plans to enter Customer's Site Location.

### **3.0 OUTAGE REQUESTS: SCHEDULED AND UNSCHEDULED WORK:**

- 3.1** All requests for outages and Work Authorities will be pre-programmed whenever possible. To the extent possible, outages and other maintenance activities affecting the reliability of the interconnection or delivery of energy shall be coordinated to minimize the impact to both Parties. Customer will be notified at least three (3) Business Days in advance of all scheduled outages and non-emergency work, including visual inspections; such notification will be made to at least one of the Customer contacts listed in Subsection 10.2.
- 3.2** Scheduled Work: Requests for work and visual inspections shall be submitted to LADWP's Outage Coordinator. A Party may, in accordance with Prudent Utility Practices and in coordination with the other Party, remove from service any of its respective facilities that may impact the other Party's facilities as necessary to perform maintenance or testing or to install or replace equipment. The Outage Coordinator will coordinate outage requests, with Customer's cooperation. Requests for work shall normally be submitted at a minimum of three (3) Business Days prior to the date of the work.
- 3.3** Each Party shall, to the extent practical, provide reasonable advance notice of its planned maintenance outages, including any updates or modifications to its planned outage schedule, to the other Party prior to such outages. Such notice shall normally be submitted at a minimum of three (3) Business Days prior to the date of the associated work.
- 3.4** Unscheduled Work: Requests for work in real time shall be for urgent or emergency purposes only and shall be coordinated between LADWP's Load Dispatcher or Senior Subtransmission Dispatcher and Customer's Operational Agent.

### **4.0 SWITCHING:**

- 4.1** LADWP's ECC will direct all switching at its Industrial Station at Customer's Site Location. This includes, but is not limited to, directions to remove and to reinstall conductor connections where needed to establish electrical isolation via a physical air gap.
- 4.2** LADWP Operations personnel will perform all switching at its Industrial Station at Customer's Site Location and will notify Customer according to Subsection 4.3.



- 4.3 All switching will be coordinated between the Parties' respective control centers, with notifications made prior to commencing such switching, and will be in accordance with procedures and terms set forth in this Exhibit D. LADWP's ECC and Customer's Operational Agent will communicate with all affected parties prior to, and after completion of, all switching. No switch that has been operated and tagged in order to provide a Safe Work Area may be operated again without the approval of LADWP's ECC, the Customer's Operational Agent, and any Work Authority holders, and then only if it does not violate any outstanding Work Authorities or safety rules.

**5.0 WORK AUTHORITIES:**

- 5.1 Following completion of switching for a Clearance, OK TO, or other Work Authority, the control center requesting the Work Authority will receive said Work Authority from the other control center. If work is going to be performed by more than one Party, the respective control centers will exchange the appropriate Work Authorities.
- 5.2 LADWP's ECC will issue, and receive return of, Work Authorities for equipment under the sole operational authority of LADWP.
- 5.3 Customer's Operational Agent will issue, and receive return of, Work Authorities for equipment under the sole operational authority of Customer.
- 5.4 Upon completion of work, the control center of the performing Party will release its Work Authority, which means that the applicable facility is back under operating control. No switching to restore any equipment covered under this Exhibit D will be performed until all applicable Work Authorities on the equipment have been released, and the control centers have exchanged information on the status of, and any changes to, the circuit or terminal equipment.

**6.0 REPORTING AND DOCUMENTATION:**

- 6.1 LADWP and Customer shall keep each other informed in real time as to changes in the status of all equipment at their respective facilities that may affect the other Party.
- 6.2 Each Party will maintain appropriate records of all switching, Work Authorities, and other pertinent events in accordance with such Party's standard procedures.

**6.3** A Party communicating switching instructions and reports of switching shall ensure that the information is communicated in a clear, concise, and definitive manner, shall ensure that the recipient of the communication repeats the information back correctly, and shall either acknowledge the response as correct or repeat the original statement to resolve any misunderstanding.

**6.4** The English language shall be used for all communication between the control centers.

**7.0 ENERGY SCHEDULING AND CURTAILMENT:**

Customer shall immediately, but in a controlled manner, comply with LADWP's requests to curtail output of the Generation Facility if conditions on LADWP's Subtransmission System require a reduction for reliability purposes. This reduction will be for the minimum capacity and duration necessary to resolve the reliability condition.

**8.0 VOLTAGE AND MVAR CONTROL:**

Customer will operate its own voltage control equipment within the capabilities of its equipment to maintain the Subtransmission voltage limits provided by LADWP, within the reactive power capability of the Generation Facility. Customer shall be responsible for under- and over-voltage ride-through capability within the same operating envelope that LADWP uses on its Subtransmission System.

**9.0 EMERGENCY CONDITIONS:**

A Party may take necessary immediate actions under Emergency Conditions without prior notification to the other Party. Said actions shall be immediately communicated to the other Party at the earliest possible time. Any equipment interrupted by said actions shall be restored when reasonable to do so in accordance with applicable Laws, Rate Ordinance(s), rate contract(s), Electric Service Requirements, Rules, and Prudent Utility Practices.

**10.0 CONTACT INFORMATION:**

For purposes of all communications under this Exhibit D only, in accordance with applicable Laws, Rate Ordinance(s), rate contract(s), Electric Service Requirements, Rules, and Prudent Utility Practices, the following contact information shall be used:

**10.1**      If to LADWP:

Energy Control Center c/o Room 1148  
P.O. Box 51111  
Los Angeles, CA 90051-0100

Outage Coordinator      (818) 771-6651  
Load Dispatcher      (818) 771-6643  
Senior Load Dispatcher(818) 771-6640

**10.2**      If to Customer:

Mailing Address:

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Name/Title(s) of Contact(s):

Phone Number(s):

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**11.0**      **ONE-LINE DIAGRAMS:**

Facilities impacted by the Interconnected Operating Procedures contained in this Exhibit D shall be maintained by the responsible Party, in all material respects, in accordance with the depictions contained in the following One-Line Diagrams:

Number

Title

**EXHIBIT E**

**WRITTEN DESCRIPTION OF THE  
CONSTRUCTED OR MODIFIED LADWP FACILITY**

**EXHIBIT H**  
**INTENTIONALLY**  
**DELETED**

**EXHIBIT I  
BASELINE  
REPORT  
(To be provided  
by Operator)**



**EXHIBIT J**  
**LICENSE**

**LICENSE AGREEMENT**  
**BETWEEN THE CITY OF LOS ANGELES, DEPARTMENT OF AIRPORTS AND**  
**7800 WOODLEY FIT, LLC A CALIFORNIA LIMITED LIABILITY COMPANY.**  
**AT VAN NUYS AIRPORT**

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7800 Woodley Avenue

THIS LICENSE AGREEMENT ("License") is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2024 ("Effective Date"), at Los Angeles, California, by and between the **CITY OF LOS ANGELES**, a municipal corporation, acting by order of and through its Board of Airport Commissioners (the ("Board")) of the DEPARTMENT OF AIRPORTS also known as Los Angeles World Airports or LAWA ("City", "LAWA" or "Licensor") and **7800 WOODLEY FIT, LLC**, a California limited liability company ("Licensee") (sometimes herein referred to individually as a "party" or together as "parties").

**RECITALS**

WHEREAS, LAWA owns the certain real property located at 7800 Woodley Avenue, Los Angeles, California, 91343 ("Property"), including all buildings, improvements, structures and fixtures located thereon (collectively, the "Premises"); and

WHEREAS, Licensee desires to obtain, and LAWA desires to provide, a nonexclusive license for the use a specified portion of the rooftops of the one or more buildings at the Property and/or other areas as described herein for Interconnection (the "Licensed Area", as more particularly defined in Exhibit "A" attached hereto and made a part hereof) for the installation, maintenance and operation of the solar photovoltaic system (the "PV System"), as set forth in the certain Operating Agreement between the parties hereto and of even date herewith (the "Operating Agreement"), and subject to the terms and conditions of this License; and

WHEREAS, this License is granted for the sole purpose of effectuating performances under the Operating Agreement.

The parties hereto, for and in consideration of the covenants and conditions hereinafter contained to be kept and performed, DO HEREBY AGREE AS FOLLOWS:

1. **Grant of License.** LAWA hereby grants to Licensee and its agents and contractors a right to enter upon, occupy, and use the "Licensed Area", as depicted on Exhibit A, for the License Term (defined below), which Licensed Area is owned by LAWA and under the control of LAWA, together with the right of ingress and egress over the Premises to and from the Licensed Area, subject to the terms and conditions herein, for the Permitted Use. Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Operating Agreement. Notwithstanding anything to the contrary contained herein, Licensee shall have the sole right to develop and use the Premises for the Permitted Use and Licensor shall not permit the use of the Premises by any other party for solar energy purposes and/or energy storage purposes.

2. **Licensee Rights Subordinate.** The rights granted to Licensee pursuant to this License are non-exclusive and subject to the rights of LAWA (including without limitation its third party lessee(s), sublessees, permittee(s), and licensee(s)) to use the Licensed Area (and any additional real property owned by LAWA surrounding the Licensed Area) for the purposes to which it now is and may, at the option of LAWA, be devoted. This License and all rights of Licensee hereunder are subject and subordinate to all existing (as of the Effective Date) leases, easements, rights of way, declarations, restrictions or other matters of record and all existing agreements of the City with respect to the Premises. Licensee undertakes and agrees to use the Licensed Area and to exercise its rights granted under this License jointly with LAWA and other third parties authorized by LAWA, and, notwithstanding the PV system and required accessories and equipment, will at all times exercise the rights herein granted in such manner as will not unreasonably interfere with the full use and enjoyment of the Licensed Area by LAWA. LAWA shall use the Licensed Area and exercise its rights with respect to the Licensed Area jointly with Licensee, and will at all times use the Licensed Area and exercise its rights with respect thereto, and will cause its lessees, sublessees, permittees, and licensees to use the Licensed Area and exercise their respects rights with respect thereto, in such manner as will not unreasonably interfere with the full use and enjoyment of the Licensed Area by Licensee (including its operation).

3. **Term.**

3.1. The term of the License ("Term") shall be concurrent with the Term of the Operating Agreement as described in Sections 1.1 therein.

3.2. This License does not provide authorization for the potential approval or construction of the PV System or use of the Premises for the PV System operation prior to compliance with CEQA, NEPA and all other applicable laws.

3.3. The date on which this License expires or otherwise terminates shall be referred to herein as the "Termination Date." If the SOPPA or Operating Agreement for the PV System is terminated for any reason, or the PV System is purchased by LAWA pursuant to and as permitted by the Operating Agreement, this License shall simultaneously expire or terminate, as applicable, without any action required by LAWA or Licensee. Notwithstanding anything herein to the contrary, Licensee acknowledges that it has no right to an extension of this License or a right to a new license at the expiration of this License.

4. **Use.**

4.1. **Permitted Use.** LAWA does hereby grant to Licensee a license to use the Licensed Area for the purpose of the installation, development, construction, operation, management, interconnection, inspection, maintenance, repair, improvement, enhancement, alteration, replacement, and removal of the PV System and uses incidental thereto and for no other use or purpose (the "Permitted Use").

4.2. **As-Is Condition/No LAWA Warranties.** Except as otherwise expressly provided in the Operating Agreement, the Licensed Area is delivered by LAWA, and accepted by Licensee, in an "AS-IS, WHERE-IS, WITH ALL FAULTS" condition, and Licensee hereby

accepts the Licensed Area in its "as-is" condition and Licensee acknowledges that LAWA has not made any statements or representations or warranties regarding the condition of the Licensed Area and the Premises. Licensee is not relying upon any LAWA statement or representation or warranty by LAWA or any third party regarding the Licensed Area, Premises, the fitness or suitability of the Licensed Area or Premises for any particular use of Licensee, the compliance of the Premises or Licensed Area with codes or applicable law, or any other matter. Licensee has had an opportunity to inspect the Premises, including the Licensed Area and every aspect thereof and represents to LAWA that the Premises and the Licensed Area is in acceptable condition for the Permitted Use and assumes all risk associated therewith. LAWA hereby expressly disclaims and Licensee hereby waives all implied warranties including, without limitation, any warranty of merchantability or warranty of fitness for a particular use or purpose. LAWA is under no obligation to perform any work or provide any materials to prepare the Premises or Licensed Area for Licensee. Licensee agrees to surrender the Premises upon the expiration or earlier termination of this License, the Operating Agreement or the SOPPA, in a condition substantially similar to the condition of the Premises and Licensed Area on the date the License commences, ordinary wear and tear excepted.

4.3. Limitation on Use. Licensee shall not permit or suffer any use of the Licensed Area or any part thereof other than for the Permitted Use, or provide the PV System for the use of others, without first obtaining the LAWA's written consent.

4.4. Assignments; Financing. LAWA and Licensee acknowledge and agree that Section 9 of the Operating Agreement is hereby incorporated herein by reference as though fully set forth herein and applicable to this License (i.e., with references to "this Agreement" being deemed references to "this License").

4.5. Prohibited Uses. Licensee shall not use or allow the Premises to be used for any improper, immoral, or unlawful purposes, nor shall Licensee cause, maintain or permit any nuisance in, on or about the Premises (it being acknowledged that the Permitted Use shall not constitute a nuisance).

5. License Fees. This License is entered into in partial consideration of and to facilitate the Licensee's sale of electric energy from Licensee to LADWP under the SOPPA, from which Licensee provides an annual revenue to LAWA, as further described in the Operating Agreement and SOPPA. As such, no License Fee shall accrue or be payable during the License Term, provided the Operating Agreement and SOPPA are in full force and effect.

6. Notices. Written notices to LAWA hereunder shall be sent to the Chief Executive Officer with a copy sent to the City Attorney of the City of Los Angeles and addressed to said parties at:

To LAWA:

Chief Executive Officer  
Department of Airports  
1 World Way

Post Office Box 92216  
Los Angeles, CA 90009-2216

With a copy to:

City Attorney  
Department of Airports  
1 World Way  
Post Office Box 92216  
Los Angeles, CA 90009-2216

or to such other address as LAWA may designate by written notice to Licensee. Copies of all notices shall also be e-mailed to [CDG-Tenant-Notices@lawa.org](mailto:CDG-Tenant-Notices@lawa.org).

Written notices to Licensee hereunder shall be given by registered or certified mail, postage prepaid, and addressed to:

7800 Woodley FIT, LLC  
7900 Balboa Blvd.  
North Terminal  
Van Nuys, CA 91406  
Attn: Current Energy, LLC

Current Energy LLC  
Attn: Legal Department  
230 Park Avenue, Suite 845  
New York, NY 10169

25876 The Old Road #418  
Stevenson Ranch, CA 91381

or to such other address as Licensee may designate by written notice to LAWA.

The execution of any such notice by the Chief Executive Officer shall be as effective as to Licensee as if it were executed by Board or by Resolution or Order of said Board, and Licensee shall not question the authority of the Chief Executive Officer to execute any such notice.

All such notices, except as otherwise provided herein, may either be delivered personally to the Chief Executive Officer or to the Office of the City Attorney, Airport Division, in the one case, or to Licensee in the other case, or may be deposited in the United States mail, properly addressed as aforesaid with postage fully prepaid by certified or registered mail, return receipt requested, and shall be effective five (5) days after deposit in the mail, or may be delivered by a nationally recognized overnight commercial courier service that requires the recipient's signature for delivery, and shall be effective one (1) business day after delivery to such courier.

7. **Expiration or Termination.** Upon the expiration or earlier termination of this License (whether or not following an event of default), Licensee shall surrender the Licensed Area and remove the PV System as required by the Operating Agreement, including, without limitation,



Section 4.1.2 of the Operating Agreement. Licensee shall have a continuing license to enter the Licensed Area for such purposes and for the purpose of accessing any transmission lines and/or related improvements and facilities constructed by Licensee as contemplated by the Operating Agreement and/or SOPPA in connection with dismantling and removal thereof until all requested structures and equipment are removed. This obligation shall survive the termination of this License.

Licensee shall provide written notice to LAWA upon Licensee's removal of all requested structures and equipment from the Premises, as provided above (the "Completion Notice"). Upon delivery of the Completion Notice, LAWA (at its option) will expeditiously conduct an inspection of the Licensed Area to determine (in LAWA's reasonable discretion) if restoration has been completed by Licensee as required herein. If LAWA performs such inspection and determines that restoration has not been completed as required herein, LAWA shall provide written notice to Licensee of the same (the "Failure Notice"). Such inspection shall be performed by LAWA and the Failure Notice shall be delivered to Licensee within thirty (30) days of Licensee's delivery of the Completion Notice or such right to inspect (and to restore at Licensee's cost as provided below) shall be deemed waived by LAWA. Licensee shall have an additional thirty (30) days from delivery of the Failure Notice to cure any items identified by LAWA in the Failure Notice. If, after such thirty (30) day period, Licensee has not cured such items, then LAWA may restore the Licensed Area as is required to be performed by Operator herein, entirely at the expense of the Licensee. LAWA will bill the Licensee and Licensee shall promptly pay LAWA for the restoration costs.

8. **No Holding Over.** In the event Licensee continues using or accessing or remains in possession of the Licensed Area after the expiration of this License (other than in connection with the removal of the PV System as contemplated by Section 7 above) (a "Hold Over"), whether with the consent of LAWA or without the consent of LAWA, and provided that the Operating Agreement is *not* still in effect, Licensee shall become a licensee from month to month only and pay to LAWA a license fee equal to the fair market value for the use of the Licensed Area as provided in this License, as calculated in LAWA's reasonable opinion, for so long as such month to month license shall continue and such month to month license shall be subject to every other provision contained herein and such occupancy shall continue unless terminated by LAWA or Licensee giving the other at least thirty (30) days' prior written notice of the intention to terminate such access or use by Licensee. The foregoing provisions of this Section are in addition to and do not affect the right of re-entry or any right of LAWA hereunder or as otherwise provided by law, and in no way shall such provision affect any right which the LAWA may have to recover damages from Licensee for loss or liability incurred by LAWA resulting from such failure or refusal of Licensee to surrender and vacate the Licensed Area as required herein. Nothing contained in this Section shall be construed as consent by LAWA to any holding over by Licensee and LAWA expressly reserves the right to prohibit access and use of the Licensed Area by Licensee as provided in this License upon the expiration or other termination of this License. In all other respects, the use and access shall be governed by the provisions of this License.

9. **Indemnification.**

9.1. Licensee has inspected the Licensed Area, knows the condition thereof, and on behalf of itself and its successors and assigns undertakes and agrees to indemnify and hold harmless the City of Los Angeles, LAWA, the Board of Airport Commissioners of the City of Los Angeles, and all of their officers, agents, successors in interest, insurers, permitted assigns

**EXHIBIT J**

**License to Rooftop Operating Agreement**



and/or employees (individually and collectively, "Indemnitees"), and, at the option of the LAWA, defend by counsel satisfactory to the LAWA, the Indemnitees from and against any and all liens and claims of liens, suits, causes of action, claims, administrative proceedings, charges, damages (including, solely with respect to third party claims, indirect, consequential, and incidental damages), demands, judgments, civil fines, penalties, or losses of any kind or nature whatsoever that are incurred by or asserted against the Indemnitees for death, bodily injury or personal injury to any person, including but not limited to Licensee's employees, customers, invitees and agents, or persons who enter onto the Premises, or damage or destruction of any property of either party hereto, or third persons in any manner in each case to the extent caused by acts, negligence, willful misconduct, non-performance, or breach by Licensee of any term and/or condition of this contract by Licensee or its employees, contractors, agents, or invitees, covered under this License, which are incidental to, or connected in any manner with: 1) this License or 2) the Licensed Area. This indemnity shall be in addition to any other rights or remedies which Indemnitees have under law or under this License.

9.2. Licensee on behalf of itself and its successors and assigns further undertakes and agrees to indemnify and hold harmless the Indemnitees, and at the option of the LAWA, defend by counsel satisfactory to the LAWA, the Indemnitees from and against any and all liens and claims of lien, suits, causes of action, claims, administrative proceedings, charges, damages, demands, judgments, civil fines, penalties, (including but not limited to costs, expenses, and legal liability for environmental investigations, monitoring, containment, abatement, removal, repair, cleanup, restoration, remediation, penalties and fines arising from the violation of any local, regional, state, or federal law, or regulation, disbursements, and other environmental response costs), or losses of any kind or nature whatsoever that are incurred by or asserted against the Indemnitees, for death, bodily injury or personal injury to any person, including Licensee employees and agents, or damage or destruction of any property of either party hereto, or third persons in each case to the extent caused by the acts, negligence, willful misconduct, non-performance, or breach by Licensee of any term and/or condition of this contract, relating directly or indirectly to the release or spill of any legally designated hazardous material or waste, resulting from or incident to the presence upon or performance of activities by Licensee or its personnel with respect to the Licensed Area/Property covered under this License, on the part of the Licensee, or the Licensee's officers, agents, invitees, employees, or sub-licensee of any tier. This indemnity shall be in addition to any other rights or remedies which Indemnitees have under law or under this License.

10. **Assumption of Risk/Release.** To the maximum extent allowed by law, Licensee assumes any and all risk of loss, damage or injury of any kind to any person or property arising out of Licensee's use of the Licensed Area. Licensee's assumption of risk shall not include loss or damage caused by the negligence or willful misconduct by LAWA or its agents or invitees and except therefore, shall include, without limitation, loss or damage caused by any condition of LAWA's property, including without limitation any electrical transmission lines and associated structures and equipment, accident or fire or other casualty on the Licensed Area, or electrical discharge, on or near the Licensed Area. Licensee, as a material part of the consideration for this License, hereby waives all claims and demands against LAWA for any such loss, damage or injury of Licensee and/or its Personnel, except if caused by the negligence or willful misconduct

of LAWA or its agents or invitees. In that connection, Licensee waives the benefit of California Civil Code Section 1542, which provides as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party. The provisions of this Section shall survive the termination of this License.

11. **Improvements; Work on Licensed Area.**

11.1 Licensee shall not make or place any improvements in the Licensed Area except in accordance with the Operating Agreement and SOPPA.

11.2. Any and all improvements made by Licensee shall be at Licensee's sole cost and expense. Licensee shall retain responsibility for all such improvements during the License Term. All such improvements must be at all times in compliance with all applicable laws.

12. **License.** Except as expressly provided otherwise in Section 1, Licensee hereby acknowledges that this License grants a non-exclusive right only. Subject to Licensee's express rights herein, Licensee is hereby notified that facilities of LAWA or other licensees of LAWA may exist on the Licensed Area. Licensee shall take reasonable precautions and actions to avoid infringement, interference, or damage to all such installations. LAWA and any of its licensees, tenants, and invitees will take reasonable precautions and actions to avoid infringement, interference, or damage to the Licensee's property and equipment.

13. **Licensee Responsible for Personnel.** Licensee shall be responsible for the training of its personnel and contractors under all applicable laws including, but not limited to, training with regard to the operation of equipment, and the handling and disposal of hazardous materials and wastes in connection with the permission herein given.

14. **Maintenance.** The responsibility for maintenance and repair of the Licensed Area and the Premises shall be as set forth in the Operating Agreement (including, without limitation, Section 6.2 thereof). During construction of the improvements, access across other LAWA property to the Licensed Area shall be between the hours of 7:00 a.m. through 7:00 p.m., Monday through Friday and 8:00 a.m. through 5:00 p.m. on Saturdays.

15. **Access Procedures.** Licensee shall access the Premises by conforming to LAWA's security and operational procedures of which it has prior written notice and shall take reasonable precautions to prevent unauthorized ingress and egress to LAWA property by Licensee's agents or invitees. There is expressly reserved unto LAWA and unto all authorized employees of said LAWA the right of continuous access, except that Licensee may, in its reasonable discretion, prohibit access to the PV System (and the area immediately surrounding the PV System) by any persons as required for safety and operational requirements or as otherwise required by applicable law.

16. **Recordation of Memorandum.** Within ten (10) business days of a request from LAWA, the parties hereto shall enter into a memorandum of this License for recordation, at Licensee's sole cost and expense, in the official records of the county in which the Licensed Area is located. The parties consent and agree to execute and deliver such memorandum or amendments thereto as may be necessary to correct the legal descriptions of the Licensed Area.

17. **Governing Law and Venue.** This License shall be interpreted, governed by, and construed under the laws of the State of California or the laws of the United States, as applicable, as if executed and to be performed wholly in the State of California, the City of Los Angeles. Venue shall lie in the City of Los Angeles.

18. **Construction, Maintenance and Operations.** Requirements for Design, Construction, Installation, Maintenance and Operation of the PV System, as provided in the Operating Agreement, are incorporated as terms of this License and, unless otherwise specified herein, Licensee shall comply with these requirements during any work performed in the Licensed Area.

19. **No Third Party Beneficiaries.** Except with respect to Financing Parties as expressly provided in the Operating Agreement, LAWA and Licensee do not intend to create rights in or grant remedies to any third party as a beneficiary of this License Agreement or of any duty obligation, covenant or undertaking established under this License Agreement.

20. **Waivers.** Any waiver at any time by either party hereto of its rights with respect to a default under this License, or with respect to any other matter arising in connection with this License, shall not be deemed a waiver with respect to any subsequent default or other matter arising in connection therewith. Any delay in assessing or enforcing any right, shall not be deemed to be a waiver of such right, provided that all applicable statutory periods of limitation shall apply.

21. **Headings.** The titles or headings to sections shall have no effect on interpretation of provisions.

22. **Default.** The default provisions for this License shall be as set forth in the Operating Agreement (including, without limitation, Section 8 thereof).

23. **Integration; Exhibits.** This License, together with the Operating Agreement, the SOPPA, and the Exhibits and Schedules executed hereunder, constitutes the entire agreement and understanding between the LAWA and Licensee with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect. This License may be modified or amended only in writing, signed by the Parties in interest at the time of the modification or amendment. The Exhibits and Schedules referred to herein are integral parts hereof and thereof and are made a part of this License by reference.

In the event of a conflict between this License and Operating Agreement, the terms of the Operating Agreement shall control.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, LAWA has caused this License to be executed on its behalf by Executive Director and Licensee has caused the same to be executed by its duly authorized officers, all as of the day and year first hereinabove written.

**APPROVED AS TO FORM:**

**Hydee Feldstein Soto, City Attorney**

\_\_\_\_\_,  
City Attorney

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Deputy/Assistant City Attorney

**ATTEST:**

By \_\_\_\_\_  
Secretary (Signature)

\_\_\_\_\_  
Print Name

[SEAL]

**CITY OF LOS ANGELES**

By signing below, the signatory attests that they have no personal, financial, beneficial, or familial interest in this Contract.

By \_\_\_\_\_  
Chief Executive Officer  
Department of Airports

**7800 WOODLEY FIT, LLC**

By \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Title

**EXHIBIT A**  
**DESCRIPTION OF LICENSED AREA**

**[see attached]**

**EXHIBIT K  
EQUAL  
EMPLOYMENT  
PRACTICES**



Every non-construction and construction Contract with, or on behalf of, the City of Los Angeles for which the consideration is \$1,000 or more shall contain the following provisions, which shall be designated as the **EQUAL EMPLOYMENT PRACTICES** provision of such contract:

A. During the performance of this Contract, the Contractor agrees and represents that it will provide Equal Employment Practices and the Contractor and each Subcontractor hereunder will ensure that in his or her Employment Practices persons are employed and employees are treated equally and without regard to, or because of, race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
3. The Contractor agrees to post a copy of Paragraph A., hereof, in conspicuous places at its place of business available to employees and applicants for employment.

B. The Contractor will, in all solicitations or advertisements for employees placed by, or on behalf of, the Contractor, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

C. At the request of the Awarding Authority or the DAA, the Contractor shall certify in the specified format that he or she has not discriminated in the performance of City Contracts against any employee or applicant for employment on the basis or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

D. The Contractor shall permit access to, and may be required to provide certified copies of, all of his or her records pertaining to employment and to employment practices by the awarding authority or the DAA for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of City Contracts. Upon request, the Contractor shall provide evidence that he or she has or will comply therewith.

E. The failure of any Contractor to comply with the Equal Employment Practices provisions of this contract may be deemed to be a material breach of City Contracts. The failure shall only be established upon a finding to that effect by the Awarding Authority, on the basis of its own investigation or that of the DAA. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to the Contractor.

F. Upon a finding duly made that the Contractor has failed to comply with the Equal Employment Practices provisions of a City Contract, the Contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the Awarding Authority, and all monies due or to become due hereunder may be forwarded to, and retained by, the City of Los Angeles. In addition thereto, the failure to comply may be the basis for a determination by the Awarding Authority or the DAA that the said Contractor is a non-responsible bidder or proposer pursuant to the provisions of Section 10.40 of this Code. In the event of such a determination, the Contractor shall be disqualified from being awarded a Contract with the City of Los Angeles for a period of two years, or until the Contractor shall establish and carry out a program in conformance with the provisions hereof.

G. Notwithstanding any other provision of this contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.

H. The Board of Public Works shall promulgate rules and regulations through the DAA, and provide necessary forms and required language to the Awarding Authorities to be included in City Request for Bids or Request for Proposal packages or in supplier registration requirements for the implementation of the Equal Employment Practices provisions of this Contract, and such rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive orders. No other rules, regulations or forms may be used by an Awarding Authority of the City to accomplish the contract compliance program.

I. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.

J. By affixing its signature on a Contract that is subject to this article, the Contractor shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of City Contracts.

K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with employment practices, including, but not limited to:

1. hiring practices;
2. apprenticeships where approved programs are functioning and other on-the-job training for non-apprenticeable occupations;

3. training and promotional opportunities; and

4. reasonable accommodations for persons with disabilities.

**L.** All Contractors subject to the provisions of this section shall include a similar provision in all subcontracts awarded for work to be performed under the Contract with the City, and shall impose the same obligations including, but not limited to, filing and reporting obligations, on the Subcontractors as are applicable to the Contractor. Subcontracts shall follow the same thresholds specified in Section 10.8.1.1. Failure of the Contractor to comply with this requirement or to obtain the compliance of its Subcontractors with all such obligations shall subject the Contractor to the imposition of any and all sanctions allowed by law, including, but not limited to, termination of the Contractor's Contract with the City.

#### SECTION HISTORY

Amended by: Ord. No. 147,030, Eff. 4-28-75; Subsecs. A., B., C., Ord. No. 164,516, Eff. 4-13-89; Subsec. C., Ord. No. 168,244, Eff. 10-18-92; Ord. No. 173,186, Eff. 5-22-00; Subsec. F., Ord. No. 173,285, Eff. 6-26-00, Oper. 7-1-00; In Entirety, Ord. No. 184,292, Eff. 6-27-16.

**EXHIBIT L  
AFFIRMATIVE  
ACTION  
PROGRAM**

Every non-construction and construction Contract with, or on behalf of, the City of Los Angeles for which the consideration is \$25,000 or more shall contain the following provisions which shall be designated as the **AFFIRMATIVE ACTION PROGRAM** provisions of such Contract:

A. During the performance of a City Contract, the Contractor certifies and represents that the Contractor and each Subcontractor hereunder will adhere to an Affirmative Action Program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.

1. This section applies to work or services performed or materials manufactured or assembled in the United States.
2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
3. The Contractor shall post a copy of Paragraph A., hereof, in conspicuous places at its place of business available to employees and applicants for employment.

B. The Contractor shall, in all solicitations or advertisements for employees placed, by or on behalf of, the Contractor, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.

C. At the request of the Awarding Authority or the DAA, the Contractor shall certify on an electronic or hard copy form to be supplied, that the Contractor has not discriminated in the performance of City Contracts against any employee or applicant for employment on the basis or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.

D. The Contractor shall permit access to, and may be required to provide certified copies of, all of its records pertaining to employment and to its employment practices by the Awarding Authority or the DAA for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of City Contracts and, upon request, to provide evidence that it has or will comply therewith.

E. The failure of any Contractor to comply with the Affirmative Action Program provisions of City Contracts may be deemed to be a material breach of a City Contract. The failure shall only be established upon a finding to that effect by the Awarding Authority, on the basis of its own investigation or that of the DAA. No finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to the Contractor.

F. Upon a finding duly made that the Contractor has breached the Affirmative Action Program provisions of a City Contract, the Contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the Awarding Authority, and all monies due or to become due hereunder may be forwarded to and retained by the City of Los Angeles. In addition thereto, the breach may be the basis for a determination by the Awarding Authority or the Board of Public Works that the Contractor is a non-responsible bidder or proposer pursuant to the provisions of Section 10.40 of this Code. In the event of such determination, the Contractor shall be disqualified from being awarded a contract with the City of Los Angeles for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.

G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that the Contractor has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a City Contract, there may be deducted from the amount payable to the Contractor by the City of Los Angeles under the contract, a penalty of ten dollars for each person for each calendar day on which the person was discriminated against in violation of the provisions of a City Contract.

H. Notwithstanding any other provisions of a City Contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.

I. The Public Works Board of Commissioners shall promulgate rules and regulations through the DAA and provide to the Awarding Authorities electronic and hard copy forms for the implementation of the Affirmative Action Program provisions of City contracts, and rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive Orders. No other rules, regulations or forms may be used by an Awarding Authority of the City to accomplish this contract compliance program.

J. Nothing contained in City Contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.

K. By affixing its signature to a Contract that is subject to this article, the Contractor shall agree to adhere to the provisions in this article for the duration of the Contract. The Awarding Authority may also require Contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Program.

1. The Contractor certifies and agrees to immediately implement good faith effort measures to recruit and employ minority, women and other potential employees in a non-discriminatory manner including, but not limited to, the following actions as appropriate and available to the Contractor's field of work. The Contractor shall:

(a) Recruit and make efforts to obtain employees through:

(i) Advertising employment opportunities in minority and other community news media or other publications.

(ii) Notifying minority, women and other community organizations of employment opportunities.

(iii) Maintaining contact with schools with diverse populations of students to notify them of employment opportunities.

(iv) Encouraging existing employees, including minorities and women, to refer their friends and relatives.

(v) Promoting after school and vacation employment opportunities for minority, women and other youth.

(vi) Validating all job specifications, selection requirements, tests, etc.

(vii) Maintaining a file of the names and addresses of each worker referred to the Contractor and what action was taken concerning the worker.

(viii) Notifying the appropriate Awarding Authority and the DAA in writing when a union, with whom the Contractor has a collective bargaining agreement, has failed to refer a minority, woman or other worker.

(b) Continually evaluate personnel practices to assure that hiring, upgrading, promotions, transfers, demotions and layoffs are made in a non-discriminatory manner so as to achieve and maintain a diverse work force.

(c) Utilize training programs and assist minority, women and other employees in locating, qualifying for and engaging in the training programs to enhance their skills and advancement.

(d) Secure cooperation or compliance from the labor referral agency to the Contractor's contractual Affirmative Action Program obligations.

(e) Establish a person at the management level of the Contractor to be the Equal Employment Practices officer. Such individual shall have the authority to disseminate and enforce the Contractor's Equal Employment and Affirmative Action Program policies.

(f) Maintain records as are necessary to determine compliance with Equal Employment Practices and Affirmative Action Program obligations and make the records available to City, State and Federal authorities upon request.

(g) Establish written company policies, rules and procedures which shall be encompassed in a company-wide Affirmative Action Program for all its operations and Contracts. The policies shall be provided to all employees, Subcontractors, vendors, unions and all others with whom the Contractor may become involved in fulfilling any of its Contracts.

(h) Document its good faith efforts to correct any deficiencies when problems are experienced by the Contractor in complying with its obligations pursuant to this article. The Contractor shall state:

(i) What steps were taken, how and on what date.

(ii) To whom those efforts were directed.

(iii) The responses received, from whom and when.

(iv) What other steps were taken or will be taken to comply and when.

(v) Why the Contractor has been or will be unable to comply.

2. Every contract of \$25,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall also comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.

L. The Affirmative Action Program required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Awarding Authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:

1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
2. Classroom preparation for the job when not apprenticeable;
3. Pre-apprenticeship education and preparation;
4. Upgrading training and opportunities;
5. Encouraging the use of Contractors, Subcontractors and suppliers of all racial and ethnic groups; provided, however, that any contract subject to this ordinance shall require the Contractor, Subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the Contractor's, Subcontractor's or supplier's geographical area for such work;
6. The entry of qualified women, minority and all other journeymen into the industry; and
7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.

M. Any adjustments which may be made in the Contractor's work force to achieve the requirements of the City's Affirmative Action Program in purchasing and construction shall be accomplished by either an increase in the size of the work force or replacement of those employees who leave the work force by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.

N. This ordinance shall not confer upon the City of Los Angeles or any Agency, Board or Commission thereof any power not otherwise provided by law to determine the legality of any existing collective bargaining agreement and shall have application only to discriminatory employment practices by Contractors engaged in the performance of City Contracts.

O. All Contractors subject to the provisions of this article shall include a similar provision in all subcontracts awarded for work to be performed under the Contract with the City and shall impose the same obligations including, but not limited to, filing and reporting obligations, on the Subcontractors as are applicable to the Contractor. Failure of the Contractor to comply with this requirement or to obtain the compliance of its Subcontractors with all such obligations shall subject the Contractor to the imposition of any and all sanctions allowed by law, including, but not limited to, termination of the Contractor's Contract with the City.

#### SECTION HISTORY

Amended by Ord. No. 147,030, Eff. 4-28-75; Subsecs. A., B., C., Ord. No. 164,516, Eff. 4-13-89; Subsecs. B. and C., Ord. No. 168,244, Eff. 10-18-92; Title and Section, Ord. No. 173,186, Eff. 5-22-00; Subsec. F., Ord. No. 173,285, Eff. 6-26-00, Oper. 7-1-00; In Entirety, Ord. No. 184,292, Eff. 6-27-16.



**EXHIBIT M**  
**INSURANCE REQUIREMENTS**  
**FOR LOS ANGELES WORLD**  
**AIRPORTS**



**RISK MANAGEMENT DIVISION**  
**INSURANCE REQUIREMENTS**

**NAME:** ROOFTOP PHOTOVOLTAIC (PV) SOLAR POWER SYSTEM FOR VNY  
**AGREEMENT/ACTIVITY:** RFP / Develop. Operate and Maintain Specified Rooftop PV Systems at VNY  
**LAWA DIVISION:** Environmental Programs Division  
**WIZARD FILE NO.:** 10175

The insured must maintain insurance coverage at limits normally required of its type operation; however, the following coverage noted with an "X" is the minimum required and must be at least the level of the limits indicated. All policies must be occurrence based with the minimum required per occurrence limits indicated below.

	<b><u>LIMITS</u></b>
<b>(X) Workers' Compensation</b> (Statutory)/Employer's Liability	<b><u>Statutory</u></b>
() Voluntary Compensation Endorsement	
(X) Waiver of Subrogation	
 <b>(X) Automobile Liability</b> - covering owned, non-owned & hired auto	 <b><u>\$2,000,000 CLS</u></b>
 <b>(X) Commercial General Liability</b> - including the following coverage:	 <b><u>\$2,000,000</u></b>
(X) Premises and Operations	
(X) Contractual (Blanket/Schedule)	
(X) Independent Contractors	
(X) Personal Injury	
(X) Damage to Premises Rented to You (minimum \$1 million each occurrence)	
(X) Products /Completed Operations	
(X) Additional Insured Endorsement, specifically naming LAWA	
(Please see attached supplement).	
 <b>() Coverage for Hazardous Substances</b>	 <b><u>***\$\$\$</u></b>
*** If exposure exists; must meet contractual requirements	

**\*\*\*\*\*RETURN THIS PAGE WITH EVIDENCE OF YOUR INSURANCE\*\*\*\*\***  
**SUBMIT ALL DOCUMENTS TO RISKINSURANCE@LAWA.ORG**

04/2022



**RISK MANAGEMENT DIVISION**  
**INSURANCE REQUIREMENTS**  
**INSURANCE REQUIREMENTS FOR LOS ANGELES WORLD AIRPORTS (SUPPLEMENT)**

**The only evidence of insurance accepted will be either a Certificate of Insurance, or a True and Certified copy of the policy. The following items must accompany the form of evidence provided:**

**Insurance companies, must have an AM Best rating of A- or better, and have a minimum financial size of at least four**

**Endorsements:**

- **Workers Compensation Waiver of Subrogation Endorsement  
(WC 04 03 06 or similar)**
- **General Liability Additional Insured Endorsement**
- **Ongoing and Products - Completed Operations Endorsement  
(ISO Standard Endorsements preferred)**

**Certificate Holder:**

**Los Angeles World Airports  
PO Box 92216  
Los Angeles, CA 90009**

**A typed legible name of the Authorized Representative must accompany the signature on the Certificate of Insurance and/or the True and Certified copy of the policy.**

**A blanket/automatic endorsement is not acceptable unless you have a direct contract with LAWA.**

**Language written on a certificate of insurance is not acceptable as an endorsement.**

**EXHIBIT N**  
**SMALL/VERY SMALL BUSINESS**  
**ENTERPRISE PROGRAM AND LOCAL**  
**BUSINESS PREFERENCE PROGRAM**

**AFFIDAVIT**  
**REQUIRED OF ALL PROPOSERS/BIDDERS**  
**(This Affidavit will become part of the contract for the selected Proposer/Bidder)**

The City of Los Angeles, Los Angeles World Airports (LAWA) is committed to creating an environment that provides all individuals and businesses open access to the business opportunities available at LAWA.

**MANDATORY BUSINESS ENTERPRISE PARTICIPATION LEVELS:**

<p>This Project has the following mandatory participation levels:</p> <p style="text-align: center;">SBE <u>  7  </u> %</p> <p style="text-align: center;">LBE <u>  0  </u> %</p> <p style="text-align: center;">LSBE <u>  0  </u> %</p> <p style="text-align: center;">DVBE <u>  0  </u> %</p>	<p>If awarded the contract, the selected Proposer/Bidder commits to achieving the following participation levels on the Project:</p> <p style="text-align: center;">SBE <u>  8  </u> %</p> <p style="text-align: center;">LBE <u>  0  </u> %</p> <p style="text-align: center;">LSBE <u>  0  </u> %</p> <p style="text-align: center;">DVBE <u>  0  </u> %</p>
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Achievement level(s) will be calculated as the percentage of the total contract amount for which SBEs, LBEs, LSBEs or DVBEs were utilized. The selected Proposer/Bidder's performance on the applicable business enterprise levels will be monitored throughout the duration of the contract, and the business enterprise achievement levels will be calculated at the end of the contract term.

**SUBCONTRACTORS:**

As applicable, the selected Proposer/Bidder will be required to comply with California's "Subletting and Subcontracting Fair Practices Act" (Public Contract Code Sections 4100 et seq.) ([www.leginfo.ca.gov/cgi-bin/calawquery?code=section=pcc&codebody=&hits=20](http://www.leginfo.ca.gov/cgi-bin/calawquery?code=section=pcc&codebody=&hits=20)).

Any reduction, increase, or other change to the SBE, LBE, LSBE or DBVE Subcontract amounts without prior written approval of Procurement Services Division (PSD) is considered an Unauthorized Subcontractor Substitution, and the selected Proposer/Bidder may be subject to a penalty. A subcontract dollar value increased or reduced solely as the result of a Change Order issued by LAWA to add or delete from the original scope of work shall not be subject to a penalty for an Unauthorized Subcontractor Substitution.

Proposers/Bidders must list all Subcontractors on LAWA's Subcontractor Participation Plan and include all requested information. Only PSD is authorized to grant either initial approval of Subcontractor(s) or additions, deletions, and substitutions.

**PENALTIES:**

Violation of the SBE, LBE, LSBE and DVBE Program Rules and Regulations ([http://www.lawa.org/welcome\\_LAWA.aspx?id=146](http://www.lawa.org/welcome_LAWA.aspx?id=146)) may result in financial penalties.

At the end of each project, LAWA may withhold as disputed funds 15% of the total dollar value of all subcontract(s) that appear to be in violation of the SBE, LBE, LSBE or DVBE Programs and 15% of the total dollar value of all subcontract(s) where work was performed on the project without, or prior to, approval by LAWA.

**REPORTING REQUIREMENTS:**

The selected Proposer/Bidder shall submit to LAWA, on a monthly basis, together with its invoice the Subcontractor Utilization Report listing the SBE, LBE, LSBE or DVBE subcontractors utilized during the reporting period. LAWA will not process or pay selected Proposer/Bidder's subsequent invoices if the Subcontractor Utilization Reports are not submitted with the monthly invoice.

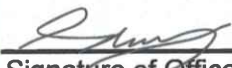
The Contractor must submit the Final Subcontracting Report to PSD within fifteen (15) calendar days after a request for the report by PSD. Failure to comply shall result in the assessment of liquidated damages in the amount of \$100.00 per day by LAWA.

**CERTIFICATION**

The Bidder/Proposer certifies that it/he/she has read and understood the SBE, LBE, LSBE and DVBE Program Rules and Regulations (located at [http://www.lawa.org/welcome\\_LAWA.aspx?id=146](http://www.lawa.org/welcome_LAWA.aspx?id=146)) and further certifies that, if awarded the Contract, it/he/she shall fully comply with LAWA's SBE, LBE, LSBE and DVBE Programs.

Current Energy, LLC 25876 THE OLD ROAD #418 STEVENSON RANCH, CA 91381 (562) 225-8156

Company Name, Address and Phone Number



September 19, 2022

Signature of Officer or other Authorized Representative

Date

Steve Heiney, Principal

Print Name and Title of Officer or Other Authorized Representative

Request for Proposals for Rooftop Photovoltaic Solar Power Systems For Van Nuys Airport Properties

Project Title

LAWA Official Site | Small Business Enterprise Program (SBE)

LOS ANGELES WORLD AIRPORTS (lawa.org) SBE RULES & REGS 2019



# SUBCONTRACTOR PARTICIPATION PLAN

## ATTENTION:

**You MUST list ALL anticipated subcontractors, regardless of their dollar amount or percent proposed, and regardless of whether they are certified or not.**

**You MUST fill out ALL applicable fields completely for the Prime and all subcontractors. Failure to provide complete and legible information on this form may result in your firm not receiving full certification credit.**

Request for Proposals for Rooftop Photovoltaic Solar Power Systems  
 Project Title: For Van Nuys Airport Properties Today's Date: September 19, 2022

BIDDER/PROPOSER COMPANY INFORMATION		BID/PROPOSAL AMOUNT		DESCRIPTION OF PROJECT SERVICES
NAME: <b>Current Energy, LLC</b>	ETHNICITY: <b>White</b>	<b>\$2,982,800.25</b>		Current Energy will manage the design, engineering, procurement, and installation of the proposed project(s). Current Energy will interface with all agencies including but not limited to LADWP, LAWA, and the City of Los Angeles. NAICS:
ADDRESS: <b>25876 THE OLD ROAD #418</b>	GENDER: <b>Male</b>			
CITY/STATE/ZIP: <b>STEVENSON RANCH, CA 91381</b>	FEDERAL TAX ID #: <b>81-5097032</b>			
CONTACT NAME: <b>Steve Heiney</b>	EMAIL: <b>steve@Currentenergy.net</b>			
TELEPHONE NO: <b>(562) 225-8156</b>				
CERTIFICATION TYPE: <input type="checkbox"/> ACDBE <input type="checkbox"/> DBE <input type="checkbox"/> DVBE <input type="checkbox"/> MBE <input type="checkbox"/> LBE <input type="checkbox"/> LSBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE CERTIFYING AGENCY: <input type="checkbox"/> CITY OF L.A. <input type="checkbox"/> CALIF DGS <input type="checkbox"/> CALTRANS <input type="checkbox"/> METRO <input type="checkbox"/> SBA <input type="checkbox"/> DVA <input type="checkbox"/> USWCC <input type="checkbox"/> NWBOC <input type="checkbox"/> WBEC-WEST <input type="checkbox"/> OTHER				
SUBCONTRACTOR COMPANY INFORMATION		\$ PROPOSED	% PROPOSED	DESCRIPTION OF PROJECT SERVICES
NAME: <b>Morgner Technology Management</b>	ETHNICITY: <b>Hispanic</b>	<b>\$238,624.02</b>	<b>8%</b>	Morgner will provide construction management support services, quality assurance/quality control, Project Controls (Schedule/Budget), Document Control and CAD Services. NAICS: 236220, 237110, 237310, 541611, 541611 541620, 541690, 541720, 561320
ADDRESS: <b>dba Morgner Construction Management</b>	GENDER: <b>Female</b>			
CITY/STATE/ZIP: <b>1880 Century Park East, Ste 1402</b>	FEDERAL TAX ID #: <b>95-4351674</b>			
CONTACT NAME: <b>Los Angeles, CA 90067</b>	EMAIL: <b>mmorgner@morgnerco.com</b>			
TELEPHONE NO: <b>Monique Morgner Lukeman, CEO (323) 900-0030</b>				
CERTIFICATION TYPE: <input type="checkbox"/> ACDBE <input checked="" type="checkbox"/> DBE <input type="checkbox"/> DVBE <input checked="" type="checkbox"/> MBE <input checked="" type="checkbox"/> LBE <input type="checkbox"/> LSBE <input checked="" type="checkbox"/> SBE <input checked="" type="checkbox"/> WBE CERTIFYING AGENCY: <input checked="" type="checkbox"/> CITY OF L.A. <input checked="" type="checkbox"/> CALIF DGS <input type="checkbox"/> CALTRANS <input checked="" type="checkbox"/> METRO <input checked="" type="checkbox"/> SBA <input type="checkbox"/> DVA <input type="checkbox"/> USWCC <input type="checkbox"/> NWBOC <input type="checkbox"/> WBEC-WEST <input type="checkbox"/> OTHER <u>LGBT issued by NGLCC</u>				
NAME: <b>Argubright Construction</b>	ETHNICITY: <b>White</b>	<b>\$357,936.03</b>	<b>12%</b>	General Construction, PV Installation NAICS:
ADDRESS: <b>18140 Index St</b>	GENDER: <b>Male</b>			
CITY/STATE/ZIP: <b>Northridge, Ca 91326</b>	FEDERAL TAX ID #: <b>20-1468445</b>			
CONTACT NAME: <b>Steve Argubright</b>	EMAIL: <b>argubrighthanger@gmail.com</b>			
TELEPHONE NO: <b>(818) 402-2270</b>				
CERTIFICATION TYPE: <input type="checkbox"/> ACDBE <input type="checkbox"/> DBE <input type="checkbox"/> DVBE <input type="checkbox"/> MBE <input type="checkbox"/> LBE <input type="checkbox"/> LSBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE CERTIFYING AGENCY: <input type="checkbox"/> CITY OF L.A. <input type="checkbox"/> CALIF DGS <input type="checkbox"/> CALTRANS <input type="checkbox"/> METRO <input type="checkbox"/> SBA <input type="checkbox"/> DVA <input type="checkbox"/> USWCC <input type="checkbox"/> NWBOC <input type="checkbox"/> WBEC-WEST <input type="checkbox"/> OTHER				

SUBCONTRACTOR COMPANY INFORMATION		PROFILE INFORMATION	\$ PROPOSED	% PROPOSED	DESCRIPTION OF PROJECT SERVICES
NAME:		ETHNICITY:			
ADDRESS:		GENDER:			
CITY/STATE/ZIP:		EMAIL:			
CONTACT NAME:		FEDERAL TAX ID #:			
TELEPHONE NO:					
CERTIFICATION TYPE: <input type="checkbox"/> ACDBE <input type="checkbox"/> DBE <input type="checkbox"/> DVBE <input type="checkbox"/> MBE <input type="checkbox"/> LBE <input type="checkbox"/> LSBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE					
CERTIFYING AGENCY: <input type="checkbox"/> CITY OF L.A. <input type="checkbox"/> CALIF DGS <input type="checkbox"/> CALTRANS <input type="checkbox"/> METRO <input type="checkbox"/> SBA <input type="checkbox"/> DVA <input type="checkbox"/> USWCC <input type="checkbox"/> NWBOC <input type="checkbox"/> WBEC-WEST <input type="checkbox"/> OTHER					NAICS:
NAME:		ETHNICITY:			
ADDRESS:		GENDER:			
CITY/STATE/ZIP:		EMAIL:			
CONTACT NAME:		FEDERAL TAX ID #:			
TELEPHONE NO:					
CERTIFICATION TYPE: <input type="checkbox"/> ACDBE <input type="checkbox"/> DBE <input type="checkbox"/> DVBE <input type="checkbox"/> MBE <input type="checkbox"/> LBE <input type="checkbox"/> LSBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE					
CERTIFYING AGENCY: <input type="checkbox"/> CITY OF L.A. <input type="checkbox"/> CALIF DGS <input type="checkbox"/> CALTRANS <input type="checkbox"/> METRO <input type="checkbox"/> SBA <input type="checkbox"/> DVA <input type="checkbox"/> USWCC <input type="checkbox"/> NWBOC <input type="checkbox"/> WBEC-WEST <input type="checkbox"/> OTHER					NAICS:
NAME:		ETHNICITY:			
ADDRESS:		GENDER:			
CITY/STATE/ZIP:		EMAIL:			
CONTACT NAME:		FEDERAL TAX ID #:			
TELEPHONE NO:					
CERTIFICATION TYPE: <input type="checkbox"/> ACDBE <input type="checkbox"/> DBE <input type="checkbox"/> DVBE <input type="checkbox"/> MBE <input type="checkbox"/> LBE <input type="checkbox"/> LSBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE					
CERTIFYING AGENCY: <input type="checkbox"/> CITY OF L.A. <input type="checkbox"/> CALIF DGS <input type="checkbox"/> CALTRANS <input type="checkbox"/> METRO <input type="checkbox"/> SBA <input type="checkbox"/> DVA <input type="checkbox"/> USWCC <input type="checkbox"/> NWBOC <input type="checkbox"/> WBEC-WEST <input type="checkbox"/> OTHER					NAICS:
NAME:		ETHNICITY:			
ADDRESS:		GENDER:			
CITY/STATE/ZIP:		EMAIL:			
CONTACT NAME:		FEDERAL TAX ID #:			
TELEPHONE NO:					
CERTIFICATION TYPE: <input type="checkbox"/> ACDBE <input type="checkbox"/> DBE <input type="checkbox"/> DVBE <input type="checkbox"/> MBE <input type="checkbox"/> LBE <input type="checkbox"/> LSBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE					
CERTIFYING AGENCY: <input type="checkbox"/> CITY OF L.A. <input type="checkbox"/> CALIF DGS <input type="checkbox"/> CALTRANS <input type="checkbox"/> METRO <input type="checkbox"/> SBA <input type="checkbox"/> DVA <input type="checkbox"/> USWCC <input type="checkbox"/> NWBOC <input type="checkbox"/> WBEC-WEST <input type="checkbox"/> OTHER					NAICS:

SUBCONTRACTOR COMPANY INFORMATION	PROFILE INFORMATION	\$ PROPOSED	% PROPOSED	DESCRIPTION OF PROJECT SERVICES
NAME:	ETHNICITY:			
ADDRESS:	GENDER:			
CITY/STATE/ZIP:	EMAIL:			
CONTACT NAME:	FEDERAL TAX ID #:			
TELEPHONE NO:				
CERTIFICATION TYPE: <input type="checkbox"/> ACDBE <input type="checkbox"/> DBE <input type="checkbox"/> DVBE <input type="checkbox"/> MBE <input type="checkbox"/> LBE <input type="checkbox"/> LSBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE				
CERTIFYING AGENCY: <input type="checkbox"/> CITY OF L.A. <input type="checkbox"/> CALIF DGS <input type="checkbox"/> CALTRANS <input type="checkbox"/> METRO <input type="checkbox"/> SBA <input type="checkbox"/> DVA <input type="checkbox"/> USWCC <input type="checkbox"/> NWBOC <input type="checkbox"/> WBEC-WEST <input type="checkbox"/> OTHER _____			NAICS:	

I certify under the penalty of perjury that the information contained on this form is true and correct and that the firms listed are the subcontractors anticipated to be utilized if this project is awarded to the above prime contractor. I agree to comply with any applicable provisions for additions and substitutions, and I further understand and agree that any and all changes or substitutions must be authorized by the LAWA Procurement Services Division prior to their implementation. An amended Subcontractor Participation Plan is required for any substitution or change to Subcontractors listed on the originally submitted Plan.

<b>Participation Level(s) Proposed by Bidder/Proposer:</b>	_____ %	<input type="checkbox"/> ACDBE
	_____ %	<input type="checkbox"/> DBE
	_____ %	<input type="checkbox"/> DVBE
	_____ %	<input type="checkbox"/> LBE
	_____ %	<input type="checkbox"/> LSBE
	_____ %	<input type="checkbox"/> MBE/WBE
	<u>8</u> %	<input checked="" type="checkbox"/> SBE

<b>Goal(s) Stated in the Request for Bid/Proposal:</b>	_____ %	<input type="checkbox"/> ACDBE
	_____ %	<input type="checkbox"/> DBE
	_____ %	<input type="checkbox"/> DVBE
	_____ %	<input type="checkbox"/> LBE
	_____ %	<input type="checkbox"/> LSBE
	_____ %	<input type="checkbox"/> MBE/WBE
	<u>7</u> %	<input checked="" type="checkbox"/> SBE

  
SIGNATURE

September 19, 2022  
DATE

Steve Heiney  
PRINT NAME

Principal  
TITLE

(562) 225-8156  
PHONE



# Inclusivity Approach

## Mission

Current Energy is dedicated to building a workplace that reflects America's diversity and aims to model diversity, equity, accessibility and inclusion as a core company principal.

## Approach

### WORKFORCE INCLUSIVITY

Diversity and inclusion at Current Energy is expressed through management's commitment to equality and the treatment of all individuals, empathy to all people and their background, and inclusion of all voices. We understand that the wide range of experiences and perspectives resulting from such diversity and inclusion promotes innovation and business success. It makes us creative, productive, responsive, competitive and creates value for our shareholders.

Current Energy strives to hire local, qualified, experienced people regardless of backgrounds and beliefs. We provide fair opportunities to all employees based on their individual needs. This helps ensure that our programs and processes are fair, impartial, and offer equal possible results for all of our employees.

Specifically for inclusion, we make sure that all employees feel a sense of belonging in the workplace by helping our staff feel comfortable, appreciated, and supported by the company to be their authentic selves, and work in a way that suits them. The way we promote Diversity, Equity and Inclusion includes:

- Being aware of unconscious bias.
- Changing the conversation when it lacks meaning or is unproductive.
- Promoting pay equity by identifying pay gaps
- Acknowledging holidays of all cultures
- Facilitating ongoing feedback and encouraging employees to share their input

### SUCCESSFUL ENGAGEMENT OF SUB CONSULTANTS

As it relates to our contracting community and how we approach inclusivity, we also work within network of over 500+ trades to advertise subcontracting opportunities to local, small and disadvantage businesses including women-owned, newly formed businesses, as well as the LGBTQ communities. We are committed to partnering with companies that share in our mission and align with our inclusion and diversity goals.

For example, major subcontractor, **Morgner, is a certified women, small, disadvantaged (WBE/SBE/DBE) and LGBTQ-owned** company located in Los Angeles. They have served LAWA and VNY Airport projects in varying capacities on over eleven current and completed projects including the \$4.6B APM, \$2.6B Delta Skyway Modernization, \$2B Southwest T1/T1.5 and recently was awarded Southwest's new T0 and 1E terminals where they will play an integral role as the Programs Quality Assurance Manager and Aviation Specialist. Morgner's partnership on both pursuits will play an substantial role in our overall **project management approach, representing almost 20% of the total estimated contract value.**

Additionally, Current Energy has selected **Argubright Construction, Inc., (ACI)**, as the General Contractor to provide solar installation for both Solar Rooktop and Ground Mount projects. ACI's hiring and contracting practices also aligns with our vision for inclusion, diversity and equity. They **operate locally with a staff** of nearly 20 full-time employees and has a workforce of more than **90% minority employees.** They are an equal opportunity employer who continuously involves his workforce in many decision making opportunities, creates succession planning, and focuses on expanding his workforce through education and paid training.

Lastly, we intend to partner with other trades that have yet to be identified at this juncture and will draw from our contracting community whose relevant experiences and values align with the team's.

**Table 5 - Past Performance and History of Inclusivity**

Project/Pursuit Name	Project Goal	% Goal Achieved	Participation				
			SBE	MBE/DBE	LSBE	DVBE	Other
San Diego Airport Quality/ Specialty Inspections and Testing Proposal Pursuit	8%	100%	X	X	X	X	X
SANDAG Mobility Central HUB	4.08%	54%	X	X			X
LA Metro Value Capture	23%	56.8%	X	X			X
LA Metro Union Station Strategic Advisory	30%	32.8%	X	X			X
Southwest Apron Proposal	8%	100%	X	X	X		X
The Clippers Arena Proposal Pursuit	N/A	100%	X	X	X		X

**PAST PERFORMANCE AND HISTORY OF INCLUSIVITY**

Our team has always looked for opportunities to partner with other local, small and disadvantage firms. We also understand that inclusivity is not just about the size of the firm, but the makeup of the firm. Our approach to Inclusivity has always been to extend teaming opportunities to women, minorities, disadvantage, military/veterans, and LGBTQ firms alike. Inclusivity for Current Energy means allowing every firm to carve out their success so the partnership is a meaningful one—one that lasts and hopefully continues to grow into other opportunities.

Our major subcontractor, Morgner will be assisting the project team with proper outreach and tracking of the project's outreach goals. **Table 5** represents their past performance in meeting/exceeding project SBE/DBE goals.

**SUBCONTRACTOR MANAGEMENT AND DISPUTE MANAGEMENT**

Our approach to weeding out the non-performing sub/trade contractors starts at the pre-qualifications process. The pre-qualification includes project specific requirements including RFP and contracting requirements as well as a deeper dive into the company's history, experience, capability and financial stability. We also request information about any legal proceedings or if the company has ever been barred or removed from any jobsite/project.

We also conduct a due diligent vetting with our major partners through team meetings, interviews and a review of their qualifications, business and personal reference checks. Through the vetting process, we study their business operations, structure and culture dynamics and compatibility.

Regardless if the subcontractor comes on board through a formal pre-qualification or was invited through relationship-based process, we typically manage disputes similarly. Our conflict resolution process works most effectively when the project team:

- **Makes a commitment to work together as partners**
- **Endorses common project goals**
- **Understands the plan for managing key challenges**
- **Agrees to a dispute resolution plan**
- **Participates actively in follow-up to measuring partnering progress**

We recognize that over the course of this long-duration project, conflicts may occur. Our collaborative approach to conflict resolution focuses first and foremost on promoting a team atmosphere based on respect and trust and supported by partnering principles. At the project level, we know that partnering is more than just attendance in a partnering workshop.

**First we create a collaborative project approach**

with to help identify potential problems early. By creating and culture of communication and transparency, we can spot a problem before it actually arises - and it starts with requiring the use of preliminary notices all the way down the chain. These include daily reports, weekly progress/project meetings, and monthly reporting.

**Before taking action, we try to talk it out.** We

encourage sit down discussions about the issues to help all involved parties understand everyone's position. This usually helps identify thier factors contributing to their struggles that we may not be aware of i.e. own problems as a vendor, material or workforce shortages, or issues with other subs. The time is typically utilized to create solutions to help minimize the construction impact.

**ADMINISTRATIVE FUNCTION SUPPORT**

Our team's ability to provide administrative function support comes from our Mentor-Protege program, which Morgner will tailor to this pursuit. It's designed to provide other small or emerging business entities with developmental assistance that is mutually beneficial in the areas of planning, business/finance, administration and business development, as well as other mutually agreed upon benefits as it relates to the project or contract scope.

Our goal is to improve the performance of contracts and subcontracts, foster and establish long-term business relationships, strengthen the small business community, and instill a culture of business to business support.

We believe in an instinctive approach that begins with an organization's leadership, professional resources, background, strategy, goals, and mission. Our collaboration provides a foundation that support small businesses, while allowing each firm the opportunity to develop its own niche in a challenging market.

**Business/Financial Management**

We use a method that facilitates an open forum and encourages communication with our SBE/DBE subcontractors. We identify areas of support such in finance, control, management and marketing. This

method involves tailoring to the project goals and objectives, challenges, and risks involved in fulfilling the scope for the subcontractor.

**Project Contract Administration**

In the 30 years of working with public agencies, we have gathered the experienced, understanding-- and patience necessary to satisfy and comply with all the forms, certifications and legal jargon required by a public agency project/bid. We help, often times, hand-hold subcontractors through the entire process from pre-proposal qualifications to contract requirements. Our process is involved, engaging and provides the subcontractors with a step-by-step pathway to their own contract understanding and project success.

**Business Planning and Projection**

For a small business, every aspect of projection is a challenging task due to the evolving atmosphere we face in this billion-dollar market space. Through our years of experience in understanding the political climate in our industry, we were able to share key insights that allowed our subcontractor to plan, strategize and execute the next course of action for their company.

As a small business ourselves, we understand the multiple hats owners wear to make their business succeed. Therefore, we share our resources when necessary with our colleagues and subcontractors. We also share talent resources to fulfill common goals on a project, even if it is not financially rewarding for our company. We firmly believe collaborating with our subcontractors to capitalize on our individual strengths is the key to growing together to support each other wherever we are the weakest.

**SUBCONTRACTOR PROMPT PAYMENT APPROACH**

As the prime proposer and finance manager, Current Energy will review all progress payments for accuracy and completeness and once request for payments are approved, we will comply with LAWA/NVY's 7-day prompt payment requirement to all sub-consultants and trade contractors.



**EXHIBIT O  
LIVING WAGE  
ORDINANCE**

## CHAPTER 1, ARTICLE 11

### LIVING WAGE

Section	
10.37	Legislative Findings.
10.37.1	Definitions.
10.37.2	Payment of Minimum Compensation to Employees.
10.37.3	Health Benefits.
10.37.4	Employer Reporting and Notification Requirements.
10.37.5	Retaliation Prohibited.
10.37.6	Enforcement.
10.37.7	Administration.
10.37.8	City is a Third Party Beneficiary of Contracts Between an Employer and Subcontractor for Purposes of Enforcement.
10.37.9	Coexistence with Other Available Relief for Specific Deprivations of Protected Rights.
10.37.10	Expenditures Covered.
10.37.11	Timing of Application.
10.37.12	Express Supersession by Collective Bargaining Agreement.
10.37.13	Liberal Interpretation of Coverage; Rebuttable Presumption of Coverage.
10.37.14	Contracts, Employers and Employees Not Subject to this Article.
10.37.15	Exemptions.
10.37.16	Severability.

#### Sec. 10.37. Legislative Findings.

The City awards many contracts to private firms to provide services to the public and to City government. Many lessees or licensees of City property perform services that affect the proprietary interests of City government in that their performance impacts the success of City operations. The City also provides financial assistance and funding to other firms for the purpose of economic development or job growth. The City expends grant funds under programs created by the federal and state governments. These expenditures serve to promote the goals established for the grant programs and for similar goals of the City. The City intends that the policies underlying this article serve to guide the expenditure of such funds to the extent allowed by the laws under which such grant programs are established.

Experience indicates that procurement by contract of services all too often has resulted in the payment by service contractors to their employees of wages at or slightly above the minimum required by federal and state minimum wage laws. The minimal compensation tends to inhibit the quantity and quality of services rendered by those employees to the City and to the public. Underpaying employees in this way fosters high turnover, absenteeism and lackluster performance. Conversely, adequate compensation promotes amelioration of these undesirable conditions. Through this article, the City intends to require service contractors to provide a minimum level of compensation which will improve the level of services rendered to and for the City.

The inadequate compensation leaves service employees with insufficient resources to afford life in Los Angeles. Contracting decisions involving the expenditure of City funds should not foster conditions that place a burden on limited social services. The City, as a principal provider of social support services, has an interest in promoting an employment environment that protects such limited resources. In requiring the payment of a higher minimum level of compensation, this article benefits that interest.

In comparison with the wages paid at San Francisco International Airport, the wage for Los Angeles airport workers is often lower even though the airports are similar in the number of passengers they serve and have similar goals of providing a living wage to the airport workforce. Studies show that higher wages at the airport leads to increases in worker productivity and improves customer service. Higher wages for airport workers also results in a decline in worker turnover, yielding savings to the employers and alleviating potential security concerns. Therefore, the City finds that a higher wage for airport employees is needed to reduce turnover and retain a qualified and stable workforce.

Many airport workers who provide catering services to the airlines are paid below the living wage. Federal law allows employment contract agreements between airline caterers and its workers to remain in effect without an expiration date, effectively freezing wages for workers. Long-term employment contract agreements provide little incentive for employers to renegotiate the employment contract agreements with their workers. Airline catering

workers often struggle to pay their bills, sometimes having to choose between paying medical bills and buying food for their families. The City finds that airline caterers should pay their workers, at a minimum, the living wage with benefits.

Airport workers are also the first to respond when an emergency occurs at the airport. In order to properly assist first responders during a crisis at the airport, the City finds that airport employees of Certified Service Provider License Agreement holders should be formally trained for an emergency response at the airport.

Nothing less than the living wage should be paid by employers that are the recipients of City financial assistance. Whether workers are engaged in manufacturing or some other line of business, the City does not wish to foster an economic climate where a lesser wage is all that is offered to the working poor.

The City holds a proprietary interest in the work performed by many employees of City lessees and licensees and by their service contractors, subcontractors, sublessees and sublicensees. The success or failure of City operations may turn on the success or failure of these enterprises, for the City has a genuine stake in how the public perceives the services rendered for them by such businesses. Inadequate compensation of these employees adversely impacts the performance by the City's lessee or licensee and thereby hinders the opportunity for success of City operations. A proprietary interest in providing a living wage is important for various reasons, including, but not limited to: 1) the public perception of the services or products rendered to them by a business; 2) security concerns related to the location of the business or any product or service the business produces; or 3) an employer's industry-specific job classification which is in the City's interest to cover by the living wage. This article is meant to cover all such employees not expressly exempted.

Requiring payment of the living wage further serves a proprietary concern of the City. If an employer does not comply with this article, the City may: 1) declare a material breach of the contract; 2) declare the employer non-responsible and limit its ability to bid on future City contracts, leases or licenses; and 3) exercise any other remedies available.

#### SECTION HISTORY

Article and Section Added by Ord. No. 171,547, Eff. 5-5-97.  
Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

#### Sec. 10.37.1. Definitions.

The following definitions shall apply throughout this article:

(a) "Airline Food Caterer" means any Employer that, with respect to the Airport:

(1) prepares food or beverage to or for aircraft crew or passengers;

(2) delivers prepared food or beverage to or for aircraft crew or passengers;

(3) conducts security or inspection of aircraft food or beverage; or

(4) provides any other service related to or in connection with the preparation of food or beverage to or for aircraft crew or passengers.

(b) "Airport" means the Department of Airports and each of the airports which it operates.

(c) "Awarding Authority" means the governing body, board, officer or employee of the City or City Financial Assistance Recipient authorized to award a Contract and shall include a department which has control of its own funds.

(d) "City" means the City of Los Angeles and all awarding authorities thereof, including those City departments which exercise independent control over their expenditure of funds.

(e) "City Financial Assistance Recipient" means any person who receives from the City discrete financial assistance for economic development or job growth expressly articulated and identified by the City, as contrasted with generalized financial assistance such as through tax legislation, in accordance with the following monetary limitations. Assistance given in the amount of \$1,000,000 or more in any 12-month period shall require compliance with this article for five years from the date such assistance reaches the \$1,000,000 threshold. For assistance in any 12-month period totaling less than \$1,000,000 but at least \$100,000, there shall be compliance for one year, with the period of compliance beginning when the accrual of continuing assistance reaches the \$100,000 threshold.

Categories of assistance include, but are not limited to, bond financing, planning assistance, tax increment financing exclusively by the City and tax credits, and shall not include assistance provided by the Community Development Bank. City staff assistance shall not be regarded as financial assistance for purposes of this article. A loan at market rate shall not be regarded as financial assistance. The forgiveness of a loan shall be regarded as financial assistance. A loan shall be regarded as financial assistance to the extent of any differential between the amount of the loan and the present value of the payments thereunder, discounted over the life of the loan by the applicable federal rate as used in 26 U.S.C. §§ 1274(d) and 7872(f). A recipient shall not be deemed to include lessees and sublessees.

A recipient shall be exempted from application of this article if:

(1) it is in its first year of existence, in which case the exemption shall last for one year;

(2) it employs fewer than five Employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year; or

(3) it obtains a waiver as a recipient who employs the long-term unemployed or provides trainee positions intended to prepare Employees for permanent positions. The recipient shall attest that compliance with this article would cause an economic hardship and shall apply in writing to the City department or office administering the assistance. The department or office shall forward the waiver application and the department or office's recommended action to the City Council. Waivers shall be effected by Council resolution.

(f) "Contractor" means any person that enters into:

(1) a Service Contract with the City;

(2) a contract with a Public Lessee or Licensee; or

(3) a contract with a City Financial Assistance Recipient to help the recipient in performing the work for which the assistance is being given.

(g) "Designated Administrative Agency (DAA)" means the Department of Public Works, Bureau of Contract Administration, which shall bear administrative responsibilities under this article.

(h) "Employee" means any person who is not a managerial, supervisory or confidential employee who expends any of his or her time working for an Employer in the United States.

(i) "Employer" means any person who is:

(1) a City Financial Assistance Recipient;

(2) Contractor;

(3) Subcontractor;

(4) Public Lessee or Licensee; and

(5) Contractor, Subcontractor, sublessee or sublicensee of a Public Lessee or Licensee.

(j) "Person" means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association or other entity that may employ individuals or enter into contracts.

(k) "Public Lease or License" means, except as provided in Section 10.37.15, a lease, license, sublease or sublicense of City property, including, but not limited to, Non-Exclusive License Agreements, Air Carrier Operating Permits and Certified Service Provider License Agreements (CSPLA), for which services are furnished by Employees where any of the following apply:

(1) The services are rendered on premises at least a portion of which is visited by members of the public (including, but not limited to, airport passenger terminals, parking lots, golf courses, recreational facilities);

(2) Any of the services feasibly could be performed by City employees if the City had the requisite financial and staffing resources; or

(3) The DAA has determined in writing as approved by the Board of Public Works that coverage would further the proprietary interests of the City. Proprietary interest includes, but is not limited to:

(i) the public perception of the services or products rendered to them by a business;

(ii) security concerns related to the location of the business or any product or service the business produces; or

(iii) an Employer's industry-specific job classifications as defined in the regulations.

(l) "Service Contract" means a contract involving an expenditure in excess of \$25,000 and a contract term of at least three months awarded to a Contractor by the City to furnish services for the City where any of the following apply:

(1) at least some of the services are rendered by Employees whose work site is on property owned or controlled by the City;

(2) the services feasibly could be performed by City employees if the City had the requisite financial and staffing resources; or

(3) the DAA has determined in writing as approved by the Board of Public Works that coverage would further the proprietary interests of the City. Proprietary interest includes, but is not limited to:

(i) the public perception of the services or products rendered to them by a business;

(ii) security concerns related to the location of the business or any product or service the business produces; or

(iii) an Employer's industry-specific job classifications as defined in the regulations.

(m) "Subcontractor" means any person not an Employee who enters into a contract:

(1) to assist in performance of a Service Contract;

(2) with a Public Lessee or Licensee, sublessee, sublicensee or Contractor to perform or assist in performing services for the leased or licensed premises.

(n) "Willful Violation" means that the Employer knew of its obligations under this article and deliberately failed or refused to comply with its provisions.

#### SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Subsec. (e), Ord. No. 176,155, Eff. 9-22-04; Subsec. (e), Ord. No. 176,283, Eff. 12-25-04, Oper. 9-22-04; Subsecs. (a) through (l) re-lettered (d) through (o), respectively and new Subsecs. (a), (b), and (c) added, Ord. No. 180,877, Eff. 10-19-09; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

#### Sec. 10.37.2. Payment of Minimum Compensation to Employees.

(a) **Wages.** An Employer shall pay an Employee for all hours worked on a Service Contract or if a Public Lease or License or for a Contractor of a Public Lessee or Licensee, for all hours worked furnishing a service relating to the City, a wage of no less than the hourly rates set under the authority of this article.

##### (1) Non-Airport Employee Wages.

(i) If an Employer provides an Employee with health benefits as provided in Section 10.37.3 of this article, the Employee shall be paid the following:

a. On July 1, 2018, the wage rate for an Employee shall be no less than \$13.25 per hour.

b. On July 1, 2019, the wage rate for an Employee shall be no less than \$14.25 per hour.

c. On July 1, 2020, the wage rate for an Employee shall be no less than \$15.00 per hour.

d. On July 1, 2022, and annually thereafter, the hourly wage rate paid to an Employee shall be adjusted consistent with any adjustment pursuant to Section 187.02 D. of the Los Angeles Municipal Code.

(ii) If an Employer does not provide an Employee with health benefits as provided in Section 10.37.3 of this article, the Employee shall be paid the applicable wage rate in Section

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### Living Wage Ordinance

10.37.2(a)(1)(i) and an additional wage rate of \$1.25 per hour.

(iii) Section 10.37.11 is not applicable to this subdivision.

**(2) Airport Employee Wages.**

(i) If an Employer servicing the Airport provides an Employee with health benefits as provided in Section 10.37.3 of this article, the Employee shall be paid the following:

a. On July 1, 2017, the wage rate for an Employee shall be no less than \$12.08 per hour.

b. On July 1, 2018, the wage rate for an Employee shall be no less than \$13.75 per hour.

c. On July 1, 2019, the wage rate for an Employee shall be no less than \$15.25 per hour.

d. On July 1, 2020, the wage rate for an Employee shall be no less than \$16.50 per hour.

e. On July 1, 2021, the wage rate for an Employee shall be no less than \$17.00 per hour.

f. Beginning on July 1, 2022, the wage rate for an Employee shall increase annually, on July 1, to an amount \$2.00 above the minimum rate under the City's Minimum Wage Ordinance for that same period of time.

(ii) If an Employer servicing the Airport does not provide an Employee with health benefits as provided in Section 10.37.3 of this article, the Employee shall be paid the applicable wage rate in Section 10.37.2(a)(2)(i) and an additional wage rate as follows:

a. On July 1, 2017, an Employer servicing the Airport shall pay an Employee an additional wage rate of \$5.18 per hour.

b. Beginning on July 1, 2018, an Employer servicing the Airport shall pay an Employee an additional wage rate per hour

equal to the health benefit payment in effect for an Employee pursuant to Section 10.37.3(a)(5).

(3) An Employer may not use tips or gratuities earned by an Employee to offset the wages required under this article.

(b) **Compensated Time Off.** An Employer shall provide an Employee compensated time off as follows:

(1) An Employee who works at least 40 hours per week or is classified as a full-time Employee by the Employer shall accrue no less than 96 hours of compensated time off per year.

(2) An Employee who works less than 40 hours per week and is not classified as a full-time Employee by the Employer shall accrue hours of compensated time off in increments proportional to that accrued by an Employee who works 40 hours per week.

(3) **General Rules for Compensated Time Off.**

(i) An Employee must be eligible to use accrued paid compensated time off after the first 90 days of employment or consistent with company policies, whichever is sooner. Compensated time off shall be paid at an Employee's regular wage rate at the time the compensated time off is used.

(ii) An Employee may use accrued compensated time off hours for sick leave, vacation or personal necessity.

(iii) An Employer may not unreasonably deny an Employee's request to use the accrued compensated time off. The DAA, through regulations, may provide guidance on what is considered unreasonable.

(iv) The DAA may allow an Employer's established compensated time off policy to remain in place even though it does not meet these requirements, if the DAA determines that the Employer's established policy is overall more generous.

(v) Unused accrued compensated time off shall carry over until time off reaches a maximum of 192 hours, unless the Employer's established policy is overall more generous.

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(vi) After an Employee reaches the maximum accrued compensated time off, an Employer shall provide a cash payment once every 30 days for accrued compensated time off over the maximum. An Employer may provide an Employee with the option of cashing out any portion of, or all of, the Employee's accrued compensated time off, but, an Employer shall not require an Employee to cash out any accrued compensated time off. Compensated time off cashed out shall be paid to the Employee at the wage rate that the Employee is earning at the time of cash out.

(vii) An Employer may not implement any unreasonable employment policy to count accrued compensated time off taken under this article as an absence that may result in discipline, discharge, suspension or any other adverse action.

(4) **Compensated Release Time.** An Employer servicing the Airport who holds a Certified Service Provider License Agreement and is subject to this article shall comply with the following additional requirements:

(i) A CSPLA Employer shall provide an Employee at the Airport, 16 hours of additional compensated release time annually to attend and complete emergency response training courses approved by the Airport.

(ii) By December 31, 2018, and continuing thereafter on an annual basis, an Employee of a CSPLA Employer shall successfully complete the 16 hours of emergency response training.

(iii) An Employee of a CSPLA Employer hired after December 31, 2018, shall complete the 16 hours of emergency response training within 120 days of the first date of hire.

(iv) The 16 hours of compensated release time shall only be used to attend Airport approved annual emergency response training courses. The 16 hours of compensated release time does not accumulate or carry over to the following year. The 16 hours of compensated release time shall not be included as part of the 96 hours of compensated time off required under this article.

(c) **Uncompensated Time Off.** An Employer shall provide an Employee uncompensated time off as follows:

(1) An Employee who works at least 40 hours a week or is classified as a full-time Employee by an Employer shall accrue no less than 80 hours of uncompensated time off per year.

(2) An Employee who works less than 40 hours per week and is not classified as a full-time Employee by the Employer shall accrue hours of uncompensated time off in increments proportional to that accrued by an Employee who works 40 hours per week.

(3) **General Rules for Uncompensated Time Off.**

(i) An Employee must be eligible to use accrued uncompensated time off after the first 90 days of employment or consistent with company policies, whichever is sooner.

(ii) Uncompensated time off may only be used for sick leave for the illness of an Employee or a member of his or her immediate family and where an Employee has exhausted his or her compensated time off for that year.

(iii) An Employer may not unreasonably deny an Employee's request to use the accrued uncompensated time off. The DAA, through regulations, may provide guidance on what is considered unreasonable.

(iv) Unused accrued uncompensated time off shall carry over until the time off reaches a maximum of 80 hours, unless the Employer's established policy is overall more generous.

(v) An Employer may not implement any unreasonable employment policy to count accrued uncompensated time off taken under this article as an absence that may result in discipline, discharge, suspension or any other adverse action.

#### SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Subsec.

(a), Ord. No. 173,285, Eff. 6-26-00, Oper. 7-1-00; Subsec.

(a), Ord. No. 180,877, Eff. 10-19-09; In Entirety, Ord. No.

184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff.

1-20-18; Subsec. (a)(1), Ord. No. 185,745, Eff. 10-15-18.

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### Living Wage Ordinance

**Sec. 10.37.3. Health Benefits.**

(a) **Health Benefits.** The health benefits required by this article shall consist of the payment by an Employer of at least \$1.25 per hour to Employees towards the provision of health care benefits for an Employee and his or her dependents. On July 1, 2017, the health benefit rate for an Employee working for an Employer servicing the Airport shall be at least \$5.18 per hour. On July 1, 2018, the annual increase for Employees working for an Employer servicing the Airport shall continue as provided in Section 10.37.3(a)(5).

(1) Proof of the provision of such benefits must be submitted to the Awarding Authority to qualify for the wage rate in Section 10.37.2(a) for Employees with health benefits.

(2) Health benefits include health coverage, dental, vision, mental health and disability income. For purposes of this article, retirement benefits, accidental death and dismemberment insurance, life insurance and other benefits that do not provide medical or health related coverage will not be credited toward the cost of providing Employees with health benefits.

(3) If the Employer's hourly health benefit payment is less than that required under this article, the difference shall be paid to the Employee's hourly wage.

(4) Health benefits are not required to be paid on overtime hours.

(5) On July 1, 2018, and annually thereafter each July 1, the amount of payment for health benefits provided to an Employee working for an Employer servicing the Airport shall be adjusted by a percentage equal to the percentage increase, if any, in the United States Bureau of Labor Statistics Consumer Price Index for All Urban Consumers: Medical Care Services, as measured from January to December of the preceding year. The DAA shall announce the adjusted rates on February 1st and publish a bulletin announcing the adjusted rates, which shall take effect on July 1st of each year.

(b) **Periodic Review.** At least once every three years, the City Administrative Officer shall review the health benefit payment by Employers servicing the Airport set forth in Section 10.37.3(a) to determine whether the payment accurately reflects the cost of health care and to

assess the impacts of the health benefit payment on Airport Employers and Airport Employees and shall transmit a report with its findings to the Council.

**SECTION HISTORY**

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; In Entirety, Ord. No. 180,877, Eff. 10-19-09; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

**Sec. 10.37.4. Employer Reporting and Notification Requirements.**

(a) An Employer shall post in a prominent place in an area frequented by Employees a copy of the Living Wage Poster and the Notice Regarding Retaliation, both available from the DAA.

(b) An Employer shall inform an Employee of his or her possible right to the federal Earned Income Credit (EIC) under Section 32 of the Internal Revenue Code of 1954, 26 U.S.C. § 32, and shall make available to an Employee forms informing them about the EIC and forms required to secure advance EIC payments from the Employer.

(c) An Employer is required to retain payroll records pertaining to its Employees for a period of at least four years, unless more than four years of retention is specified elsewhere in the contract or required by law.

(d) A Contractor, Public Lessee, Licensee, and City Financial Assistant Recipient is responsible for notifying all Contractors, Subcontractors, sublessees, and sublicensees of their obligation under this article and requiring compliance with this article. Failure to comply shall be a material breach of the contract.

**SECTION HISTORY**

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

**Sec. 10.37.5. Retaliation Prohibited.**

An Employer shall not discharge, reduce in compensation, or otherwise discriminate against any Employee for complaining to the City with regard to the Employer's compliance or anticipated compliance with this article, for opposing any practice proscribed by this article,

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for participating in proceedings related to this article, for seeking to enforce his or her rights under this article by any lawful means, or for otherwise asserting rights under this article.

#### SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

#### Sec. 10.37.6. Enforcement.

(a) An Employee claiming violation of this article may bring an action in the Superior Court of the State of California against an Employer and may be awarded:

(1) For failure to pay wages required by this article, back pay shall be paid for each day during which the violation occurred.

(2) For failure to comply with health benefits requirements pursuant to this article, the Employee shall be paid the differential between the wage required by this article without health benefits and such wage with health benefits, less amounts paid, if any, toward health benefits.

(3) For retaliation the Employee shall receive reinstatement, back pay or other equitable relief the court may deem appropriate.

(4) For Willful Violations, the amount of monies to be paid under Subdivisions (1) – (3), above, shall be trebled.

(b) The court shall award reasonable attorney's fees and costs to an Employee who prevails in any such enforcement action and to an Employer who prevails and obtains a court determination that the Employee's lawsuit was frivolous.

(c) Compliance with this article shall be required in all City contracts to which it applies. Contracts shall provide that violation of this article shall constitute a material breach thereof and entitle the Awarding Authority to terminate the contract and otherwise pursue legal remedies that may be available. Contracts shall also include an agreement that the Employer shall comply with federal law proscribing retaliation for union organizing.

(d) The DAA may audit an Employer at any time to verify compliance. Failure by the Employer to cooperate

with the DAA's administrative and enforcement actions, including, but not limited to, requests for information or documentation to verify compliance with this article, may result in a determination by the DAA that the Employer has violated this article.

(e) An Employee claiming violation of this article may report the claimed violation to the DAA, which shall determine whether this article applies to the claimed violation.

(1) If any of the Employee's allegations merit further review, the DAA shall perform an audit; the scope of which will not exceed four years from the date the complaint was received.

(2) If the claimed violation is filed after a contract has expired, and information needed for the review is no longer readily available, the DAA may determine this article no longer applies.

(3) In the event of a claimed violation of the requirements relating to compensated time off, uncompensated time off or wages, the DAA may require the Employer to calculate the amount the Employee should have earned and compensate the Employee. Nothing shall limit the DAA's authority to evaluate the calculation.

(i) If the DAA determines that an Employer is in violation of Section 10.37.2(b), the time owed must be made available immediately. At the Employer's option, retroactive compensated time off in excess of 192 hours may be paid to the Employee at the current hourly wage rate.

(ii) If the DAA determines that an Employer is in violation of Section 10.37.2(c), the Employer shall calculate the amount of uncompensated time off that the Employee should have accrued. This time will be added to the uncompensated time off currently available to the Employee and must be available immediately.

(f) Where the DAA has determined that an Employer has violated this article, the DAA shall issue a written notice to the Employer that the violation is to be corrected within ten days or other time period determined appropriate by the DAA.

(g) In the event the Employer has not demonstrated to the DAA within such period that it has cured the violation, the DAA may then:

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(1) Request the Awarding Authority to declare a material breach of the Service Contract, Public Lease or License, or financial assistance agreement and exercise its contractual remedies thereunder, which may include, but not be limited to: (i) termination of the Service Contract, Public Lease or License, or financial assistance agreement; (ii) the return of monies paid by the City for services not yet rendered; and (iii) the return to the City of money held in retention (or other money payable on account of work performed by the Employer) when the DAA has documented the Employer's liability for unpaid wages, health benefits or compensated time off.

(2) Request the Awarding Authority to declare the Employer non-responsible from future City contracts, leases and licenses in accordance with the Contractor Responsibility Ordinance (LAAC Section 10.40, et seq.) and institute proceedings in a manner that is consistent with law.

(3) Impose a fine payable to the City in the amount of up to \$100 for each violation for each day the violation remains uncured.

(4) Exercise any other remedies available at law or in equity.

(h) Notwithstanding any provision of this Code or any other law to the contrary, no criminal penalties shall attach for violation of this article.

#### SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Subsec. (d), Para. (1), Ord. No. 173,747, Eff. 2-24-01; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

#### Sec. 10.37.7. Administration.

The DAA shall administer the requirement of this article and monitor compliance, including the investigation of claimed violations. The DAA shall promulgate rules and regulations consistent with this article for the implementation of the provision of this article. The DAA shall also issue determinations that persons are City Financial Assistance Recipients, that particular contracts shall be regarded as "Service Contracts" for purposes of Section 10.37.1(l), and that particular leases and licenses shall be regarded as "Public Leases" or "Public Licenses" for purposes of Section 10.37.1(k), when it receives an

application for a determination of non-coverage or exemption as provided for in Section 10.37.14 and 10.37.15.

The DAA may require an Awarding Authority to inform the DAA about all contracts in the manner described by regulation. The DAA shall also establish Employer reporting requirements on Employee compensation and on notification about and usage of the federal Earned Income Credit referred to in Section 10.37.4. The DAA shall report on compliance to the City Council no less frequently than annually.

Every three years after July 1, 2018, the Chief Legislative Analyst (CLA) with the assistance of the City Administrative Officer (CAO) shall commission a study to review the state of the Airport's regional economy; minimum wage impacts for Employees servicing the Airport; Airport service industry impacts; temporary workers, guards and janitors impacts; restaurants, hotels and bars impacts; transitional jobs programs impacts; service charges, commissions and guaranteed gratuities impacts; and wage theft enforcement. On an annual basis, the CLA and CAO shall collect economic data, including jobs, earnings and sales tax. The Study shall also address how extensively affected Employers are complying with this article, how the article is affecting the workforce composition of affected Employers, and how the additional costs of the article have been distributed among Employees, Employers and the City.

#### SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Ord. No. 173,285, Eff. 6-26-00, Oper. 7-1-00; Ord. No. 173,747, Eff. 2-24-01; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

#### Sec. 10.37.8. City is a Third Party Beneficiary of Contracts Between an Employer and Subcontractor for Purposes of Enforcement.

Any contract an Employer executes with a Contractor or Subcontractor, as defined in Section 10.37.1(f) and (m), shall contain a provision wherein the Contractor or Subcontractor agree to comply with this article and designate the City as an intended third party beneficiary for purposes of enforcement directly against the Contractor or Subcontractor, as provided for in Section 10.37.6 of this article.

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## SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Ord. No. 173,285, Eff. 6-26-00, Oper. 7-1-00; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

### Sec. 10.37.9. Coexistence with Other Available Relief for Specific Deprivations of Protected Rights.

This article shall not be construed to limit an Employee's right to bring legal action for violation of other minimum compensation laws.

## SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

### Sec. 10.37.10. Expenditures Covered.

This article shall apply to the expenditure – whether through aid to City Financial Assistance Recipients, Service Contracts let by the City or Service Contracts let by its Financial Assistance Recipients – of funds entirely within the City's control and to other funds, such as federal or state grant funds, where the application of this article is consonant with the laws authorizing the City to expend such other funds.

## SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

### Sec. 10.37.11. Timing of Application.

The provisions of this article shall become operative 60 days following the effective date of the ordinance and are not retroactive.

## SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Subsec. (b), Subsec. (c) Added, Ord. No. 173,747, Eff. 2-24-01; Subsec. (d) Added, Ord. No. 180,877, Eff. 10-19-09; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

### Sec. 10.37.12. Express Supersession by Collective Bargaining Agreement.

The requirements of this article may be superseded by a collective bargaining agreement if expressly stated in the agreement. This provision applies to any collective bargaining agreement that expires or is open for negotiation of compensation terms after the effective date of this ordinance. Any collective bargaining agreement that purports to supersede any requirement of this article shall be submitted by the Employer to the DAA.

(a) A collective bargaining agreement may expressly supersede the requirements of this article with respect to Employees of Employers servicing the Airport only when an Employee is paid a wage not less than the applicable wage rate in Section 10.37.2(a)(2)(i).

(b) A collective bargaining agreement may expressly supersede the requirements of this article with respect to Employees of Airline Food Caterers only when an Employee of the Airline Food Caterer is paid a total economic package no less than the applicable wage rate in Section 10.37.2(a)(2)(ii).

## SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; In Entirety, Ord. No. 184,318, Eff. 7-7-16; Title and Section In Entirety, Ord. No. 185,321, Eff. 1-20-18.

### Sec. 10.37.13. Liberal Interpretation of Coverage; Rebuttable Presumption of Coverage.

The definitions of "City Financial Assistance Recipient" in Section 10.37.1(e), of "Public Lease or License" in Section 10.37.1(k), and of "Service Contract" in Section 10.37.1(l) shall be liberally interpreted so as to further the policy objectives of this article. All City Financial Assistance Recipients meeting the monetary thresholds of Section 10.37.1(e), all Public Leases and Licenses (including subleases and sublicenses) where the City is the lessor or licensor, and all City contracts providing for services shall be presumed to meet the corresponding definition mentioned above, subject, however, to a determination by the DAA of non-coverage or exemption on any basis allowed by this article, including, but not limited to, non-coverage for failure to satisfy such definition. The DAA shall by regulation establish procedures for informing persons engaging in such transactions with the City of their opportunity to apply for

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a determination of non-coverage or exemption and procedures for making determinations on such applications.

#### SECTION HISTORY

Added by Ord. No. 172,336, Eff. 1-14-99.

Amended by: Ord. No. 173,747, Eff. 2-24-01; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18; In Entirety, Ord. No. 185,745, Eff. 10-15-18.

#### Sec. 10.37.14. Contracts, Employers and Employees Not Subject to this Article.

The following contracts are not subject to the Living Wage Ordinance. An Awarding Authority, after consulting with the DAA, may determine whether contracts and/or Employers are not subject to the Living Wage Ordinance due to the following:

(a) a contract where an employee is covered under the prevailing wage requirements of Division 2, Part 7, of the California Labor Code unless the total of the basic hourly rate and hourly health and welfare payments specified in the Director of Industrial Relations' General Prevailing Wage Determinations are less than the minimum hourly rate as required by Section 10.37.2(a) of this article.

(b) a contract with a governmental entity, including a public educational institution or a public hospital.

(c) a contract for work done directly by a utility company pursuant to an order of the Public Utilities Commission.

#### SECTION HISTORY

Added by Ord. No. 184,318, Eff. 7-7-16.

Amended by: In Entirety, Ord. No. 185,321, Eff. 1-20-18.

#### Sec. 10.37.15. Exemptions.

Upon the request of an Employer, the DAA may exempt compliance with this article. An Employer seeking an exemption must submit the required documentation to the DAA for approval before the exemption takes effect.

(a) A Public Lessee or Licensee, that employs no more than seven people total on and off City property shall be exempted. A lessee or licensee shall be deemed to employ no more than seven people if the

company's entire workforce worked an average of no more than 1,214 hours per month for at least three-fourths of the previous calendar year. If a Public Lease or License has a term of more than two years, the exemption granted pursuant to this section shall expire after two years, but shall be renewable in two-year increments.

(b) Non-Profit Organizations. Corporations organized under Section 501(c)(3) of the United States Internal Revenue Code of 1954, 26 U.S.C. § 501(c)(3), whose chief executive officer earns a salary which, when calculated on an hourly basis, is less than eight times the lowest wage paid by the corporation, shall be exempted as to all Employees other than child care workers.

(c) Students. High school and college students employed in a work study or employment program lasting less than three months shall be exempt. Other students participating in a work-study program shall be exempt if the Employer can verify to the DAA that:

(1) The program involves work/training for class or college credit and student participation in the work-study program is for a limited duration, with definite start and end dates; or

(2) The student mutually agrees with the Employer to accept a wage below this article's requirements based on a training component desired by the student.

(d) Nothing in this article shall limit the right of the Council to waive the provisions herein.

(e) Nothing in this article shall limit the right of the DAA to waive the provisions herein with respect to and at the request of an individual Employee who is eligible for benefits under Medicare, a health plan through the U.S. Department of Veteran Affairs or a health plan in which the Employee's spouse, domestic partner or parent is a participant or subscriber to another health plan. An Employee who receives this waiver shall only be entitled to the hourly wage pursuant to Section 10.37.2(a)(2)(i).

#### SECTION HISTORY

Added by Ord. No. 184,318, Eff. 7-7-16.

Amended by: In Entirety, Ord. No. 185,321, Eff. 1-20-18.



**Sec. 10.37.16. Severability.**

If any subsection, sentence, clause or phrase of this article is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this section, and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**SECTION HISTORY**

Added by Ord. No. 172,336, Eff. 1-14-99.

Amended by: In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

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**EXHIBIT P  
WORKER RETENTION  
ORDINANCE**

## CHAPTER 1, ARTICLE 10

### WORKER RETENTION

(Title amended, Ord. No. 185,356, Eff. 1-26-18.)

Section	
10.36	Findings and Statement of Policy.
10.36.1	Definitions.
10.36.2	Transition Employment Period.
10.36.3	Enforcement.
10.36.4	Exemption for Contractor or Contractor's Prior Employees.
10.36.5	Coexistence with Other Available Relief for Specific Deprivations of Protected Rights.
10.36.6	Expenditures Covered by this Article.
10.36.7	Promulgation of Implementing Rules.
10.36.8	Severability.

#### Sec. 10.36. Findings and Statement of Policy.

The City awards many contracts to private firms to provide services to the public and to City government. The City also leases its property or grants licenses to enter onto its property and these lessees and licensees often perform services that affect the proprietary interests of City government in that their performance impacts the success of City operations. The City also provides financial assistance and funding to other firms for the purpose of economic development or job growth. At the conclusion of the term of a service contract, lease or license with the City or with those receiving financial assistance from the City, a different firm often receives the successor contract to perform the same City services or to lease or license the same City property.

The City obtains benefits achieved through the competitive process of entering into new contracts. It is the experience of the City that reasons for change do not necessarily include a need to replace workers presently performing services who already have useful knowledge about the workplace where the services are performed.

The City has a proprietary interest in the work performed by employees of City contractors, lessees and licensees and by the employees of firms receiving City financial assistance. The success or failure of City operations may turn on the success or failure of these firms, and the City has a genuine stake in how the public perceives

the services rendered by these firms. Replacement of existing employees can adversely impact the performance by these firms and thereby hinders the opportunity for success of City operations.

Incumbent workers have invaluable existing knowledge and experience with the work schedules, practices and clients. Replacing these workers with workers without these experiences decreases efficiency and results in a disservice to the City and City financed or assisted projects.

Retaining existing workers when a change in firm occurs reduces the likelihood of labor disputes and disruptions. The reduction of the likelihood of labor disputes and disruptions results in the assured continuity of services to City constituents and visitors who receive services provided by the City, the City's lessees or licensees, or by City financed or assisted projects.

Contracting decisions involving the expenditure of City funds should avoid a potential effect of creating unemployment and the consequential need for social services. The City, as a principal provider of social support services, has an interest in the stability of employment under contracts, leases and licenses with the City and by those receiving financial assistance from the City. The retention of existing workers benefits that interest.

#### SECTION HISTORY

Article and Section Added by Ord. No. 170,784, Eff. 1-13-96.  
Amended by: Article and Section, Ord. No. 171,004, Eff. 5-18-96;  
In Entirety, Ord. No. 184,293, Eff. 6-27-16; In Entirety,  
Ord. No. 185,356, Eff. 1-26-18.

#### Sec. 10.36.1. Definitions.

The following definitions shall apply throughout this article:

(a) "Awarding Authority" means the governing body, board, officer or employee of the City or City Financial Assistance Recipient authorized to award a Contract and shall include a department which

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has control of its own funds if the department adopts policies consonant with the provisions of this article.

(b) “City” means the City of Los Angeles and all Awarding Authorities thereof.

(c) “City Financial Assistance Recipient” means any person who receives from the City in any 12-month period discrete financial assistance for economic development or job growth expressly articulated and identified by the City totaling at least \$100,000; provided, however, that corporations organized under Section 501(c)(3) of the United States Internal Revenue Code of 1954, 26 U.S.C. § 501(c)(3), with annual operating budgets of less than \$5,000,000, or that regularly employ homeless persons, persons who are chronically unemployed, or persons receiving public assistance, shall be exempt.

Categories of such assistance include, but are not limited to, bond financing, planning assistance, tax increment financing exclusively by the City, and tax credits, and shall not include assistance provided by the Community Development Bank. City staff assistance shall not be regarded as financial assistance for purposes of this article. A loan at market rate shall not be regarded as financial assistance. The forgiveness of a loan shall be regarded as financial assistance. A loan shall be regarded as financial assistance to the extent of any differential between the amount of the loan and the present value of the payments thereunder, discounted over the life of the loan by the applicable federal rate as used in 26 U.S.C. §§ 1274(d) and 7872(f). A recipient shall not be deemed to include lessees and sublessees. Contracts for economic development or job growth shall be deemed providing such assistance once the \$100,000 threshold is reached.

(d) “Contract” means:

(1) a contract let to a Contractor by the City or a City Financial Assistance Recipient primarily for the furnishing of services to or for the City or City Financial Assistance Recipient (as opposed to the purchase of goods or other property) and that involves an expenditure or receipt in excess of \$25,000 and a contract term of at least three months; or

(2) a Public Lease or License as those terms are defined in Los Angeles Administrative Code Section 10.37.1(k) but only if the lessee or

licensee is subject to the Living Wage Ordinance and not otherwise exempt from its provisions.

(e) “Contractor” means any person that enters into a Contract with the City or a City Financial Assistance Recipient. Governmental entities, including public educational institutions and public hospitals, are not Contractors and are not subject to this article.

(f) “Designated Administrative Agency (DAA)” means the Department of Public Works, Bureau of Contract Administration, which shall bear administrative responsibilities under this article.

(g) “Employee” means any person employed as an employee of a Contractor or Subcontractor earning no more than twice the hourly wage without health benefits available under the Living Wage Ordinance, Los Angeles Administrative Code Section 10.37 et seq., whose primary place of employment is in the City on or under the authority of a Contract. Examples of Employee includes: hotel Employees; restaurant, food service or banquet Employees; janitorial Employees; security guards; parking attendants; nonprofessional health care Employees; gardeners; waste management Employees; and clerical Employees. Employee does not include a person who is a managerial, supervisory or confidential Employee. An Employee must have been employed by a terminated Contractor for the preceding 12 months or longer.

(h) “Person” means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association or other entity that may employ individuals or enter into contracts.

(i) “Subcontractor” means any person not an Employee who enters into a contract with a Contractor to assist the Contractor in performing a Contract and who employs Employees for such purpose. A Subcontractor includes a sublessee or sublicensee.

(j) “Successor Contract” means a Contract where the service to be performed is substantially similar to the Contract recently terminated. The meaning also includes a Contract that is a Public Lease or License substantially similar to a Public Lease or License recently terminated. Termination includes, but is not limited to: (1) the completion of the Contract; (2) early termination of the Contract in whole or in part; or (3) an amendment that reduces

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services provided under the Contract, in whole or in part.

#### SECTION HISTORY

Added by Ord. No. 170,784, Eff. 1-13-96.

Amended by: Ord. No. 171,004, Eff. 5-18-96; Subsec. (c), Ord. No. 172,843, Eff. 11-4-99; Subsec. (j) added, Ord. No. 176,155, Eff. 9-22-04; Subsec. (j), Ord. No. 176,283, Eff. 12-25-04, Oper. 9-22-04; In Entirety, Ord. No. 184,293, Eff. 6-27-16; In Entirety, Ord. No. 185,356, Eff. 1-26-18.

#### Sec. 10.36.2. Transition Employment Period.

(a) Within ten days of learning that a Contract is to be terminated, the Contractor shall provide to the Successor Contractor, the Awarding Authority and the DAA, the name, address, date of hire, and employment occupation classification of each Employee of the terminated Contractor and Subcontractor working pursuant to the Contract. If the terminated Contractor has not learned the identity of the Successor Contractor, the Contractor shall request the identity from the Awarding Authority. If a Successor Contract has not been awarded by the end of the ten-day period, the Contractor shall provide the employment information referred to earlier in this subsection to the Awarding Authority and the DAA. Where only a subcontract of a Contract has been terminated, the terminated Subcontractor shall for purposes of this Article be deemed a terminated Contractor.

(1) If multiple Contracts providing similar services are terminated, the Awarding Authority shall consult with the DAA to determine whether to pool the Employees, ordered by seniority within job classification and provide a pool list to the Successor Contractor. The Successor Contractor shall provide written notice to the Awarding Authority and the DAA that the Awarding Authority's pool list will be used. The notice must include the following:

(A) the total number of Employees required under the Successor Contract;

(B) a breakdown of the number of Employees required within each job classification and seniority within each class; and

(C) an indication as to which Employees within each job classification shall be offered employment under this article.

The written notice must be provided no later than ten days after the Successor Contractor receives the listing of the terminated Contractor's Employees.

(2) Where the use of Subcontractors has occurred under the terminated Contract or where the use of Subcontractors is to be permitted under the Successor Contract, or where both circumstances arise, the Awarding Authority shall pool, when applicable, the Employees, ordered by seniority within job classification, under such prior Contracts or subcontracts where required by, and in accordance with, rules promulgated by the DAA. The Successor Contractor or Subcontractor shall provide written notice to the Awarding Authority and the DAA that the Awarding Authority's pool list will be used.

(b) If work-related requirements for a particular job classification under the Successor Contract differ from the terminated Contract, the Successor Contractor (or Subcontractor, where applicable) shall give notice to the Awarding Authority and the DAA and provide an explanation including:

(1) the different work-related requirements needed; and

(2) the reason why the different work-related requirements are necessary for the Successor Contract.

(c) Within ten days of receipt of the list of Employees from the terminated Contractor, the Successor Contractor shall make written offers for a 90-day transition employment period to the eligible Employees by letters sent certified mail. The letters shall ask an Employee to return the offers to the Successor Contractor with the Employee's signature indicating acceptance or rejection of the offer of employment. The letters shall state that if an Employee fails to return a written acceptance of the offer within ten days of the date of mailing of the Successor Contractor's certified letter, then the Employee will be presumed to have declined the offer.

The Successor Contractor shall provide copies of the letters offering employment to the Awarding Authority and proof of mailing.

(d) A Successor Contractor shall retain Employees for a 90-day transition employment period. Where pooling of Employees has occurred, the Successor Contractor shall draw from the pools in accordance with rules promulgated by the DAA. During such 90-day period, Employees so hired shall be employed under the terms and conditions established by the Successor Contractor (or Subcontractor) or as required by law.

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(e) If at any time the Successor Contractor determines that fewer Employees are required to perform the new Contract than were required by the terminated Contractor (and Subcontractors, if any), the Successor Contractor shall retain Employees by seniority within job classification. The Successor Contractor shall give notice to the Awarding Authority and the DAA and provide an explanation including:

- (1) the reason that fewer Employees will be needed;
- (2) the total number of Employees required under the Successor Contract;
- (3) a breakdown of the number of Employees required within each job classification;
- (4) a listing of the terminated Contractor's Employees by job classification and seniority within each class; and
- (5) an indication as to which Employees within each job classification will be offered employment under this article.

The notice must be provided no later than ten days after the Successor Contractor receives the list of the terminated Contractor's Employees pursuant to Section 10.36.2(a).

Letters offering employment shall be made by seniority within each job classification. If an Employee in a job classification declines an offer of employment or fails to respond within ten days pursuant to Section 10.36.2(a), the Successor Contractor shall issue a letter offering employment to the next Employee in that job classification. The Successor Contractor shall continue to offer employment in this manner until all required positions are filled for the Successor Contract or until all Employees have been offered employment.

(f) During the 90-day transition employment period, the Successor Contractor (or Subcontractor, where applicable) shall maintain a preferential hiring list of eligible covered Employees not retained by the Successor Contractor (or Subcontractor) from which the successor Contractor (or Subcontractor) shall hire additional Employees, if needed.

(g) During the 90-day transition employment period, the Successor Contractor (or Subcontractor, where applicable) shall not discharge without cause an Employee retained pursuant to this article. "Cause" for this purpose

shall mean fair and honest reasons, regulated by good faith on the part of the Contractor or Subcontractor, that are not trivial, arbitrary or capricious, unrelated to business needs or goals, or pretextual.

(h) At the end of the 90-day transition employment period, the Successor Contractor (or Subcontractor, where applicable) shall perform a written performance evaluation for each Employee retained pursuant to this article. If the Employee's performance during the 90-day period is satisfactory, the Successor Contractor (or Subcontractor) shall offer the Employee continued employment under terms and conditions established by the Successor Contractor (or Subcontractor) or as required by law.

(i) If the City or a City Financial Assistance Recipient enters into a Contract for the performance of work that prior to the Contract was performed by the City's or the City Financial Assistance Recipient's own Employees, the City or the City Financial Assistance Recipient shall be deemed to be a terminated Contractor within the meaning of this article and the Contractor shall be deemed to be a Contractor with a Successor Contract within the meaning of this article.

#### SECTION HISTORY

Added by Ord. No. 170,784, Eff. 1-13-96.

Amended by: Ord. No. 171,004, Eff. 5-18-96; Subsec. (g) added, Ord. No. 172,349, Eff. 1-29-99; In Entirety, Ord. No. 184,293, Eff. 6-27-16; In Entirety, Ord. No. 185,356, Eff. 1-26-18.

#### Sec. 10.36.3. Enforcement.

(a) An Employee who has been discharged in violation of this article by a Successor Contractor or its Subcontractor may bring an action in the Superior Court of the State of California against the Successor Contractor and, where applicable, its Subcontractor, and may be awarded:

(1) Back pay for each day during which the violation continues, which shall be calculated at a rate of compensation not less than the higher of:

(A) The average regular rate of pay received by the Employee from the terminated Contractor during the last three years of the Employee's employment in the same occupation classification; or

(B) The final regular rate paid by the terminated Contractor to the Employee.

### EXHIBIT P

### Worker Retention Ordinance



(2) Costs of benefits the Successor Contractor would have incurred for the Employee under the successor Contractor's (or Subcontractor's, where applicable) benefit plan.

(b) If the Employee is the prevailing party in any such legal action, the court shall award reasonable attorney's fees and costs as part of the costs recoverable.

(c) Compliance with this article shall be required in all Contracts and shall provide that violation of this article shall entitle the City to terminate the Contract and pursue all legal remedies.

(d) If the DAA determines that a Contractor or Subcontractor violated this article, the DAA may recommend that the Awarding Authority take any or all of the following actions:

(1) Document the determination in the Awarding Authority's Contractor Evaluation required under Los Angeles Administrative Code Section 10.39, et seq.;

(2) Require that the Contractor or Subcontractor document the determination in each of the Contractor's or Subcontractor's subsequent Contractor Responsibility Questionnaires submitted under Los Angeles Administrative Section 10.40, et seq.;

(3) Terminate the Contract;

(4) Recommend to the Awarding Authority to withhold payments due to the Contractor or Subcontractor.

(e) Notwithstanding any provision of this Code or any other law to the contrary, no criminal penalties shall attach for any violation of this article.

#### SECTION HISTORY

Added by Ord. No. 170,784, Eff. 1-13-96.  
Amended by: Ord. No. 171,004, Eff. 5-18-96; In Entirety, Ord. No. 184,293, Eff. 6-27-16; In Entirety, Ord. No. 185,356, Eff. 1-26-18.

#### Sec. 10.36.4. Exemption for Contractor or Contractor's Prior Employees.

(a) An Awarding Authority may allow a Successor Contractor or Subcontractor to fill a position under a Contractor with a person who has been employed by the Contractor or Subcontractor continuously for at least 12 months prior to the commencement of the Successor

Contract working in a position similar to the position to be filled in the Successor Contract. The Successor Contractor or Subcontractor shall first obtain written approval of the Awarding Authority by demonstrating that: (a) the person would otherwise be laid off work; and (b) his or her retention would be helpful to the Contractor or Subcontractor in performing the Successor Contract.

(b) Nothing in this article shall limit the right of the DAA to waive the provisions herein with respect to a Contractor if it finds it is not in the best interest of the City.

#### SECTION HISTORY

Added by Ord. No. 170,784, Eff. 1-13-96.  
Amended by: Ord. No. 171,004, Eff. 5-18-96; In Entirety, Ord. No. 184,293, Eff. 6-27-16; In Entirety, Ord. No. 185,356, Eff. 1-26-18.

#### Sec. 10.36.5. Coexistence with Other Available Relief for Specific Deprivations of Protected Rights.

This article shall not be construed to limit an Employee's right to bring legal action for wrongful termination.

#### SECTION HISTORY

Added by Ord. No. 170,784, Eff. 1-13-96.  
Amended by: Ord. No. 171,004, Eff. 5-18-96; In Entirety, Ord. No. 184,293, Eff. 6-27-16; In Entirety, Ord. No. 185,356, Eff. 1-26-18.

#### Sec. 10.36.6. Expenditures Covered by this Article.

This article shall apply to the expenditure, whether through Contracts let by the City or by City Financial Assistance Recipients, of funds entirely within the City's control and to other funds, such as federal or state grant funds, where the application of this article is consonant with the laws authorizing the City to expend such other funds. City Financial Assistance Recipients shall apply this article to the expenditure of non-City funds for Contracts to be performed in the City by complying with Section 10.36.2(i) and by contractually requiring their Contractors with Contracts to comply with this article. Such requirement shall be imposed by the recipient until the City financial assistance has been fully expended.

#### SECTION HISTORY

Added by Ord. No. 171,004, Eff. 5-18-96.  
Amended by: Ord. No. 172,337, Eff. 1-14-99; Ord. No. 172,843, Eff. 1-14-99; In Entirety, Ord. No. 184,293, Eff. 6-27-16; In Entirety, Ord. No. 185,356, Eff. 1-26-18.

### EXHIBIT P

### Worker Retention Ordinance

**Sec. 10.36.7. Promulgation of Implementing Rules.**

The DAA shall promulgate rules for implementation of this article and otherwise coordinate administration of the requirements of this article.

**SECTION HISTORY**

Added by Ord. No. 171,004, Eff. 5-18-96.

Amended by: Ord. No. 176,155, Eff. 9-22-04; Ord. No. 176,283, Eff. 12-25-04, Oper. 9-22-04; In Entirety, Ord. No. 184,293, Eff. 6-27-16; In Entirety, Ord. No. 185,356, Eff. 1-26-18.

**Sec. 10.36.8. Severability.**

If any subsection, sentence, clause or phrase of this article is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this section, and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**SECTION HISTORY**

Added by Ord. No. 171,004, Eff. 5-18-96.

Amended by: In Entirety, Ord. No. 184,293, Eff. 6-27-16; In Entirety, Ord. No. 185,356, Eff. 1-26-18.

**EXHIBIT Q**  
**CONTRACTOR RESPONSIBILITY**  
**PROGRAM RULES AND REGULATIONS**

# **LOS ANGELES WORLD AIRPORTS**



## **CONTRACTOR RESPONSIBILITY PROGRAM**

### **RULES AND REGULATIONS**

**Effective date: August 23, 2011**

Procurement Services Division  
7301 World Way West, 4<sup>th</sup> Floor  
Los Angeles, CA 90045  
(424) 646-5380  
(424) 646-9262 (Fax)

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## EXHIBIT Q

### Contractor Responsibility Program (CRP) Rules & Regulation for Leases

These Rules and Regulations are promulgated pursuant to Board Resolution #21601, the Los Angeles World Airports Contractor Responsibility Program (CRP). Each Requesting LAWA Division shall cooperate to the fullest extent with the Executive Director in the administration of the CRP. The Executive Director may amend these Rules and Regulations from time to time as required for the implementation of the CRP.

## **A. DEFINITIONS**

- 1. Adoption of CRP definitions:** For purposes of these Rules and Regulations, the definitions set forth in the Board Resolution are incorporated herein by reference, and include the following:

- a. **Board**
- b. **Executive Director**
- c. **Los Angeles World Airports (LAWA)**
- d. **"Contract"** means any agreement for the performance of any work or service, the provision of any goods, equipment, materials or supplies, or the rendition of any service to LAWA or to the public or the grant of a public lease, which is awarded or entered into by or on behalf of LAWA. These Rules and Regulations shall apply to the following contracts:
  - (1) Contracts for services that require Board approval.
  - (2) Contracts for purchasing goods and products that require Board approval.
  - (3) Construction contracts that require Board approval.
- e. **Contractor**
- f. **Subcontractor**
- g. **Bidder**
- h. **Bid**
- i. **Invitation for Bid ("IFB")**
- j. **Public Lease**

**2. New Definitions:**

- a. **"Awarding Authority"** means either the Executive Director or the Board of Airport Commissioners ("Board") or the Board's designee.
- b. **"CRP Questionnaire"** means the set of questions developed by Procurement Services Division (PSD) that will assist LAWA in determining a bidder or contractor's responsibility. Information solicited from the CRP Questionnaire may include but is not limited to: ownership and name changes, financial resources and responsibility, satisfactory performance of other contracts, satisfactory record of compliance with relevant laws and regulations, and satisfactory record of business integrity. PSD may amend the CRP Questionnaire from time to time.

## **EXHIBIT Q**

### **Contractor Responsibility Program (CRP) Rules & Regulation for Leases**



- c. **"CRP Pledge of Compliance"** means the CRP Pledge developed by PSD. The CRP Rules and Regulations may be updated from time to time by PSD. The CRP Pledge shall require contractors to sign under penalty of perjury that the contractor will:
- (1) Comply with all applicable Federal, State, and local laws and regulations during the performance of the contract, including but not limited to laws regarding health and safety, labor and employment, wage and hour, and licensing laws which affect employees.
  - (2) Notify LAWA within 30 calendar days after receiving notification that any government agency has initiated an investigation that may result in a finding that the contractor did not comply with subparagraph 2(c)(1) above in the performance of the contract.
  - (3) Notify LAWA within 30 calendar days of all findings by a government agency or court of competent jurisdiction that the contractor has violated subparagraph 2(c)(1) above in the performance of the contract.
  - (4) Provide LAWA within thirty (30) calendar days updated responses to the CRP Questionnaire if any change occurs which would change any response contained within the completed CRP Questionnaire. Note: This provision does not apply to amendments of contracts not subject to the CRP and to subcontractors not required to submit a Questionnaire.
  - (5) Ensure that subcontractors working on the LAWA contract shall complete, sign and submit a CRP Pledge of Compliance attesting under penalty of perjury to compliance with paragraphs 2(c)(1) through (4).
  - (6) Notify LAWA within thirty (30) days of becoming aware of an investigation, violation or finding of any applicable Federal, State, or local law involving the subcontractors in the performance of a LAWA contract.
  - (7) Cooperate fully with LAWA during an investigation and to respond to request(s) for information within ten (10) working days from the date of the Notice to Respond.
- d. **"Requesting Division"** means the LAWA division(s) which issued the Request For Bids ("RFB"), Request For Proposal ("RFP") or Request for Qualifications ("RFQ").
- e. **"Responsibility"** means possessing the necessary "trustworthiness" and "quality, fitness and capacity" to perform the work set forth in the contract.

## **B. SUBMISSION OF CRP QUESTIONNAIRES**

1. **Issuance of Invitation for Bids (IFB):** These include Request for Bids (RFB), Request for Proposals (RFP), and Request for Qualifications (RFQ). Unless otherwise exempt from the CRP, if a proposed contract meets the definition of a contract subject to the CRP as

### **EXHIBIT Q**

#### **Contractor Responsibility Program (CRP) Rules & Regulation for Leases**

defined in the Resolution and these Rules and Regulations, LAWA shall include in the IFB:

- a. Language informing potential bidders of the CRP;
- b. The CRP Questionnaire that bidders submit with their bid; and
- c. The CRP Pledge of Compliance that bidders submit with their bid.

**2. Submission of CRP Questionnaires with Bids:**

- a. All bid and proposal submissions are required to contain a completed and signed CRP Questionnaire and a signed CRP Pledge of Compliance.
- b. Failure to submit a CRP Questionnaire and a CRP Pledge of Compliance in accordance with the IFB procedures may make the bidder non-responsive and disqualified from the bidding process.
- c. Submitted CRP Questionnaires and CRP Pledge of Compliance become public records, and information contained therein will be available for public review, except to the extent that such information is exempt from disclosure pursuant to applicable law.

**3. Use of a non-competitive process to procure the proposed contract:** If a non-competitive process is used by LAWA Divisions to procure the proposed contract, the proposed contractor is required to submit the completed CRP Questionnaire and a signed CRP Pledge of Compliance to LAWA for determination of contractor responsibility prior to execution of the contract.

**4. Subcontractors:** The list of subcontractors shall be submitted with the bid and will be made available for public review along with the bidder's Questionnaire. For construction contracts, bidders must list a subcontractor proposed to be used on the City contract if the subcontractor will be performing work on the construction contract in an amount in excess of \$10,000 or in excess of one-half of one percent of the total bid amount, whichever is greater. For service contracts, bidders must list subcontractors as required by the IFB.

### **C. LAWA REVIEW OF SUBMITTED CRP QUESTIONNAIRES**

- 1. Departmental Review of submitted bids:** As part of the determination of a bidder's responsiveness, PSD will review the bid submissions to determine whether a completed CRP Questionnaire, signed under penalty of perjury, has been included with the bid. If a completed Questionnaire has not been included with the bid as required by the IFB procedures, the bidder may be deemed to be non-responsive and may be disqualified from the bidding process.
- 2. Posting of CRP Questionnaires and Subcontractor List:** Requesting Divisions will forward to PSD the completed CRP Questionnaires and subcontractor list(s), if any, submitted by the responsive bidders to make available for public review as follows:
  - a. If a contract is to be awarded pursuant to a competitive bid process, the CRP Questionnaires for the three lowest responsive bidders and their list of proposed subcontractors, if any, will be forwarded to PSD to make them available for public review for a minimum period of 14 calendar days.
  - b. If a contract is to be awarded pursuant to a proposal (RFP) or qualifications (RFQ) and award is not based on the lowest submitted bid price, the CRP Questionnaires for the short-listed proposers and their list of proposed subcontractors, if any, will be forwarded to PSD to make them available for public review for a minimum period of 14 calendar days. If no short-listing procedure is used, the CRP Questionnaire for the prospective contractor shall be made available for public review for a minimum period of 14 calendar days.
  - c. If a contract is to be awarded to a Sole Source, the CRP Questionnaire for the proposed contractor and their list of proposed subcontractors, if any, will be forwarded to PSD to make it available for public review for a period of 14 calendar days.
  - d. No contract shall be awarded to any bidder until at least 14 calendar days after the CRP Questionnaire has been made available for public review. If administrative or technical errors prevent or delay the posting of the CRP Questionnaire, the posting period will be extended by the amount of time that the CRP Questionnaire was not available for public review.
  - e. The CRP Questionnaire of the bidder/proposer awarded the contract will be retained by the Requesting Division as part of the contract file. The CRP Questionnaires for the bidders/proposers not awarded the contract will be retained in the customary manner by the Requesting Division.
- 3. Claims Resulting from Public Review:**
  - a. Claims regarding a bidder or contractor's responsibility should be submitted to PSD in writing. However, PSD may investigate a claim regarding a bidder's or a contractor's responsibility, whether or not it is submitted in writing, if PSD in its discretion

determines that the claim calls into question the bidder's, the proposer's or the contractor's responsibility.

- b. If PSD receives information which calls into question a bidder's responsibility, and the information was received **before** the contract has been executed, PSD shall:
  - (1) Notify the Requesting Division in writing that no contract shall be awarded until PSD has completed investigation into the matter.
  - (2) Investigate the matter as required in Section G, "LAWA INVESTIGATION" to determine its validity.
  - (3) Upon completion of the investigation, PSD shall notify the Requesting Division and the Awarding Authority in writing of the result of the investigation.
  - (4) No contract may be awarded to any bidder until after the investigation has been completed and the Requesting Division and the Awarding Authority have received written notification that the investigation has been completed.
  - (5) Findings from the PSD investigation received by the Awarding Authority will be considered by the Awarding Authority as part of the determination of the bidder's responsibility.
- c. If PSD receives written information that calls into question a contractor's responsibility, and the information was received **after** the contract has been executed, PSD shall investigate the matter as required in Section G, LAWA INVESTIGATION.

#### **D. AWARD AND EXECUTION OF CONTRACTS**

##### **1. Departmental Determination of Responsibility and Award of Contract:**

- a. Requesting Division and the Awarding Authority shall determine whether a bidder/contractor is a responsible bidder, proposer or contractor with the necessary trustworthiness, quality, fitness and capacity to perform the work set forth in the proposed contract by considering the following:
  - (1) Information contained in the CRP Questionnaire;
  - (2) Information and documentation from PSD's investigation;
  - (3) Information regarding the bidder's, proposer's or contractor's past performance that may be contained in the City of Los Angeles' Contractor Evaluation Database.
  - (4) Information that may be available from any compliance or regulatory governmental agency, and
  - (5) Any other reliable information that may be available, including but not limited to information from any individual or any other governmental agency.

#### **EXHIBIT Q**

##### **Contractor Responsibility Program (CRP) Rules & Regulation for Leases**

- b. The Board may award and the Executive Director may execute a contract with a bidder or proposer only if:
  - (1) The bidder's or proposer's CRP Questionnaire has been made available for public review for at least 14 calendar days unless otherwise exempted from the posting requirement by the CRP;
  - (2) The bidder or proposer is not being investigated by PSD pursuant to the CRP;
  - (3) The bidder or proposer has not been found to be a non-responsible bidder/proposer pursuant to the CRP;
  - (4) The bidder or proposer does not appear on any City list of debarred bidders or contractors; and
  - (5) The bidder or proposer has met all other applicable City requirements.

## **2. Submission of Pledge of Compliance:**

- a. Unless otherwise exempt from the CRP, all bid/proposal submissions (RFBs, RFPs and RFQs) are required to contain a Pledge of Compliance with the CRP signed under penalty of perjury. Failure to submit a CRP Pledge of Compliance with the bid/proposal may make the bidder non-responsive and disqualified from the bidding process.
- b. Within 10 calendar days of execution of a contract with LAWA, the contractor shall submit to LAWA a signed CRP Pledge of Compliance from each subcontractor listed as performing work on the contract.

## **3. Subcontractor Responsibility:**

- a. Contractors shall ensure that their subcontractors meet the criteria for responsibility set forth in the CRP and these Rules and Regulations unless the subcontract is not subject to the CRP.
- b. Contractors shall ensure that subcontractors working on the LAWA agreement shall complete and submit a signed CRP Pledge of Compliance.
- c. Contractors shall not use in any capacity any subcontractor that has been determined or found to be a non-responsible contractor by LAWA or the City.
- d. Subject to approval by the Requesting Division, contractors may substitute a non-responsible subcontractor with another, responsible subcontractor with no changes in bid amounts.

#### **4. Execution of Contracts:**

- a. Unless exempt from the CRP, all contracts shall contain language obligating the contractor to comply with the CRP.
- b. No contract may be executed unless:
  - (1) The proposed contractor has submitted a signed Pledge of Compliance with the CRP.
  - (2) The proposed contractor's CRP Questionnaire, unless otherwise exempt, has been made available for public review for at least 14 calendar days in accordance with these Rules and Regulations.

#### **E. CONTRACT AMENDMENTS**

- 1. Compliance with the CRP, except for the requirement to submit a CRP Questionnaire, is required in contract amendments if the initial contract was not subject to the CRP, but the total term and amount of the contract, inclusive of all amendments, would make the contract subject to the CRP.
  - a. A contractor subject to the CRP because of an amendment shall submit a CRP Pledge of Compliance to the Requesting Division before the contract amendment can be executed.
  - b. Unless exempt from the CRP, all contract amendments shall contain contract language obligating the contractor to comply with the CRP.

#### **F. CONTRACTOR NOTIFICATION OF INVESTIGATIONS AND UPDATE OF INFORMATION**

##### **1. Notification of Investigations:** Contractors shall:

- a. Notify the Requesting Division and PSD within 30 calendar days of receiving notice of any findings by a government agency or court of competent jurisdiction that the contractor violated any applicable Federal, State, or local law in the performance of a LAWA, City of Los Angeles, County of Los Angeles, State of California, Federal Government or other government contract, including but not limited to laws regarding health and safety, labor and employment, wage and hour, and licensing laws which affect employees.
- b. Notify the Requesting Division and PSD within 30 calendar days of becoming aware of a violation or finding of violation of any applicable federal, state, or local law involving its subcontractors or sub-sub-contractors at any level in the performance of a LAWA contract.

##### **2. Update of CRP Questionnaire Information:**



- a. Updates of information contained in the contractor's responses to the CRP Questionnaire shall be submitted to the Requesting Division and PSD within 30 days of any changes to the responses if the change would affect the contractor's responsibility or ability to continue performing the contract.
  - b. PSD or the Requesting Division shall determine whether a contractor in a specific situation should have provided information or updated information.
    - (1) If PSD or the Requesting Division becomes aware of new information concerning a contractor and determines that the contractor should have provided information or updated LAWA with such information, but the contractor has not done so, PSD shall issue a written notice to the contractor requiring the contractor to submit the required information within 10 calendar days.
    - (2) If PSD or the Requesting Division becomes aware of new information concerning a subcontractor and determines that the subcontractor should have provided information or updated LAWA of such information, but the subcontractor has not done so, PSD shall issue a written notice to the contractor requiring the subcontractor to submit the required information within 10 calendar days.
  - c. Contractor's failure to provide information or updated information when required by LAWA, the CRP or these Rules and Regulations may be considered a material breach of the contract, and, additionally, may result in the initiation of a non-responsibility hearing pursuant to Section I of these Rules and Regulations.
- 3. Contractors shall ensure that subcontractors provide information and updates.** Contractors shall ensure that subcontractors performing work on their LAWA contract abide by these same updating requirements, including the requirement to:
- a. Notify the Requesting Division and PSD within 30 calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that the subcontractor did not comply with any applicable Federal, State, or local law in the performance of the LAWA or City contract, including but not limited to laws regarding health and safety, labor and employment, wage and hour, and licensing laws which affect employees
  - b. Notify the Requesting Division and PSD within 30 calendar days of all findings by a government agency or court of competent jurisdiction that the subcontractor violated any applicable Federal, State, or local law in the performance of a LAWA or City of Los Angeles contract, including but not limited to laws regarding health and safety, labor and employment, wage and hour, and licensing laws which affect employees.
- 4. Submission of CRP Questionnaires and Updates of CRP Questionnaire Is Not Applicable to Subcontractors:** The requirement that contractors submit to LAWA CRP Questionnaires and updates to the CRP Questionnaire responses does not apply to subcontractors.

## **G. LAWA INVESTIGATION**

- 1. Reporting of Alleged Violations:** Allegations of violations of the CRP or these Rules and Regulations shall be reported to PSD. Complaints regarding a bidder's, proposer's or contractor's responsibility should be submitted to PSD in writing. However, PSD may investigate any claim or complaint regarding a bidder's, proposer's or a contractor's responsibility, whether or not it is submitted in writing. Whether based on a written complaint or otherwise, PSD shall be responsible for investigating such alleged violations.
- 2. Process:**
  - a. Upon receipt of a complaint or upon initiation of an investigation, PSD shall notify the Requesting Division, the Awarding Authority and the bidder, proposer or contractor in writing that an investigation has been initiated.
  - b. The bidder, proposer or contractor shall cooperate fully with PSD in providing information. If the bidder/proposer or contractor fails to cooperate with PSD's investigation or fails to timely respond to PSD's requests for information, LAWA may initiate a non-responsibility hearing as set forth in Section I of these Rules and Regulations. A contractor's failure to cooperate may be deemed a material breach of the contract, and the City may pursue all available remedies.
  - c. To the extent permissible, PSD shall maintain the identity of the complainant, if any, confidential.
  - d. Upon completion of the investigation, PSD shall prepare a written report of the findings and notify the Requesting Division, the Awarding Authority and the bidder, proposer or contractor of the results.
- 3. Results of Investigation:**
  - a. When an investigation is completed before the contract is awarded, PSD shall notify the Requesting Division and the Awarding Authority of the results, and Requesting Division and the Awarding Authority will consider the information as part of the determination of a bidder's responsibility during the bid/proposal review process.

### **EXHIBIT Q**

#### **Contractor Responsibility Program (CRP) Rules & Regulation for Leases**

b. When an investigation is completed after the execution of a contract:

- (1) If violations of the CRP are found, PSD shall notify the Requesting Division and contractor of the violation and require the contractor to make corrections or take reasonable measures within 10 calendar days.
- (2) If the contractor fails to make corrections as required, PSD shall notify the Requesting Division and the Awarding Authority and may recommend that the Awarding Authority:
  - (i) Terminate the contract.
  - (ii) Initiate a hearing to declare the contractor a non-responsible contractor.

#### **H. VIOLATIONS OF THE CRP OR THESE RULES AND REGULATIONS**

1. Violations of the CRP or of these Rules and Regulations may be considered a material breach of the contract and may entitle LAWA or the City to terminate the contract.
2. Alleged violations of the CRP or of these Rules and Regulations shall be reported to the PSD which will investigate all such complaints.
3. When a violation of the CRP or of these Rules and Regulations is found, PSD shall notify the contractor and the Awarding Authority of the violation. PSD shall require the contractor to correct the violation within 10 calendar days. Failure to correct violations or take reasonable measures to correct violations within 10 calendar days may result in PSD:
  - a. Recommending that the Awarding Authority declare a material breach of the contract and that the Awarding Authority exercise all contractual and legal remedies available, including but not limited to termination of the contract, and/or
  - b. Recommending that the Awarding Authority declare the contractor a non-responsible contractor by initiating, within 30 calendar days or as soon as practicable, a non-responsibility hearing in accordance with Section I of these Rules and Regulations.

#### **I. NON-RESPONSIBILITY HEARING**

1. The process of declaring a bidder or contractor a non-responsible bidder or contractor shall be initiated by the Awarding Authority after consultation with the City Attorney's Office.
2. Before a bidder, proposer or contractor may be declared non-responsible, the bidder, proposer or contractor shall be notified of the proposed determination of non-responsibility and provided with an opportunity for a hearing.

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#### **Contractor Responsibility Program (CRP) Rules & Regulation for Leases**

3. The Awarding Authority or the Executive Director's designee shall preside over the non-responsibility hearing and shall provide the bidder, proposer or contractor with the following:
  - a. The bidder, proposer or contractor shall be provided with written Notice of intent to declare the bidder, proposer or contractor non-responsible ("Notice") which shall state that the Awarding Authority intends to declare the bidder, proposer or contractor a non-responsible bidder or contractor.
  - b. The Notice shall provide the bidder, proposer or contractor with the following information:
    - (1) That the Awarding Authority intends to declare the bidder or contractor a non-responsible bidder, proposer or contractor.
    - (2) A summary of the information upon which the Awarding Authority is relying.
    - (3) That the bidder, proposer or contractor has a right to respond to the information by requesting a hearing to rebut adverse information and to present evidence of its necessary trustworthiness, quality, fitness and capacity to perform the work required under the contract.
    - (4) That the bidder, proposer or contractor must exercise the right to a hearing by submitting to the Awarding Authority a **written request** for a hearing **within 10 working days** of the date of the Notice.
    - (5) That failure to submit a written request for hearing within 10 working days of the date of the Notice shall be considered a waiver of the right to a hearing that allows the Awarding Authority to proceed with the determination of non-responsibility.
  - c. If the bidder or contractor submits a written request for a hearing, the hearing may be held by the Awarding Authority for recommendation to the Board, which shall make the final decision.
  - d. The hearing must allow the bidder, proposer or contractor an opportunity to address the issues contained in the Notice of Intent to declare the bidder, proposer or contractor non-responsible.
  - e. The Awarding Authority may determine that the bidder, proposer or contractor:
    - (1) Does not possess the necessary trustworthiness, quality, fitness, or capacity to perform the work set forth in the proposed contract, should be declared a non-responsible bidder, proposer or contractor, and recommend to the Board invocation of the remedies set forth in Section J of these Rules and Regulations.
    - (2) Should not be declared a non-responsible bidder or contractor.
  - f. The Board's determination shall be final and constitute exhaustion of administrative remedies.
  - g. The Board's final decision shall be in writing and shall be provided to the bidder,

proposer or contractor, the Requesting Division and to PSD. If the bidder, proposer or contractor is declared to be non-responsible, a copy of the final decision shall also be provided to the CAO.

## **J. NON-RESPONSIBILITY SANCTIONS**

1. A **bidder/proposer** found non-responsible by LAWA shall be disqualified from:
  - a. award of the proposed contract or;
  - b. participating, in any way, in the proposed contract.

Such non-responsible bidder or proposer shall not perform any work in the proposed contract, whether as a prime contractor, a subcontractor, a partner in a partnership, a participant in a joint venture, a member of a consortium or in any other capacity.

2. An existing **contractor** found non-responsible by LAWA may be declared to have a material breach of contract, and LAWA may exercise its contractual and legal remedies thereunder, which are to include, but are not limited to termination of the contract.
3. Upon final determination of a bidder, proposer or contractor as non-responsible, PSD shall provide the Requesting Division and the bidder, proposer or contractor with a written notice summarizing the Awarding Authority's findings and sanctions.
4. PSD shall maintain a listing of bidders/proposers and contractors who have been found non-responsible by LAWA pursuant to the CRP.

## **K. EXEMPTIONS**

1. **Categorical Exemption:** The following types of contracts are categorically exempt from the CRP and these Rules and Regulations:
  - a. Contracts with a governmental entity such as the United States of America, the State of California, a county, city or public agency of such entities, or a public or quasi-public corporation located therein and declared by law to have such status.
  - b. Contracts for the investment of trust moneys or agreements relating to the management of trust assets.
  - c. Banking contracts entered into by the Treasurer pursuant to California Government Code Section 53630 et seq.

**Board approval required for CRP Exemptions:** The following types of contracts are exempt from the requirement to submit a Questionnaire but remain subject to the requirement that the contractor submit a Pledge of Compliance and notify the Awarding Authority within 30 days of any information regarding investigations or the results of investigations by any governmental agency into the contractor's compliance with applicable laws.

## **EXHIBIT Q**

### **Contractor Responsibility Program (CRP) Rules & Regulation for Leases**

- a. Contracts awarded on the basis of exigent circumstances when the Awarding Authority finds the City would suffer a financial loss or that City operations would be adversely impacted.
  - (1) This exemption is subject to approval by PSD.
  - (2) The Awarding Authority shall submit a request to PSD for waiver along with written certification that the required conditions exist.
  - (3) No contract may be exempted under this provision unless PSD has granted written approval of the waiver.
- b. Contracts where the goods or services are proprietary or available from only one source.
  - (1) This exemption is subject to approval by PSD.
  - (2) The Awarding Authority shall submit a request to PSD for waiver along with written certification that the required conditions exist.
  - (3) No contract may be exempted under this provision unless PSD has granted written approval of the waiver.
- c. Contracts awarded in accordance with Charter Section 371(e)(5). The Awarding Authority must certify in writing that award is based on urgent necessity in accordance with Charter Section 371(e)(5).
- d. Contracts entered into based on, Charter Section 371(e)(6), (7) or (8). The Awarding Authority must certify in writing that the contract is entered into in accordance with Charter Section 371(e)(6), (7) or (8).



#### **L. EFFECTIVE DATE OF RULES AND REGULATIONS**

1. These Rules and Regulations apply to IFB's issued after the Executive Director has approved these Rules and Regulations.
2. These Rules and Regulations apply to contracts entered into by LAWA after the Executive Director has approved these Rules and Regulations.
3. Contracts amended after these Rules and Regulations are approved by the Executive Director will become subject to CRP and these Rules and Regulations if they meet definitions contained in the CRP and these Rules and Regulations.

#### **M. CONSISTENCY WITH FEDERAL AND STATE LAW**

The CRP and these Rules and Regulations do not apply in instances where application would be prohibited by Federal and State law or where the application would violate or be inconsistent with the terms and conditions or a grant or contract with the Federal or State agency.

#### **N. SEVERABILITY**

If any provision of the CRP or these Rules and Regulations are declared legally invalid by any court of competent jurisdiction, the remaining provisions remain in full force and effect.

**LOS ANGELES WORLD AIRPORTS  
CONTRACTOR RESPONSIBILITY PROGRAM  
PLEDGE OF COMPLIANCE**

The Los Angeles World Airports (LAWA) Contractor Responsibility Program (Board Resolution #21601) provides that, unless specifically exempted, LAWA contractors working under contracts for services, for purchases, for construction, LAWA licensees with licenses, agreements or permits issued under the Certified Service Provider Program, and LAWA tenants with leases, that require the Board of Airport Commissioners' approval shall comply with all applicable provisions of the LAWA Contractor Responsibility Program. Bidders and proposers are required to complete and submit this Pledge of Compliance with the bid or proposal or with an amendment of a contract subject to the CRP. In addition, within 10 days of execution of any subcontract, the contractor shall submit to LAWA this Pledge of Compliance from each subcontractor who has been listed as performing work on the contract.

The contractor agrees to comply with the Contractor Responsibility Program and the following provisions:

- (a) To comply with all applicable Federal, state, and local laws in the performance of the contract, including but not limited to, laws regarding health and safety, labor and employment, wage and hours, and licensing laws which affect employees.
- (b) To notify LAWA within thirty (30) calendar days after receiving notification that any government agency has initiated an investigation that may result in a finding that the contractor is not in compliance with paragraph (a).
- (c) To notify LAWA within thirty (30) calendar days of all findings by a government agency or court of competent jurisdiction that the contractor has violated paragraph (a).
- (d) To provide LAWA within thirty (30) calendar days updated responses to the CRP Questionnaire if any change occurs which would change any response contained within the completed CRP Questionnaire. Note: This provision does not apply to amendments of contracts not subject to the CRP and to subcontractors not required to submit a CRP Questionnaire.
- (e) To ensure that subcontractors working on the LAWA contract shall complete and sign a Pledge of Compliance attesting under penalty of perjury to compliance with paragraphs (a) through (c) herein. To submit to LAWA the completed Pledges.
- (f) To notify LAWA within thirty (30) days of becoming aware of an investigation, violation or finding of any applicable federal, state, or local law involving the subcontractors in the performance of a LAWA contract.
- (g) To cooperate fully with LAWA during an investigation and to respond to request(s) for information within ten (10) working days from the date of the Notice to Respond.

Failure to sign and submit this form to LAWA with the bid/proposal may make the bid/proposal non-responsive.

---

Company Name, Address and Phone Number

---

Signature of Officer or Authorized Representative

---

Date

---

Print Name and Title of Officer or Authorized Representative

---

Project Title

**EXHIBIT Q**

**Contractor Responsibility Program (CRP) Rules & Regulation for Leases**

**EXHIBIT R**  
**CHILD SUPPORT**

# LOS ANGELES ADMINISTRATIVE CODE

## Div. 10, Ch. 1, Art. 1

### CHILD SUPPORT

#### Sec. 10.10. Child Support Assignment Orders.

##### a. Definitions.

1. **Awarding Authority** means a subordinate or component entity or person of the City (such as a City department or Board of Commissioners) that has the authority to enter into a contract or agreement for the provision of goods or services on behalf of the City of Los Angeles.

2. **Contract** means any agreement, franchise, lease or concession including an agreement for any occasional professional or technical personal services, the performance of any work or service, the provision of any materials or supplies, or the rendering of any service to the City of Los Angeles or to the public which is let, awarded or entered into with, or on behalf of, the City of Los Angeles or any awarding authority thereof.

3. **Contractor** means any person, firm, corporation, partnership or any combination thereof which submits a bid or proposal or enters into a contract with any awarding authority of the City of Los Angeles.

4. **Subcontractor** means any person, firm, corporation, partnership or any combination thereof who enters into a contract with a contractor to perform or provide a portion of any contract with the City.

5. **Principal Owner** means any person who owns an interest of 10 percent or more in a contractor or subcontractor as defined herein.

##### b. Mandatory Contract Provisions.

Every contract that is let, awarded or entered into with or on behalf of the City of Los Angeles shall contain a provision obligating the contractor or subcontractor to fully comply with all applicable State and Federal employment reporting requirements for the contractor or subcontractor's employees. The contractor or subcontractor will also be required to certify that the principal owner(s) thereof are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally, that the contractor or subcontractor will

fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments in accordance with California Family Code §§ 5230 *et seq.* and that the contractor or subcontractor will maintain such compliance throughout the term of the contract.

Failure of a contractor or subcontractor to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignments or Notices of Assignment or failure of the principal owner(s) to comply with any Wage and Earnings Assignments or Notices of Assignment applicable to them personally shall constitute a default under the contract. Failure of the contractor or subcontractor or principal owner thereof to cure the default within 90 days of notice of such default by the City shall subject the contract to termination.

##### c. Notice to Bidders.

Each awarding authority shall be responsible for giving notice of the provisions of this ordinance to those who bid on, or submit proposals for, prospective contracts with the City.

##### d. Current Contractor Compliance.

Within 30 days of the operative date of this ordinance, the City, through its operating departments, shall serve upon existing contractors a written request that they and their subcontractors (if any) comply with all applicable State and Federal employment reporting requirements for the contractor and subcontractor's employees, that they certify that the principal owner(s) of the contractor and any subcontractor are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally, that the contractor and subcontractor will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments in accordance with California Family Code § 5230 *et seq.* and that the contractor and subcontractor will maintain such compliance throughout the term of the contract.

##### e. City's Compliance with California Family Code.

The City shall maintain its compliance with the provisions of California Family Code §§ 5230 *et*

*seq.* and all other applicable law regarding its obligations as an employer to implement lawfully served Wage and Earnings Assignments and Notices of Assignment.

f. Report of Employees' Names to District Attorney.

1. The City shall maintain its current practice of assisting the District Attorney's support enforcement activities by annually reporting to the Los Angeles County District Attorney the names of all of its employees and retirees so that the District Attorney may identify those employees and retirees subject to Wage and Earnings Assignment Orders and Notices of Assignment and may establish court orders for support, where appropriate. Should the District Attorney so request it, the City will provide such information on a more frequent basis.

2. All applicants for employment with the City of Los Angeles will be asked to acknowledge their responsibility to comply with any court ordered support obligations and will be advised of the City's practice of assisting the District Attorney as described in the provisions of Subsection f.1., above.

**SECTION HISTORY**

*Added by Ord. No. 172,401, Eff. 2-13-99.*

**EXHIBIT S**  
**GUARANTY**



**GUARANTY AGREEMENT BETWEEN THE CITY  
OF LOS ANGELES, DEPARTMENT OF AIRPORTS  
AND CURRENT ENERGY, LLC COVERING THE OPERATING  
AGREEMENT FOR THE ROOFTOP PV SYSTEM AT VAN NUYS  
AIRPORT**

This **GUARANTY AGREEMENT** ("**Guaranty**") is made and entered into as of \_\_\_\_\_, 2024, in Los Angeles, California, by and between the **CITY OF LOS ANGELES**, municipal corporation ("**CITY**" or "**LAWA**"), acting by order of and through its Board of Airport Commissioners ("**Board**"), and **CURRENT ENERGY, LLC**, a California limited liability company ("**Guarantor**") with respect to that certain Operating Agreement dated \_\_\_\_\_, 2024 entered into between CITY and CURRENT ENERGY, LLC ("**Operating Agreement**").

The parties hereto, for and in consideration of the covenants and conditions hereinafter contained to be kept and performed, DO HEREBY AGREE AS FOLLOWS:

1. Guarantor unconditionally guaranties to CITY performance of all financial obligations under the Operating Agreement including, but not limited to, the prompt payment when due of the rent, additional rent and all other charges payable by Current Energy, LLC, a California limited liability company, 7800 Woodley FIT, LLC, a California limited liability company, or any other assignee or transferee of Current Energy, LLC or 7800 Woodley FIT, LLC (collectively, "**Operator**"), under the Operating Agreement for the Site Location at Van Nuys Airport, as provided in Exhibit A of the Operating Agreement, and full and faithful performance of the other financial covenants (including, without limitation, the indemnities contained in the Operating Agreement); and Guarantor unconditionally covenants to CITY that if

(a) default or breach shall at any time be made by Operator in the covenants to pay rent and additional rent or any other charges payable under the Operating Agreement or in the performance of any of the other covenants (including but not limited to completion of all Improvements) and

(b) notice of any such default or breach shall have been given by CITY to Operator and Operator shall not have cured such default or breach after the expiration of applicable notice and grace periods, if any, provided for in the Operating Agreement (except that the foregoing clause (b) shall be inapplicable if Operator shall be bankrupt or insolvent), then Guarantor shall well and truly perform (or cause to be performed) the covenants, and pay (or cause to be paid) said rent, additional rent or other charges or arrears thereof that may remain due thereon to CITY, and also all damages that may arise directly from the non-performance of the financial covenants, or any of them. Guarantor shall pay to CITY, within fifteen (15) business days after written notice, all expenses (including, without limitation, reasonable attorneys' fees and disbursements) incurred by CITY in connection with the enforcement or protection of CITY's rights hereunder or under the Operating Agreement. This Guaranty is a guaranty including but not limited to payment, not collection.

2. The liability of Guarantor hereunder shall not be impaired, abated, deferred, diminished, modified, released, terminated or discharged, in whole or in part, or otherwise affected, by any event, condition, occurrence, circumstance, proceeding, action or failure to act, with or without notice to, or the knowledge or consent of, Guarantor, including, without limitation:

- (a) any amendment, modification or extension of the Operating Agreement;

(b) any extension of time for performance, whether in whole or in part, of any covenant given prior to or after default under the Operating Agreement;

(c) any exchange, surrender or release, in whole or in part, of any security which may be held by CITY at any time for or under the Operating Agreement;

(d) any waiver of or assertion or enforcement or failure or refusal to assert or enforce, in whole or in part, any covenant, claim, cause of action, right or remedy which CITY may, at any time, have under the Operating Agreement or with respect to any guaranty or any security which may be held by CITY at any time for or under the Operating Agreement or with respect to Operator;

(e) the release of any other guarantor from liability for the performance or observance of any covenant, whether by operation of law or otherwise;

(f) CITY's consent to any assignment or subletting or the assignment or successive assignments of the Operating Agreement by Operator, or any subletting of all or any portion of the Site Location indicated in the Operating Agreement by Operator;

(g) the failure to give Guarantor any notice whatsoever, other than any notice that CITY is required to give pursuant to this Guaranty and pursuant to the Operating Agreement;

(h) any right to require City to proceed against Operator or any other person or any security now or hereafter held by City or to pursue any other remedy whatsoever;

(i) any assignment, conveyance, mortgage, merger or other transfer, voluntary or involuntary (whether by operation of law or otherwise), of all or any part of Operator's interest in the Operating Agreement;

(j) any assignment, conveyance, mortgage, merger or other transfer, voluntary or involuntary (whether by operation of law or otherwise) of all or part of the interest or rights of CITY under the Operating Agreement; or

(k) the bankruptcy or insolvency of Operator.

3. To charge Guarantor under this Guaranty no demand shall be required (other than the fifteen (15) business days' notice required under Section 1), Guarantor hereby expressly waiving any such demand. CITY shall have the right to enforce this Guaranty without pursuing any right or remedy of CITY against Operator or any other party, or any security CITY may hold. CITY may commence any action or proceeding based upon this Guaranty directly against Guarantor without making Operator or anyone else a party defendant in such action or proceeding. Any one or more successive and/or concurrent actions may be brought hereon against Guarantor either in the same action, if any, brought against Operator and/or any other party or in separate actions, as often as CITY, in its sole discretion, may deem advisable.

4. This Guaranty shall be binding upon Guarantor and its heirs, successors and assigns, and shall inure to the benefit of, be binding upon and may be enforced by the successors and assigns of CITY or by any party to whom CITY's interest in the Operating Agreement or any

part thereof, including the rents, may be assigned whether by way of mortgage or otherwise. Wherever in this Guaranty reference is made to either CITY or Operator, the same shall be deemed to refer also to the then successor or assign of CITY or Operator.

5. Guarantor hereby expressly waives and releases (a) notice of the acceptance of this Guaranty and notice of any change in Operator's financial condition; (b) the right to interpose any substantive or procedural defense of the law of guaranty, indemnification or suretyship, except the defenses of prior payment or prior performance (whether before, during or after any applicable notice and grace periods) by Operator (of the obligations which Guarantor is called upon to pay or perform under this Guaranty); (c) any other rights and defenses that are or may become available to Guarantor by reason of Sections 2787 through 2855 of the California Civil Code, except that Guarantor does not waive any rights or defenses available under California Civil Code Section 2809; (d) the right to trial by jury, in any action or proceeding of any kind arising on, under, out of, or by reason of or relating, in any way, to this Guaranty or the interpretation, breach or enforcement thereof; (e) the right to interpose any defense (except as allowed under (b) above), set off or counterclaim of any nature or description in any action or proceeding; and (f) any right or claim of right to cause a marshalling of Operator's assets or to cause CITY to proceed against Operator and/or any collateral held by CITY at any time or in any particular order. Guarantor hereby agrees that this Guaranty constitutes a written consent to waiver of trial by jury pursuant to the provisions of California Code of Civil Procedure Section 631, and Guarantor does hereby authorize and empower CITY, in the name, place and stead of Guarantor, to file this Guaranty with the clerk or judge of any court of competent jurisdiction as a statutory written consent to waiver of trial by jury at CITY's sole discretion.

6. Without limiting Guarantor's obligations elsewhere under this Guaranty, if Operator, or Operator's trustee, receiver or other officer with similar powers with respect to Operator, rejects, disaffirms or otherwise terminates the Operating Agreement pursuant to any bankruptcy, insolvency, reorganization, moratorium or any other law affecting creditors' rights generally, Guarantor shall automatically be deemed to have assumed, from and after the date such rejection, disaffirmance or other termination of the Operating Agreement is deemed effective, all obligations and liabilities of Operator under the Operating Agreement to the same extent as if Guarantor had been originally named instead of Operator as a party to the Operating Agreement and the Operating Agreement had never been so rejected, disaffirmed or otherwise terminated and shall be entitled to all benefits of Operator under the Operating Agreement. Guarantor, upon such assumption, shall be obligated to perform and observe all of the covenants whether theretofore accrued or thereafter accruing, and Guarantor shall be subject to any rights or remedies of CITY which may have theretofore accrued or which may thereafter accrue against Operator on account of any default under the Operating Agreement, notwithstanding that such defaults existed prior to the date Guarantor was deemed to have automatically assumed the Operating Agreement or that such rights or remedies are unenforceable against Operator by reason of such rejection, disaffirmance or other termination, provided that Guarantor shall have a reasonable time after such assumption to cure non-monetary defaults existing as of the date of such assumption. Guarantor shall confirm such assumption at the request of CITY upon or after such rejection, disaffirmance or other termination, but the failure to do so shall not affect such assumption. Guarantor, upon the assumption of the Operating Agreement, shall have all of the rights of Operator under the Operating Agreement (to the extent permitted by law). Neither Guarantor's obligation including but not limited to payment in accordance with this Guaranty nor

any remedy for the enforcement thereof shall be impaired, modified, changed, stayed, released or limited in any manner by any impairment, modification, change, release, limitation or stay of the liability of Operator or its estate in bankruptcy or any remedy for the enforcement thereof, resulting from the operation of any present or future provision of the Bankruptcy Code of the United States or other statute or from the decision of any court interpreting any of the same, and Guarantor shall be obligated under this Guaranty as if no such impairment, stay, modification, change, release or limitation had occurred.

7. This Guaranty and all rights, obligations and liabilities arising hereunder shall be construed according to the substantive laws of California without reference to choice of law principles. Venue shall lie in the appropriate court located in Los Angeles County, California.

8. Until such time as all of Guarantor's obligations have been paid or performed, Guarantor hereby waives any and all rights of subrogation (if any) which it may have against Operator as a result of actions taken or amounts paid in connection with or relating to this Guaranty or to the Operating Agreement.

9. Guarantor represents and warrants to CITY that as of the date hereof:

(a) This Guaranty constitutes the legal, valid and binding obligation of Guarantor, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, and other laws affecting creditors' rights generally, to moratorium laws from time to time in effect and to general principles of equity (regardless of whether enforceability is considered in a proceeding in equity or at law).

(b) No action, suit or proceeding is pending or, to Guarantor's actual knowledge, threatened against Guarantor that would materially affect Guarantor's ability to fully perform its obligations under this Guaranty.

10. If CITY shall be obligated by reason of any bankruptcy, insolvency or other legal proceeding to pay or repay to Operator or to Guarantor or to any trustee, receiver or other representative of either of them, any amounts previously paid by Operator or Guarantor pursuant to the Operating Agreement or this Guaranty, Guarantor shall reimburse CITY for any such payment or repayment and this Guaranty shall extend to the extent of such payment or repayment made by CITY, except to the extent, if any, that such payment or repayment is prohibited by law or that such payment or repayment constitutes merely a reimbursement of any overpayment. CITY shall not be required to litigate or otherwise dispute its obligation or make such payment or repayment if in good faith and on written advice of counsel reasonably acceptable to Guarantor CITY believes that such obligation exists.

11. CITY and Guarantor shall each, not more than once per calendar year and within ten (10) business days following request by the other, execute, acknowledge and deliver to the other a statement certifying that this Guaranty is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating such modifications) and that to the certifying party's actual knowledge, Guarantor is not in default hereunder (or if there is such a default, describing such default in reasonable detail).



12. All remedies afforded to CITY by reason of this Guaranty or the Operating Agreement, or otherwise available at law or in equity, are separate and cumulative remedies, and it is stipulated that no one remedy, whether or not exercised by CITY, shall be deemed to be in exclusion of any other remedy available to CITY and shall not limit or prejudice any other legal or equitable remedy which CITY may have.

13. If any term, covenant, condition or provision of this Guaranty or the application thereof to any circumstance or to Guarantor shall be invalid or unenforceable to any extent, the remaining terms, covenants, conditions and provisions of this Guaranty or the application thereof to any circumstances, or to Guarantor other than those as to which any term, covenant, condition or provision is held invalid or unenforceable, shall not be affected thereby and each remaining term, covenant, condition and provision of this Guaranty shall be valid and shall be enforceable to the fullest extent permitted by law.

14. Written notices to City hereunder shall be sent to the Chief Executive Officer with a copy sent to the City Attorney of the City of Los Angeles and addressed to said parties at:

Chief Executive Officer  
Department of Airports  
1 World Way  
Post Office Box 92216  
Los Angeles, CA 90009-2216

City Attorney  
Department of Airports  
1 World Way  
Post Office Box 92216  
Los Angeles, CA 90009-2216

or to such other address as these parties may designate by written notice to Guarantor.

Written notices to Guarantor hereunder shall be sent and addressed to:

Current Energy LLC  
Attn: Legal Department  
230 Park Avenue, Suite 845  
New York, NY 10169

25876 The Old Road #418  
Stevenson Ranch, CA 91381

or to such other address as Guarantor may designate by written notice to City.

15. All notices, demands, and other communications which are required or may be permitted to be given to CITY or Guarantor by the other hereunder shall be in writing and shall be sent by United States mail, postage prepaid, certified, or by personal delivery or nationally recognized overnight courier, addressed to the addresses set forth in this Guaranty, or to such other place as either party may from time to time designate in a notice to the other party given as provided herein. Notice shall be deemed given upon actual receipt (or attempted delivery if delivery is refused), if personally delivered, or one (1) business day following deposit with a reputable overnight courier that provides a receipt, or on the fifth (5th) day following deposit in the United States mail in the manner described above.

16. This Guaranty shall be entered into in consideration of the execution of the Operating Agreement. The Operating Agreement is further subject to Board and Los Angeles City Council approval. Execution of this Guaranty by CITY shall not ensure such approval.

17. This Guaranty shall continue in full force and effect until all of Operator's remaining financial obligations set forth in the Operating Agreement are met, notwithstanding the termination or earlier expiration of the Operating Agreement.

IN WITNESS WHEREOF, City has caused this Guaranty to be executed on its behalf by Chief Executive Officer and Guarantor has caused the same to be executed by its duly authorized officers and its corporate seal to be hereunto affixed, all as of the day and year first above written.

**APPROVED AS TO FORM:**  
**Hydee Feldstein Soto, City Attorney**

**CITY OF LOS ANGELES**  
**By signing below, the signatory attests**  
**that they have no personal, financial,**  
**beneficial, or familial interest in this**  
**Contract.**

Date \_\_\_\_\_

By \_\_\_\_\_

Deputy/Assistant City Attorney

By \_\_\_\_\_

Chief Executive Officer  
Department of Airports

**ATTEST:**

**CURRENT ENERGY, LLC**

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

Secretary (Signature)

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

Signature

\_\_\_\_\_  
Print Title

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Title



**OPERATING AGREEMENT**

**BETWEEN**

**THE CITY OF LOS ANGELES,  
DEPARTMENT OF AIRPORTS**

**AND**

**CURRENT ENERGY, LLC, A CALIFORNIA  
LIMITED LIABILITY COMPANY**

**REGARDING**

**ROOFTOP AND CANOPY PHOTOVOLTAIC SOLAR POWER SYSTEM**

**AT VAN NUYS AIRPORT**

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OPERATING AGREEMENT  
BETWEEN THE CITY OF LOS ANGELES  
AND  
CURRENT ENERGY, LLC,  
A CALIFORNIA LIMITED LIABILITY COMPANY  
FOR THE ROOFTOP AND CANOPY PHOTOVOLTAIC SOLAR POWER  
SYSTEM

7610 Woodley Avenue - Flyaway

THIS OPERATING AGREEMENT (this “Agreement” or “Operating Agreement”), is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2024, at Los Angeles, California, by and between the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Airport Commissioners (“Board”) of the Department of Airports also known as Los Angeles World Airports (collectively referred to as “City” or “LAWA”) and CURRENT ENERGY, LLC, a California limited liability company (“Operator”) (sometimes herein referred to individually as a “party” or together as “parties”).

RECITALS

WHEREAS, LAWA requires specialized services for the development, construction, installation, operation, management and maintenance of rooftop photovoltaic solar power systems at Van Nuys Airport (hereinafter “VNY” or “Airport”); and

WHEREAS, on May 27, 2022, LAWA issued a Request for Proposals for “Rooftop Photovoltaic Solar Power Systems For Van Nuys Airport Properties” (“RFP”) for up to eight potential site locations listed under Table 1 of the RFP; and

WHEREAS, LAWA received a proposal from Current Energy LLC (“Current Energy”), a California limited liability company, which proposal included development of six of these site locations and a summary of contemplated financing terms which included Current Energy as Operator; and

WHEREAS, Current Energy possesses extensive experience in the financing, development, construction, installation, operation, management, and maintenance of photovoltaic solar power systems and by virtue of training and experience, are well qualified to provide such specialized services to LAWA; and

WHEREAS, by reason of the nature and length of the specialized services required by LAWA, it is not economical or feasible for LAWA to have such specialized services performed by its own employees; and

WHEREAS, LAWA and Operator desire to enter into this Operating Agreement for Operator to develop, install, operate and maintain a photovoltaic ("PV") solar power system ("PV System") on the Airport property specified herein; and

WHEREAS, LAWA and Operator anticipate that, when available, Operator shall agree to enter into an operating agreement for the five other site locations indicated by Operator to be viable for rooftop solar power systems; and

WHEREAS, if additional site locations are available and presented by LAWA to Operator, Operator and LAWA shall enter into a Operating Agreement on substantially the same terms as provided in this Operating Agreement within thirty (30) days. Failure by Operator to accept the site location and enter in an operating agreement for such additional site location shall be deemed a waiver of Operator's right to develop a rooftop solar power system on that site location under the RFP and will release LAWA to use such site location rooftop for other uses.

The parties hereto, for and in consideration of the covenants and conditions hereinafter contained to be kept and performed, DO HEREBY AGREE AS FOLLOWS:

## **ARTICLE 1: SPECIFIC TERMS AND PROVISIONS**

### **Section 1. Term of Agreement.**

1.1. Term. The term of this Agreement ("Term") shall commence on the date upon which all parties have executed this Agreement ("Effective Date") and shall expire ("Expiration Date") on the twentieth (20th) anniversary of the PV System Commercial Operation Date (as defined below) of the PV System described in the PV System Activation Form (attached as Exhibit C), subject however, to earlier termination in accordance with the provisions set forth herein.

1.1.1. PV System Commencement Date. The "PV System Commencement Date" shall mean the date that is the earlier of: a) 365 days from the Site Location Delivery Date, as defined in Section 1.1.4 or b) the PV System's Commercial Operation Date.

1.1.2. PV System Activation Form. The Commercial Operation Date shall be established in a written document in a form attached hereto as Exhibit C, ("PV System Activation Form"), without further action by the Board.

1.1.3. Commercial Operation Date. For the purposes of this Agreement, "Commercial Operation Date" shall mean the date the PV System is in full Commercial Operation with Energy sold to the City of Los Angeles Department of Water & Power ("LADWP"). "Energy" shall mean the electrical energy generated by the PV System expressed in units of kilowatt hours or kWh. "Commercial Operation" means completed permitting, construction, and testing of the PV System such that the PV System is both authorized and able to deliver Energy at full capacity

to the point of interconnection. At least seven (7) days prior to the Commercial Operation Date for the PV System, Operator shall deliver to LAWA written notice with documentation to evidence that the PV System is ready to begin Commercial Operation and written notice of the Commercial Operation Date.

If, other than by reason of LAWA's default hereunder, Operator has not achieved Commercial Operation for the PV System within two (2) years after the Site Location Delivery Date, or such later date as LAWA and Operator shall mutually agree in writing, LAWA, at its sole discretion, may terminate this Operating Agreement and Operator's License (as defined below) for the Site Location and LAWA and Operator shall thereafter be released and discharged from all obligations hereunder. Upon any such termination, Operator shall immediately remove all of Operator's equipment from the Site Location, repair any damage caused by installation and/or removal of the PV system in accordance with the terms hereof, and surrender the Site Location in a condition substantially similar to the condition of the Site Location on the date the Site License commenced, ordinary wear and tear excepted.

1.1.4. Delivery Date. The term "Site Location Delivery Date" shall mean the date that LAWA provides Operator possession and the right to use the Site Location, as defined in Section 2.1, to commence installation of the PV System on the Site Location, *provided that* the parties have entered into a License, as described in and pursuant to Section 3.5, for the Site Location. The Site Location Delivery Date for the Site Location shall be described in Exhibit D.

1.1.5. Inspection Access. From the Effective Date until the Site Location Delivery Date, Operator may enter the Site Location solely for inspections, environmental analysis, and other customary due diligence and analysis for the PV System, *provided that* (a) Operator delivers to LAWA at least forty-eight (48) hours prior written notice that it wishes to access the Site Location for the above purpose(s), (b) LAWA provides written approval of such entry and access by Operator (not to be unreasonably withheld, unreasonably conditioned or unreasonably delayed); and (c) Operator does not materially or unreasonably interfere with or disturb any existing uses at the Site Location.

1.2. Notwithstanding anything herein to the contrary, Operator acknowledges that it has no right to an extension of this Agreement or a right to a new operating agreement at the expiration of this Agreement.

## **Section 2. Rights Granted to Operator.**

2.1. Scope of Work. Operator shall finance, develop, construct, install, operate, manage, maintain and conduct any other related services for the PV System at the location identified in Exhibit A, which is attached hereto and incorporated by reference to this Agreement (the "Site Location"), or as otherwise may be agreed upon by LAWA and Operator in accordance with the terms and conditions set forth in this Agreement. Exhibit A identifies the Site Location, including



the buildings and/or portions of rooftops proposed for the PV System on the Site Location. With respect to this Agreement, Operator's responsibilities include, but are not limited to, financing, engineering, acquiring all required permits, procurement, installation (including utilities), security (including badging for Operator's employees and contractors at Operator's expense), operation and maintenance, transportation, labor, materials, and any temporary or interim facilities required to maintain essential existing functions in operation throughout the operational period at the Site Location. To the extent reasonably necessary for Operator to perform its responsibilities with respect to the PV System as described in this paragraph, LAWA shall cooperate with reasonable requests from Operator related to Operator's performance of such responsibilities, at no cost or expense to LAWA.

2.1.1. LAWA's Right for Other Sites. LAWA reserves the right to enter into or contract with any other companies or entities to allow use of any other sites, locations, or areas at VNY or other LAWA properties (other than the Site Location) for the installation and operation of solar power systems.

2.2. City of Los Angeles Los Angeles Department of Water and Power.

Operator shall comply with LADWP Feed-in Tariff Program ("FiT Program") Guidelines, which may be modified from time to time at the sole discretion of LADWP, as applicable to the PV System.

2.2.1. SOPPA. Operator shall be solely responsible for entering into a solar power purchase agreement to sell Energy from an Eligible Renewable Electricity Resource as defined in the FiT Program with LADWP (the "SOPPA"); provided that LAWA shall cooperate with Operator as reasonably necessary for entering into such SOPPA at no cost or expense to LAWA. Operator shall provide to LAWA a copy of the fully executed and final SOPPA which shall become Exhibit E to this Agreement without any further action of the Board. Operator shall comply with all the terms, conditions, and provisions of the SOPPA with LADWP. In the event LADWP and Operator amend the SOPPA or add supplemental documents to the SOPPA, Operator shall provide LAWA a copy of the fully executed and final amendment(s) and/or supplemental documents which shall be numbered and attached to this Agreement as Exhibit E-1, E-2, etc., as applicable without any further action of the Board.

2.2.2. SOPPA Subordinate to Operating Agreement. The SOPPA and any agreement entered into between Operator and LADWP related to the PV System shall be subordinate to this Operating Agreement.

2.2.3. Termination of SOPPA. Unless LAWA exercises its right to purchase the PV System pursuant its purchase right in Section 3.3, upon termination of Operator's SOPPA with LADWP, Operator shall notify LAWA of such termination and the PV System shall be removed at Operator's sole cost and expense and the Site Location shall be surrendered in accordance with Article 1, Section 4.1.2.

2.3. Operator's Representations, Warranties, and Covenants. Operator's representations, warranties, and covenants to LAWA as of the Effective Date shall be consistent with Operator's SOPPA with LADWP set forth in Exhibit E.

2.4. Intentionally Deleted.

2.5. Except as expressly provided otherwise in Section 6.2 and Section 6.3, Operator expressly agrees to pay all costs and expenses, direct and indirect, associated with the PV System, including but not limited to all costs associated with inspection, architectural, design and engineering and other professional or consultant services, permitting and inspection fees, project financing, utility relocation and upgrading, environmental review, landscaping, construction, maintenance and operation of the PV System, and other costs related to the PV System.

2.6 LAWA's Representations and Warranties. Except as provided otherwise in Section 2.1, LAWA represents and warrants to Operator that it holds fee title or otherwise controls the Site Location.

### **Section 3. PV System.**

3.1. Operator's PV System. Operator shall develop, construct and install the PV System. PV modules shall have a minimum PV USA Test Conditions ("PTC") rating of 400 watts and a minimum module efficiency of 18%. Inverters shall have a weighted efficiency of not less than 96%. Operator shall be required to submit a FiT Program application to LADWP to build and operate the PV System with a minimum capacity to generate at least eighty percent (80%) of the solar production capacity specified in Operator's Proposal to LAWA with respect to the PV System. If the PV System does not meet such 80% threshold, then Operator shall provide written notice to LAWA indicating that the proposed PV System does not meet such 80% threshold as provided above, prior to entering into any SOPPA and Interconnection Agreement (any such notice, a "Reduced System Notice"), and, in such case, the LAWA CEO (as defined below) may, in his or her sole discretion, terminate this Agreement by providing written notice thereof within thirty (30) days of receipt of the applicable Reduced System Notice. If the LAWA CEO fails to timely provide such written notice, then such right to terminate shall be null and void. In the case of such termination, Operator shall surrender the Site Location in a condition substantially similar to the condition of the Site Location on the date the License commenced, ordinary wear and tear excepted.

3.2. Ownership of PV System. LAWA and Operator acknowledge and agree the PV System is and shall remain the property of Operator and LAWA expressly waives any right, title, or interest in the PV System, except in the event of LAWA's exercise of its right to purchase the PV System pursuant to Section 3.3. LAWA agrees that the PV System shall be considered the property of Operator or a Financing Party (defined below) designated by Operator, and, even though attached or affixed to or installed upon the Site Location, shall not be considered to be fixtures or

a part of the Site Location and shall not be or become subject to the lien of any mortgage or deed of trust heretofore or hereafter placed on the Site Location by LAWA or any other owner of the fee title. Except in the event of LAWA's exercise of its right to purchase the PV System pursuant to Section 3.3, LAWA agrees to subordinate any rights it may have under the laws of the State of California, arising under this Agreement or otherwise, to any lien upon any item constituting part of the PV System to that of Operator's lender's security interest, any right to distress or attachment upon, or any other interest in, any item constituting part of the PV System. The PV System shall at all times retain the legal status of personal property as defined in the Uniform Commercial Code in effect in the State of California. Pursuant to Revenue & Taxation Code Section 107.6, LAWA hereby advises Operator that this Agreement entered into between LAWA and Operator may create a possessory interest, subject to property taxation. In the event Operator's interest in the Site Location, including the project improvements required to be constructed by Operator, becomes subject to the payment of property taxes levied on such interest, for purposes of this Agreement, Operator shall be responsible for the payment of such taxes to the taxing agency.

LAWA further agrees that all Tax Attributes belong solely to Operator, and Operator and LAWA agree that all Environmental Attributes shall be transferred to LADWP. As used herein, (a) "Environmental Attributes" shall mean, without limitation, carbon trading credits, renewable energy credits or certificates, emissions reduction credits, emissions allowances, green tags, tradeable renewable credits, or Green-e® products, and (b) "Tax Attributes" means investment tax credits (including any grants or payments in lieu thereof) and any tax deductions or other benefits under the Internal Revenue Code or applicable federal, state, or local law available as a result of the ownership and/or operation of the PV System or the output generated by the PV System (including, without limitation, tax credits (including any grants or payments in lieu thereof) and accelerated and/or bonus depreciation).

3.3. LAWA's Purchase Right. Beginning on the date that is seven (7) years following the Commercial Operation Date, LAWA shall have the right to purchase (the "Purchase Right") the PV System from Operator and terminate this Operating Agreement ("Equipment Purchase"), on each annual anniversary of the Commercial Operation Date for the PV System, for a purchase price equal to the Fair Market Value (as defined in Section 7.3) of the PV System. LAWA's exercise of the Purchase Right shall be delivered to Operator by notice pursuant to Article 2, Section 33.12 at least ninety (90) days prior to the applicable annual anniversary of the Commercial Operation Date or shall otherwise be deemed waived as to such year. The Purchase Right (and LAWA's purchase of the PV System pursuant thereto) shall require Operator's assignment to LAWA, or its designated operator, of its rights, which shall not be withheld, and LAWA's, or its designated operator's, assumption of Operator's obligations, under the SOPPA and Interconnection Agreement (and LADWP's consent to such assignment and assumption, if applicable).

3.4. Interconnection. Operator shall be solely responsible for extending and terminating the AC power from the PV System to the point of Interconnection (as defined below) to be confirmed by LADWP and in compliance with LADWP's voltage, phase, and frequency requirements. Notwithstanding the foregoing, for the proposed location of Interconnection,

LAWA shall review such Interconnection location to determine feasibility for providing a license and/or access rights as may be reasonably necessary for Operator to accomplish Interconnection at that proposed point of Interconnection location for the Site Location, as further provided in Section 3.5. For purposes of this Agreement, “Interconnection” shall be defined as a LADWP facility designed, constructed, owned, operated, and maintained by LADWP for the safe operation of the PV System in parallel with LADWP’s power distribution network. If providing a license or right of entry for Interconnection is not feasible for the Site Location, as may be determined by either party, then that party may terminate this Agreement and LAWA and Operator shall thereafter be released and discharged from all obligations hereunder.

3.4.1 Interconnection Agreement. Operator shall, at its sole cost and expense, negotiate and enter into an agreement with LADWP for Interconnection (“Interconnection Agreement”), as amended, supplemented or otherwise modified from time to time, provided that LAWA shall cooperate with reasonable requests from Operator related to entering into such Interconnection Agreement, provided that such cooperation is at no cost or expense to LAWA. Operator is responsible for compliance with all terms and conditions set forth in the Interconnection Agreement. The form of the Interconnection Agreement between Operator and LADWP is attached hereto as Exhibit G. Operator shall provide LAWA a copy of the negotiated Interconnection Agreement at least thirty (30) days prior to execution of same with LADWP for LAWA to review the Interconnection Agreement for consistency with the terms of this Agreement. LAWA shall have twenty-one (21) days to review the Interconnection Agreement prior to Operator executing the Agreement. If LAWA’s CEO, or designee, determines the Interconnection Agreement is inconsistent with the terms of this Agreement (provided such objection is provided to Operator within the 21-day period provided in the prior sentence), LAWA may object to the Interconnection Agreement and shall provide Operator with a list of inconsistent terms or provisions. In such case, Operator shall renegotiate with LADWP to ensure the Interconnection Agreement is consistent with this Agreement. If Operator and LADWP are unable to resolve the inconsistencies indicated by LAWA following good faith negotiations between Operator and LADWP, either party may terminate this Agreement and LAWA and Operator shall thereafter be released and discharged from all obligations hereunder. Notwithstanding the foregoing or anything to the contrary contained herein, LAWA shall have no right to object to, and Operator shall have no obligation to renegotiate with LADWP, any terms or provisions of the Interconnection Agreement to the extent the same are consistent with the form of Interconnection Agreement attached hereto as Exhibit G (and, for the avoidance of doubt, no termination right shall apply in such case). LAWA’s failure to provide any objection to the Interconnection Agreement within the time period stated above shall be deemed approval of the Interconnection Agreement. Operator shall provide to LAWA a copy of the fully executed and final Interconnection Agreement for the PV System, which shall be attached to this Agreement as Exhibit G-1 without any further action of the Board.

3.4.2 Interconnection Cost. Operator shall be responsible for the payment of any and all related study and Interconnection costs and fees for the PV System as charged by LADWP. LAWA shall not be responsible for any statements, invoicing, or any other billing related to Interconnection costs charged by LADWP on Operator.

3.4.3 Subordinate to Operating Agreement. The Interconnection Agreement and any agreement entered into between Operator and LADWP related to the PV System shall be subordinate to this Agreement.

3.5. License and/or Right of Entry. LAWA agrees to grant to Operator a license or right of entry (as the case may be) to install the PV System and equipment on, over and/or under the Site Location (as defined below) as is reasonably necessary for the Permitted Use (as defined in Section 4.1) (the "License"); *provided, however*, that the License shall be in substantially the form attached hereto as Exhibit J and any undefined terms in such form, including the nature and location of such equipment, shall be mutually agreed upon by the parties prior to the Site Location Delivery Date and installation of the PV System on the Site Location by Operator. The agreed upon License for the PV System shall be promptly executed by the parties and attached as Exhibit J-1 without any further action of the Board. If the License has not been executed by the parties on or before the second (2<sup>nd</sup>) anniversary of the Effective Date, then this Agreement shall terminate upon the written election of either party and LAWA and Operator shall thereafter be released and discharged from all obligations hereunder. In addition, Operator may terminate this Agreement within one hundred eighty (180) days of the Effective Date in the event that Operator determines in its reasonable discretion that the Site Location is not suitable for the construction and/or operation of the PV System, which shall include if the Operator is unable to secure a binding written commitment for financing (whether via debt, equity investment, or otherwise) of the PV System despite its best efforts, by providing ten (10) days prior written notice to LAWA and, upon any such termination, Operator shall immediately remove all of Operator's equipment from the Site Location, repair any damage caused by Operator in accordance with the terms hereof, surrender the Site Location in a condition substantially similar to the condition of the Site Location on the date the Site Location Delivery Date and LAWA and Operator shall thereafter be released and discharged from all obligations hereunder (except for obligations which survive the termination of the Agreement).

#### **Section 4. PV System Site Location.**

4.1. Site Location. The PV System shall be installed and operated at the Site Location set forth in Exhibit A. This Operating Agreement does not provide authorization or approval for construction of the PV System prior to compliance with CEQA, NEPA and all other applicable laws. LAWA will serve as lead agency under the CEQA environmental review process and the lead coordinating sponsor with the Federal Aviation Administration on the NEPA environmental review process, as applicable. LAWA expressly reserves the right to exercise complete unfettered discretion and to consider all mitigation measures with respect to CEQA, NEPA and all other applicable laws for any proposed development, all alternatives, including the "no project" alternative for any proposed development, and the ability to adopt a Statement of Overriding Considerations pursuant to CEQA and NEPA. The parties agree that the installation of the PV System at the Site Location has independent utility and is not dependent upon the construction of any other PV solar power system at any of the potential site locations listed under Table 1 of the



RFP. Operator shall be required to enter into operating agreements with LAWA for the additional site locations listed under Table 1 of the RFP when presented by LAWA to Operator.

4.1.1. No Ownership Interest. Operator acknowledges that, except for the License expressly granted herein, no possessory interest in any part of the Site Location is conveyed or accrues under this Agreement. Ownership of the Site Location, including the real property, buildings, facilities, fixtures, equipment and other property constituting the Site Location shall remain with LAWA. Accordingly, LAWA and Operator agree that nothing in this Agreement shall entitle Operator to file any claim, lien, or notice against any real property owned by LAWA.

4.1.2. Acceptance and Surrender. Operator acknowledges and accepts the Site Location “AS IS”, “WHERE IS”, with all faults and limitations, provided that nothing herein shall be construed to negate any provision of this Agreement. LAWA makes no warranty or representation as to the condition of the Site Location, the compliance of the Site Location with codes or applicable law, or that the Site Location are suitable for Operator’s use, it being assumed Operator has satisfied itself thereof and assumed all risk associated therewith. LAWA is under no obligation to perform any work or provide any materials to prepare the Site Location for Operator. Operator agrees that upon the expiration or earlier termination of this Agreement or the SOPPA, Operator shall immediately remove all Operator’s equipment from the Site Location, repair any damage caused by installation and/or removal of the PV System and surrender the Site Location in a condition substantially similar to the condition of such Site Location on the date the License commenced, ordinary wear and tear excepted.

4.2. Site Location Modification. LAWA shall have the right to modify Exhibit A to correct any inaccuracies as to the location of the License after installation without any need for Operator’s prior approval, but LAWA shall promptly provide a copy of any such modifications to Operator. If this Agreement is to be terminated for any reason as provided in this Agreement, LAWA’s Chief Executive Officer or his/her designee (collectively referred to as “CEO” or “Chief Executive Officer”), in his or her sole discretion, may make substitute site location(s) available to the Operator. If such substitute site is offered to Operator, Operator and CEO shall enter into discussions to review substitute site(s). If a substitute site is identified and acceptable to both Operator and LAWA, that site will be made available on the same terms and conditions as set forth in this Agreement. The parties acknowledge that any change to the Site Location or any substitute site as contemplated herein may be subject to environmental review pursuant to CEQA and approval by the BOAC. If a substitute site is unacceptable to the parties, then Operator shall have no right to such substitute site and LAWA shall be free to offer such substitute site to other parties on such terms and conditions the LAWA CEO deems appropriate.

4.2.1. LAWA’s Request for Temporary or Permanent Removal. Notwithstanding any other provision of this Agreement, but subject to Article 1, Section 7 (including, without limitation, Article 1, Sections 7.2 and 7.3), if, at any time during the Term of this Agreement, the CEO determines in his or her sole discretion that Operator must temporarily or permanently remove any part of the PV System from or to temporarily or permanently cease operations of any



part of the PV System due to LAWA Operations (as defined below), as necessary for Airport security, construction or operational purposes, including without limitation, for runway extension, taxiway extension, RSAs, RPZs, or OFAs, or pursuant to an order from the FAA, Operator shall promptly remove the PV System. "LAWA Operations" shall include but is not limited to any and all repair, maintenance, and improvements related to rooftops; any and all work, preparation and plans related to LAWA capital improvement projects; responsibilities, tasks and obligations as mandated by the Los Angeles City Charter, LAWA's existing contracts/leases, grant assurances or as otherwise required by local, state or Federal Law, including but not limited to Federal Aviation Administration (FAA) and/or the Department of Transportation (DOT) statutes or regulations; state or federal intervention; and/or Force Majeure events as set forth in Article 1, Section 6.4 of this Agreement.

4.2.1.1 Temporary Removal. Notwithstanding any other provision of this Agreement, but subject to Article 1, Section 7 (including, without limitation, Article 1, Section 7.2), during the Term of this Agreement, LAWA shall be expressly limited to four (4) requests, in the aggregate, of Operator to temporarily remove all or any part of the PV System under this Agreement ("LAWA Removal Limitation"), provided that in all cases, (i) LAWA shall avoid temporary removal of the PV System if a reasonable alternative is available that would not require such removal and such alternative would not materially affect LAWA, and (ii) in the case of a temporary removal, LAWA shall limit the scope of such temporary removal to the greatest extent possible. LAWA shall pay to Operator, solely in the form of a rent credit (except to the extent such payment exceeds the balance of rent payable hereunder, in which case LAWA shall pay such excess amount to Operator within thirty (30) days following the expiration or termination of this Agreement), the compensation specified in Article 7, Section 7.2 in the case of any temporary removal.

4.2.1.2 Permanent Removal. Permanent removal of a PV System shall be subject to Article 1, Section 7.3. LAWA shall have no restriction on the number of requests to permanently remove all or any part of the PV System, provided that in all cases, LAWA shall pay the compensation specified in Article 1, Section 7.3 and further avoid permanent removal of a PV System if a reasonable alternative is available that would not require such removal and such alternative would not materially affect LAWA.

4.3. Work on Site Location with LAWA Tenants. Operator acknowledges the Site Location may be used by LAWA's tenants and/or subtenants. Operator shall conduct all development, construction, installation, operation, management and maintenance work on sites occupied with LAWA's tenants or subtenants in accordance with the provisions set forth herein.

4.3.1. Coordination. Operator shall use reasonable and good faith efforts to coordinate all development, construction, installation, operation, management and maintenance work with LAWA and any of LAWA's tenants or subtenants operating at the Site Location prior to any commencement of work under this Agreement to minimize disruption to LAWA, VNY, and tenant operations, as applicable. Operator shall notify LAWA of any known site impacts to

tenants or subtenants on the PV System site that cannot be mitigated and provide LAWA with proposed solutions to those impacts.

4.3.1.1 No Interference. Neither Operator nor its agents, employees or subcontractors shall unreasonably interfere with any work being done by LAWA or any of its tenants or subtenants at the Site Location. All work shall be performed so that there is no unreasonable disruption to LAWA, VNY, or any of LAWA's tenants' or occupants' (as applicable) access to or use of leased or licensed space.

4.3.1.2 Compliance. Operator shall comply with all applicable present and/or future rules, regulations, restrictions, ordinances, statutes, laws, policies and/or orders of any federal, state, and/or local government authority ("Applicable Laws"). Operator shall be solely responsible for fully complying with any and all applicable present and/or future orders, directives, or conditions issued, given or imposed by the Chief Executive Officer which are now in force or which may be hereafter adopted by the Board of Airport Commissioners and/or the Chief Executive Officer with respect to the operation of LAWA property.

4.3.1.3 Performance of Work. All work shall be performed by labor with the proper jurisdictional qualifications. Operator's work shall be performed in accordance with the approved plans and in compliance with all applicable law.

4.3.1.4 Work Site. All parties performing all work as set forth in this Agreement shall park off site and shall not park in tenant's parking areas. Any lay down area used by the Operator for the purposes of this Agreement shall be coordinated with LAWA and tenants prior to the start of construction and be kept in a safe and secure condition at all times, and shall be free from waste materials, rubbish, debris, and other garbage, including liquid and non-liquid materials whether spilled, dropped, discharged, blown out or leaked.

#### 4.4. Improvements and Use.

4.4.1. Permitted Use. Operator shall use the Site Location solely for the purpose of the installation, development, construction, operation, management, interconnection, inspection, maintenance, repair, improvement, enhancement, alteration, replacement, and removal of the PV System and uses incidental thereto and for no other use or purpose (collectively, the "Permitted Use") and in accordance with this Agreement. Operator shall not change or alter the electrical output of the PV System, except for expected degradation and weather fluctuations, without the prior written approval of the LAWA.

4.4.2. Disclaimer. LAWA specifically disclaims any representation or warranty that there will be sufficient solar access for the PV System due to actions occurring on the Site Location leased by third parties or that are otherwise beyond LAWA's control (collectively, "Third Party Actions"), provided, however, that LAWA shall cooperate with Operator and use reasonable efforts to mitigate or eliminate any reduction of solar access due to Third Party Actions.

4.4.3. Non-Interference; Other Uses. LAWA, and, where applicable, any tenant of the Site Location pursuant to such tenant's lease, reserves the right to use the Site Location, and the remainder of a roof of a building in the case of a rooftop PV System for any purpose, or grant easements or sublicenses in favor of third persons, for any purpose other than the Permitted Use, including, but not limited to, the installation or operation of telecommunications equipment, satellite dishes, antennae, building service equipment or other improvements (collectively, "Other Uses"), provided that such Other Uses do not cast shadows, block or restrict access to direct sunlight, or otherwise unreasonably interfere with Operator's Permitted Use or rights under this Agreement. Any Other Use or sublicense or easement entered into after the Effective Date of this Agreement therefor shall expressly provide that they are subject and subordinate in all respects to this Agreement and to the rights of Operator to the Site Location as set forth hereunder. Subject to the foregoing, Operator shall not unreasonably disturb any existing Other Uses on the Site Location.

4.4.3.1 Operator has no rights under this Agreement to install or use any antennae or telecommunications equipment on the roof or exterior of any building or structure on the Site Location or directly on any the Site Location, unless such installation or use is directly related to the conduct of Operator's business or the Permitted Use and in full compliance with LAWA's permit process and telecommunications policies, as may be modified from time to time at the sole discretion of the Chief Executive Officer. Operator may not license or sublicense to others the right to install or use antennae or other telecommunications equipment on the Site Location, unless such agreement has been approved by the Chief Executive Officer to use the Site Location for the Permitted Use, and such installation and use of antennae or telecommunications equipment is directly related to the conduct of such licensee or sublicense and is in full compliance with LAWA's permit process and telecommunications policies.

4.4.3.2 Operator, by accepting this Agreement, agrees for itself and its successors and assigns that it shall not make use of the Site Location in any manner which may interfere with the landing and taking off of aircraft from Airport or otherwise constitute a hazard to such operations; provided that the installation of the PV System in accordance with the requirements of this Agreement and provided all necessary clearances and approvals are obtained by Operator, in and of itself, shall not constitute an interference or hazard for purposes of the this Section 4.4.3.2. In the event that Operator interferes with any air traffic as described above, LAWA's CEO reserves the right, in his or her reasonable discretion, following Operator's failure to abate such interference within ten (10) days following written notice, to enter upon the Site Location under this Agreement and cause the abatement of such interference at the expense of Operator.

4.4.3.3 Operator is prohibited from installing or using any wireless workstations, access control equipment, wireless internet servers, application or system software

such as transceivers, modems, or other interface units that access frequencies from 2.0 Gigahertz to 6.0 Gigahertz, inclusive, without first obtaining approval from the LAWA Chief Executive Officer.

4.4.4. Excavations. If excavation is required, Operator or its contractor shall: (i) initiate the call to the applicable regional notification center at least two (2) business days prior to excavating to allow operators (namely, utilities) of subsurface installations (including but not limited to pipelines, conduit, duct, wire, or other structures) to field mark or locate their lines; (ii) contact owners of existing subsurface installations that may interfere with excavation work; (iii) determine and field mark locations of subsurface installations and structures not marked by owners, including those owned by LAWA, which is not a member of a regional notification center, does not participate in their activities, nor field marks its subsurface installations but will make its substructures records, including unpressurized drains (storms drains and sewers), available to the Operator or its contractor with prior notification; (iv) be responsible for field marking and location all subsurface installations prior to performing any excavation or underground work; (v) be responsible for exposing and protecting from damage all existing surface and subsurface installations; (vi) protect any structures or foliage from damage and replace all structures, landscaping, lawn and paving to the condition prior to the work performed by Operator; and (vii) refrain from preventing or impeding access to the Site Location due to any excavation work.

4.4.5. Damage to LAWA Property. Operator shall be responsible for the repair of any damage to the Site Location, tenant or subtenant property, and/or any other LAWA-owned property caused by Operator or its agents, employees, contractors, subcontractors, and/or invitees during the development, construction, installation, operation, management, and maintenance of the PV System.

4.4.6. Return of Site Location. Upon termination of this Agreement, Operator shall take all actions necessary to return the Site Location where the PV System is installed to the condition required in Article 1, Section 4.1.2, except in the case that LAWA exercises its Purchase Right as provided in Section 3.3.

4.4.6.1 Corrective Action. In the event of fire, destruction or damage caused by the PV System or by Operator and/or its employees, subcontractors, invitees, vendors, or independent contractors, Operator shall take all corrective actions to clean up, remove, repair or otherwise expiate any resulting harm to the Site Location, tenant or subtenant property, and/or any other LAWA-owned property.

4.5. Operator's Improvements. Except for the construction and installation of the PV System and its related components (which shall be governed by Article 1, Section 5 hereof), any improvements to the Site Location constructed by the Operator for the purposes of this Agreement shall be approved by LAWA prior to the start of construction. Upon the Expiration Date or termination as set forth in Article 1, Section 8, of this Agreement, all improvements (subject to the

Purchase Right in Article 1, Section 3.3) shall be removed at Operator's sole cost and expense, and the Site Location shall be surrendered in the condition required in Article 1, Section 4.1.2.

#### 4.6. Rooftops.

4.6.1. Preparation of Rooftops for PV System Construction/Installation. The PV System shall be designed consistent with Section 5 hereof and the existing building roof structural capacities and warranty, and shall not require structural modifications to any building or the rooftop (unless approved in a prior written consent by LAWA, to be performed at Operator's sole cost and expense). Subject to LAWA's express obligations under Section 6.3, Operator shall accept the parking lot and rooftops at the Site Location in as-is condition. If roofing repairs and/or replacement is required to accommodate the construction and installation of the PV System, then Operator may, at its election, either (i) terminate this Agreement and LAWA and Operator shall thereafter be released and discharged from all obligations hereunder, or (ii) if Operator and LAWA mutually agree, perform, at Operator's sole cost and expense, such repairs or replacement, in compliance with all applicable laws, Section 5 hereof, and consistent with any applicable tenant rights on the Site Location.

4.6.2. Operator Responsibility of Rooftop and Parking Lot. Operator shall be responsible for the repair of all damage, destruction, or harm to the rooftops and/or parking lot caused by the development, construction, installation, operation, management and maintenance of the PV System by Operator, its invitees, employees, contractors, and its agents. Operator shall also be responsible for any structural retrofit required to install the PV System. The aforementioned work shall be performed in accordance with Article 1, Section 4.3 herein.

4.7. Site Location Conditions. Operator has accepted the Site Location as set forth in Article 1, Section 4.1.2 herein.

4.7.1. Baseline Conditions – Operator's Baseline Report. Operator may elect, at its sole cost and expense, to prepare a baseline report depicting the baseline condition of the Site Location ("Operator's Baseline Condition"), which upon completion must be approved by LAWA, in its sole but reasonable discretion, ("Operator's Baseline Report"). If prepared by Operator and approved by LAWA, the Operator's Baseline Report shall be attached hereto as Exhibit I and the Operator's Baseline Report shall establish the condition of the Site Location as of the PV System Delivery Date. Operator shall be responsible only for contamination above the Operator's Baseline Condition levels for those contaminants covered in the Operator's Baseline Report.

4.7.2. Remediation. Operator shall remediate or cause the remediation of any spill, discharge or any other contamination that occurs on the Site Location during the Term of this Agreement, to the extent caused by Operator or its agents, employees, contractors, subcontractors, and/or invitees, that contaminates or threatens to contaminate the rooftop, any interior portion of the Site Location, or soil, sediment, groundwater or air of the Site Location or of adjacent premises (including the soil, sediment, groundwater or air of those adjacent premises).



4.7.3. Operator Responsibility; Indemnity. Operator bears sole responsibility for full compliance with any and all applicable laws regarding the use, storage, handling, distribution, processing, and/or disposal of environmental or hazardous material by Operator or its agents, employees, contractors, subcontractors, and/or invitees. Operator agrees that any claims, damages, fines or other penalties asserted against or levied on LAWA and/or Operator as a result of noncompliance with any environmental laws by Operator or its agents, employees, contractors, subcontractors, and/or invitees shall be the sole responsibility of Operator and that Operator shall indemnify and hold LAWA harmless from any and all such claims, damages, fines and penalties, as well as any costs expended to defend against such claims, damages, fines and penalties, including attorneys' and experts' fees and costs that result from any Contamination (as defined below) or Operator's non-compliance during the Term regarding the use, storage, handling, distribution, processing and/or disposal of environmental or hazardous material. LAWA shall provide Operator with sixty (60) days' notice to comply with any claims, damages, fines and penalties, or if Operator has not complied with such claims, damages, fines and penalties, or if Operator has not requested a meet and confer to discuss compliance within such sixty (60) days, then LAWA, at its sole option, may pay such claims, damages, fines and penalties resulting from Operator's noncompliance with any environmental laws, and Operator shall indemnify and reimburse LAWA for any such payments.

4.7.3.1 Operator Environmental Reports. Operator shall provide to LAWA a full written environmental fact sheet associated with the PV modules installed upon the Commercial Operation Date for the PV System. Operator shall also provide to LAWA a written report for any PV modules broken during installation or removal of the PV System.

4.7.4. Rebuttable Presumption When Baseline Report Prepared. Operator acknowledges and agrees that a presumption shall exist that any contamination not specifically depicted and analyzed in the Operator's Baseline Report, constitutes contamination for which, as between LAWA and Operator, Operator is solely responsible. LAWA shall provide written notice of the existence of any such contamination to Operator. Operator may rebut such presumption by providing to LAWA, within ninety (90) days of LAWA's written notice, conclusive evidence demonstrating that such contamination did not occur during the Term of this Agreement or was otherwise not caused by Operator or its agents, employees, subcontractors, and/or invitees. Otherwise, such presumption shall be deemed confirmed making Operator solely responsible for such contamination. Whether any information submitted by Operator rebuts the aforementioned presumption shall be within LAWA's sole and absolute discretion, exercised reasonably and in good faith. This provision shall survive the expiration or earlier termination of this Agreement.

4.7.5. Operator Obligations In the Event of Contamination During the Term of the Agreement.

4.7.5.1 Duty to Remediate. Upon discovery of any contamination caused by Operator or its agents, employees, contractors, subcontractors, and/or invitees (a



“Contamination”), Operator shall, at its sole cost, remediate the contamination in accordance with the provisions set forth in this Agreement.

4.7.5.2 Compliance with Government Agency Orders. Operator shall report any Contamination to the respective government agencies as required by law and thereafter, if such government agency asserts jurisdiction over such Contamination, Operator shall, at its sole cost and expense as between LAWA and Operator, manage the Contamination and all associated issues consistent with environmental laws or the governmental agencies with jurisdiction, if any. If a schedule for such management of the Contamination is not prescribed by environmental laws, or by the governmental agencies with jurisdiction if any, LAWA shall reasonably prescribe such schedule in consultation with Operator.

4.7.5.3 Site Characterization. Whether a governmental agency asserts jurisdiction over the Contamination or not, Operator shall characterize (including sampling and analysis) and remediate all Contamination in conformity with environmental laws, and in compliance with LAWA standards and policies and to LAWA’s reasonable satisfaction, to the extent LAWA standards and policies do not conflict with protocols established by any other governmental agency asserting jurisdiction over the Contamination.

4.7.5.4 Copies to LAWA. Operator shall provide copies to LAWA of all communications between Operator (and any third-parties acting for or on its behalf), and any governmental agency with jurisdiction regarding all contamination and remediation.

4.7.6. LAWA’s Rights to Remediate. If Operator fails to wholly or partially fulfill any obligation set forth in Article 1, Section 4.7.5., LAWA may (but shall not be required to) take all steps it deems necessary to fulfill such obligation. Any action taken by LAWA shall be at Operator’s sole cost and expense and Operator shall indemnify and pay for and/or reimburse LAWA for any and all costs (including any administrative costs) LAWA incurs as a result of any such action it takes.

4.7.7. Environmentally Regulated Material on Site Location. Operator shall not cause or permit any environmental material to be generated, brought onto, handled, used, stored, transported from, received or disposed of (hereinafter sometimes collectively referred to as “handle” or “handled”) in or about the Site Location, except for: (i) limited quantities of standard office and janitorial supplies containing chemicals categorized as environmentally regulated material listed in the APP process (as defined in Article 1, Section 5.1) and the material safety data sheet which includes but is not limited to any and all hazardous materials and chemicals (“Material Safety Data Sheet”) for the parts and equipment of the PV System; (ii) environmentally regulated material which are necessary for Operator to undertake the Permitted Uses; and (iii) environmentally regulated material handled in accordance with all state and federal rules, regulations, and environmental laws. Operator shall handle all such environmental material in strict compliance with environmental laws in effect during the term of this Agreement.

#### 4.7.8. Environmental Compliance.

4.7.8.1 Generally; Notice. In its use and occupancy of the Site Location, Operator shall comply (and shall immediately halt and remedy any incident of non-compliance) with: (a) environmental laws; and (b) all applicable environmental policies, rules and directives of LAWA. Operator shall immediately upon receipt provide LAWA with copies of any notices or orders or similar notifications received from any governmental agency regarding compliance with any environmental laws.

4.7.9. Waste Disposal. Operator shall dispose of any waste, equipment, or parts related to the PV System during the Term or at the Expiration Date of this Agreement in accordance with all state and federal rules, regulations and environmental laws. If Operator disposes of any waste, equipment, or parts related to the PV System contaminated with environmentally regulated material, within thirty (30) days of Operator's receipt of original documents, Operator shall provide LAWA copies of all records, including a copy of each uniform hazardous waste manifest indicating the quantity and type of material being disposed of, the method of transportation of the material to the disposal site and the location of the disposal site. The name of the City of Los Angeles, VNY, the Department of Airports or LAWA shall not appear on any manifest document as a generator of such material.

4.7.10. Laboratory Testing. In discharging its obligations under this Section, Operator shall perform any tests using a State of California Department of Health Services certified testing laboratory or other similar laboratory of which LAWA shall approve in writing. By signing this Agreement, Operator hereby irrevocably directs any such laboratory to provide LAWA, upon written request from LAWA, copies of all of its reports, test results, and data gathered.

4.7.11. Survival of Obligations. Except as otherwise provided in this Article 1, Section 4.7, this Section 4.7 and the obligations herein shall survive the expiration or earlier termination of this Agreement.

### **Section 5. Design, Construction and Installation of the PV System.**

5.1. Design. Operator shall design the PV System in accordance with the requirements described herein.

#### 5.1.1. Requirements.

5.1.1.1 Operator shall investigate the Site Location where the PV System shall be constructed and installed, including suitability of structures, location of utilities, and point of Interconnection for the proposed PV System and determine the construction and installation

methods required, including the preparation and submittal for approval by LAWA of structural calculations for the acceptable staging of equipment or materials on rooftops to avoid their overstressing.

5.1.1.2 Operator shall submit a plan to LAWA to develop, own, operate, and maintain complete the PV System at the Site Location, including financing, engineering, permitting, procurement, installation (including utilities), security, operation and maintenance, all transportation, labor, and materials, and any temporary or interim facilities required to maintain essential existing functions in operation throughout the operational period at the Site Location.

5.1.1.3 The PV System shall be designed consistent with the existing building roof structural capacities and warranty, and shall not require structural modifications (unless approved in a prior written consent by LAWA, to be performed at Operator's sole cost and expense). Any canopy or carport PV solar system on the parking lot areas shall be designed to ensure it meets minimum height requirements for vehicles and buses, which such height requirements shall be at minimum 15 feet from ground surface to the bottom of the canopy or carport.

5.1.1.4 Operator, at its sole cost and expense, shall undertake and complete all necessary design plans for the PV System at the Site Location and secure all necessary approvals for design of the PV System, in compliance with Section 5.3 herein. It is the responsibility of Operator to research the Site Location prior to design to confirm design and permitting requirements. LAWA maintains the right to request copies of design documents from Operator and add reasonable requirements related to compatibility of the PV System with existing power infrastructure and other Site Location-specific conditions.

5.1.1.5 Operator shall prepare all PV System plans, specifications, and estimates using engineers appropriately licensed in the State of California for the type of work to be performed.

5.1.1.6 Operator's submitted plans, specifications, and estimates shall comply with all applicable federal, state and local codes, rules and regulations.

5.1.2. Operator shall complete the Tenant Improvement Approval Process ("TIAP") for the PV System and obtain the necessary environmental clearance as specified in Article 1, Section 5.2.3.

5.1.2.1 Operator shall not start construction unless and until completion of the TIAP for the PV System.

5.1.2.2 LAWA maintains the right to approve all design documents and add reasonable requirements on compatibility with existing power infrastructure and other newly

added infrastructure, and requirements related to Site Location-specific conditions.

5.1.2.3 Operator shall prepare and file Interconnection applications for the PV System and diligently pursue and obtain an Interconnection Agreement with LADWP at the Site Location. LAWA will be the signatory on applications, permits, and utility agreements only where necessary and subject to the determination and discretion of LAWA.

5.1.2.4 Operator shall provide weekly status reports throughout the design phase, as well as any additional briefing requested by LAWA.

5.1.2.5 Operator shall submit final as-built engineering plans (in both AutoCAD and PDF formats), specifications (in PDF format), and estimates (in PDF format), including construction cost and as-built value for the PV System to LAWA no later than ninety (90) days after the Commercial Operation Date.

5.2 Construction and Installation. Operator shall construct and install the PV System in accordance with this Agreement.

5.2.1. Requirements.

5.2.1.1 Operator shall supply all equipment, materials, and labor necessary to: (1) install the PV System and (2) integrate the PV System at the point of interconnection.

5.2.1.2 Operator must ensure that throughout the project, LAWA controlled assets (i.e. roofing, etc.) will be protected. Operator is responsible for any damage to such assets caused by the acts, omissions, or negligence of Operator or its agents, employees, contractors, subcontractors, and/or invitees and sustained during the installation process and throughout the contract period. Operator will engage a California Licensed Structural Engineer to ensure that live and dead loads added by the PV System will not exceed the permissible loads for the respective building. Operator shall supply equipment weights and sizes to LAWA.

5.2.1.3 Operator will maintain a safe environment consistent with industry standards during the construction of the project. Operator will be responsible for its contractors, subcontractors and their employee's safety.

5.2.1.4 Operator will be responsible to mitigate any landscape, hardscape or building damage caused by Operator or its agents, employees, contractors, subcontractors, and/or invitees as part of the construction.

5.2.2. Status Reports. Operator shall provide weekly status reports during construction and installation and through commissioning of the PV System. Operator shall

provide any additional briefing reasonably requested by LAWA.

5.2.2.1 Pre-Construction Meeting. Prior to the commencement of construction of the PV System, Operator shall contact LAWA to schedule preconstruction orientation meetings with Operator and with the general contractor to discuss the schedule of performance and proposed installation activities.

5.2.3. Environmental Regulations Compliance During Construction.

5.2.3.1 Compliance with CEQA. Compliance with CEQA, Pub. Res. Code, § 21000 *et seq.*, is a condition precedent to LAWA's obligations with respect to the construction and installation of the PV System under this Agreement. Operator shall not have any right to install the PV System until LAWA has fully complied with CEQA as it relates to the PV System, issued a statement to Operator attesting to the fact that LAWA has fully complied with CEQA as it relates to the PV System included in the Agreement ("CEQA Certification"), and issued a notice to proceed ("City NTP") to Operator.

5.2.3.2 If LAWA, in its reasonable discretion, determines that a negative declaration (ND), mitigated negative declaration ("MND") or environmental impact report ("EIR") is required to comply with CEQA, then LAWA shall promptly provide Operator with a written statement detailing the reasons that LAWA understands that an ND, MND or EIR is required to comply with CEQA and the estimated cost to comply with CEQA for the PV System. Unless Operator issues LAWA a written statement signed by an authorized representative of Operator agreeing to pay for all of the estimated costs to comply with CEQA within thirty (30) days of receipt of LAWA's written statement, then the Agreement shall terminate, and neither Operator nor LAWA shall have any liability to the other (other than any such liabilities that have accrued prior to such termination). If the LAWA proceeds to complete such environmental assessments, then BOAC (Board of Airport Commissioners) and perhaps City Council consideration and action (including the potential for selection of the "no project" alternative) would be required to adopt the ND, MND, or certify the EIR as required by law prior to commitment to the PV System.

5.3. Governmental Approvals. Operator understands and agrees that the ability of Operator to use the Site Location for the PV System is expressly contingent upon Operator, at its sole cost and expense, obtaining all certificates, permits, or other approvals (collectively the "Governmental Approvals") that may be required by any local, state or federal agencies, including but not limited to the Board of Airport Commissioners, City of Los Angeles Planning Department, City of Los Angeles Department of Building & Safety, and LADWP, California Public Utilities Commission, California Energy Commission, Federal Energy Regulatory Commission, and any local zoning authority (collectively referred to as "Governmental Authority"). Operator shall diligently pursue all applications necessary to obtain Governmental Approvals from the requisite Governmental Authorities.

5.3.1. Cooperation. LAWA will (i) cooperate with Operator's effort to obtain and maintain the Governmental Approvals and perform the development and construction of the PV System and (ii) take no action which would likely have a material adverse effect upon Operator's ability to obtain and maintain Governmental Approvals. In connection with such cooperation, LAWA shall not be required at its expense to engage, pay or retain any third parties or to incur any out of pocket expenses in connection with any Governmental Approvals or the development and construction, and shall be reimbursed by Operator for any monies reasonably expended in connection therewith; provided that LAWA give Operator advance notice of such out-of-pocket expenditures.

5.4. Milestones.

5.4.1. Generally. Operator shall meet all milestones as set forth in the master schedule detailed in Exhibit F ("Milestones"). Both LAWA and Operator agree that time is of the essence in connection with the completion of the PV System, and that Milestones for the development, financing, construction and Commissioning of the PV System must be achieved in a timely fashion.

5.5 PV System Inspection. Operator shall notify LAWA in writing of the contemplated Commercial Operation Date and Commissioning (as defined below) of the PV System. At discretion of LAWA, Operator will schedule and arrange for LAWA to conduct an inspection of the PV System. The inspection shall be scheduled for a date, mutually agreeable to Operator and LAWA, which is within ten (10) business days of Operator's notification of the contemplated Commercial Operation Date of the PV System. Based on the inspection, LAWA may, within ten (10) business days of the inspection, prepare and provide to Operator a punch list of any observed defects or deficiencies in the construction work or discrepancies between installed equipment and workmanship and the requirements of this Agreement. Operator shall be responsible for completion, correction, or otherwise addressing issues identified by LAWA, and shall provide a written response to document actions taken in response to the punch list items. If requested by LAWA, Operator shall schedule and arrange a follow-up inspection for LAWA after all punch list items are resolved. All punch list items shall be resolved prior to the Commercial Operation Date of the PV System except those items specifically excepted by mutual agreement between LAWA and Operator.

5.6 Commissioning. Operator shall comply with all applicable requirements for Commissioning of the PV System. No later than fourteen (14) days prior to Commissioning, Operator shall notify LAWA of the date on which it intends to perform Commissioning. Within seven (7) days of the successful Commissioning, Operator shall provide to LAWA written notification of the Commercial Operation Date for the PV System. For the purposes of this Agreement, "Commissioning" shall mean the inspection and testing of each component in the PV System to assure that they have been completely, properly, and safely installed before the PV System is turned on and that they are operating properly and within expected parameters after the PV System is turned on. The as-built condition of the PV System shall be documented during



Commissioning. The PV System's performance will be benchmarked during Commissioning so it can be compared with future performance.

5.7 Mechanics Liens. Operator shall promptly pay for Operator's work contemplated hereunder in full when due and shall not permit any lien to attach to the Site Location or other property in which Operator has been granted the right to conduct the Permitted Uses. Operator will promptly discharge any such lien. LAWA shall have the right to post notices of non-responsibility.

## **Section 6. Operation and Maintenance (O&M).**

6.1. Operator's Operation Obligations. Operator shall operate the PV System in accordance with this Agreement and in accordance with all city, state and federal rules and regulations.

6.2. Monitoring System. Operator shall install, own and maintain, at its sole cost and expense, a monitoring system and services necessary to monitor, diagnose and track energy output during the Term of this Agreement and allow for remote reading of the PV System's performance and environmental benefits in real time through a secure website. Operator shall, at no cost to LAWA, provide LAWA complete performance data during the Term of this Agreement. LAWA shall, at its cost and expense, have the option to incorporate the PV System's data feeds into LAWA websites that will showcase the alternative energy systems within LAWA. The data must be accessible for reporting purposes.

6.3. Maintenance Obligations. Operator shall maintain or cause to be maintained the PV System consistent with the terms and conditions set forth in this Agreement. Operator shall maintain, at its sole cost and expense, the PV System, and any and all related equipment. The PV System shall be maintained in good condition and state of repair in conformance with this Agreement, all applicable laws and commonly accepted industry standards. Following the Commercial Operation Date of the PV System, LAWA shall maintain or cause to be maintained, at its sole cost and expense, in good condition and repair, the buildings located at the Site Location for the PV System, including, without limitation, the structural elements, foundations, exterior walls, and roof (other than as expressly provided otherwise in this Agreement) of such buildings. Prior to the Commercial Operation Date of the PV System, LAWA shall not be obligated to repair or replace any structural or non-structural element of such buildings as a condition for Operator to enter into this Agreement or construct the PV System on any such buildings, except as otherwise agreed to in writing by LAWA. In the event of any casualty, not caused by or due to the negligence of Operator, its members, Affiliates, agents, subcontractors, invitees, vendors, and independent contractors, with respect to a Site Location that impacts the construction, development or operation of the PV System, Operator shall have the right to terminate the Agreement in accordance with Section 4.6.1 (i.e., in connection with roofing repairs and/or replacement).

6.4. Emergency Repairs. Operator shall notify LAWA within twenty-four (24) hours of actual knowledge of the occurrence of an emergency related to the PV System. In the event of such emergency affecting the Site Location, Operator shall make the repairs as required herein as quickly as possible without regard to the month of the year, but not later than five (5) business days' after notice thereof, subject to Force Majeure and to the extent such repairs can be practicably made in such period. For the purposes of this Agreement, "Force Majeure" shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, wildland fire or firestorm, storm or flood, or any order, regulation, or restriction imposed by governmental, military, or lawfully established civilian authorities (i) which prevents Operator or LAWA (as applicable) from performing any of its obligations under this Agreement; (ii) which could not reasonably be anticipated as of the date of this Agreement; (iii) which is not within the reasonable control of, or the result of negligence, or failure to maintain a PV System, willful misconduct, breach of contract, intentional act, omission, or wrongdoing on the part of the Operator or LAWA (as applicable); and (iv) which despite the exercise of reasonable efforts Operator or LAWA (as applicable) is unable to overcome or avoid or cause to be avoided.

6.5 O&M Costs. Operator shall be responsible for all operation and management costs.

6.6 Reporting. Operator shall submit Monthly Energy Production and Operational Status Reports no later than 30 days after the end of each calendar month throughout the term of the contract. The Monthly Energy Production and Operational Status Report shall include the following information:

- i. Time period covered by the report.
- ii. Operational status of project components (modules, inverters, transformers).
- iii. Description of any unusual operational events that occurred during the month.
- iv. Description of any unusual weather events that occurred during the month if they impact production.
- v. Description of improvements, expansion or repair to the system during the month.
- vi. List of needed and/or planned improvements, expansions or repairs
- vii. Energy production for the month in kWh, plane-of-array solar irradiance for the month in kWh/m<sup>2</sup>/day, and cumulative energy production to-date in kWh.
- viii. Description of any ownership, management, energy sales, or REC changes during the month.
- ix. Name and contact information for the individual responsible for preparing and submitting the report.
- x. Copies of any engineering reports or independent evaluations of any project completed during the month.
- xi. Maintain reasonable remote site security, including upkeep of proposed video or other measures. Interface with insurance company in event of trespassing, vandalism, natural act, or other cause for claim.

LAWA also may, at its discretion and with reasonable notice to Operator, require Operator within ten (10) days after the end of each calendar month, to report to LAWA certain operating statistical and financial data applicable to LAWA airports covering the previous calendar month in such form and content as shall reasonably be specified by the Chief Executive Officer.

## **Section 7. Compensation.**

7.1. Commencing on the PV System Commencement Date for the PV System at the Site Location (the "Payment Commencement Date"), Operator shall pay to LAWA a monthly payment (a "Monthly Payment") which shall be the greater of: 1) a "Site Location Fee" per month (as provided in Exhibit B), to be adjusted periodically as provided herein, and, 2) the Operating Payment, calculated as the amount equal to the product of (x) the megawatt hours (kW-Hr) of energy purchased by LADWP pursuant to the SOPPA during such calendar month, and (y) the amount of dollars per kW- Hr for the Site Location, as provided in Table A below and attached as Exhibit B, for each such kW-Hr so purchased (the product of (x) and (y) above for any month being the "Operating Payment" for such month), provided that for the first calendar year, or portion thereof, of operations following the Payment Commencement Date, Operator shall pay the Operating Payment for each calendar month within ten (10) days following Operator's receipt from LADWP of the payment under the SOPPA for energy purchased by LADWP during such month. The Site Location Fee shall be increased by two percent (2%) on the 5 year, 10 year, and 15 year, and if applicable 20 year anniversaries of the Payment Commencement Date, in accordance with City Charter 607.b requirements. In addition to the Monthly Payment, Operator shall also pay to LAWA an Interconnection Location Fee for the use of land for Interconnection for the Site Location, as indicated in Exhibit B.

Within ninety (90) days following the end of each calendar year hereunder, LAWA shall give to Operator a statement (the "Statement") which shall indicate the total annual amount due under the Site Location Fee formula and the total annual amount due under the Operating Payment, as provided above, and the annual amount paid by Operator relating thereto for the prior calendar year. If the amount paid by Operator is less than the amount due (the greater of the annual Site Location Fee due and the annual Operating Payment due, or portion thereof), Operator agrees to pay such deficiency to LAWA within thirty (30) days after receipt of the Statement. If the amount paid by Operator is more than the amount due (the greater of the annual Site Location Fee due and the annual Operating Payment due, or portion thereof), LAWA agrees to return to Operator such overpayment in the form of a rent credit (except to the extent such overpayment exceeds the balance of rent payable hereunder, in which case LAWA shall pay such excess amount to Operator within thirty (30) days following the expiration or termination of this Agreement).

If applicable, the amount of the Site Location Fee payable during any partial month during the Term shall be one-twelfth (1/12) of the Site Location Fee multiplied by the ratio of the number of days active divided by the total number of days in partial month. The amount of the Operating Payment payable during any partial month during the Term, if applicable, shall be based on the

amount of kW-Hrs generated and purchased by LADWP during such partial month. If at the expiration of this Agreement, Operator has not paid LAWA its Operating Payment, if applicable, for any period occurring prior to or at the expiration of this Agreement because the corresponding payment from LADWP to Operator for such period has not been made, Operator's obligation to make such Operating Payments shall survive the expiration of this Agreement.

**7.1.1 Guaranteed Rate.** If Operator is to pay LAWA based on the Operating Payment, as defined in Section 7.1, LAWA shall be entitled to aggregate payments from Operator at not less than the rate indicated in Table A, below ("Guaranteed Rate"), as provided. If for any Year, the aggregate monthly Operating Payments are calculated at less than the Guaranteed Rate, then within thirty (30) days following receipt by Operator from LADWP of the last payment for such Year, Operator shall pay to LAWA the deficiency, if any, in the aggregate monthly Operating Payments for such Year. The first "Year" shall commence on the PV System Commercial Operation Date and end on the last day of the calendar month in which the first anniversary of the PV System Commercial Operation Date occurs, unless the PV System Commercial Operation Date occurs on the first day of a calendar month, in which case the first Year shall end on the day preceding the first anniversary of the PV System Commercial Operation Date. Each subsequent Year shall be the twelve (12)-month period commencing on the first day following the end of the preceding Year, except the final Year shall end on the expiration date of this Agreement.

TABLE A – Guaranteed Rate			
Site No.	Site Location/Address	Guaranteed Rate (\$/kWh)	Estimated Annual Revenue to LAWA
6	7610 Woodley Ave	See Exh. B	See Exh. B

**7.1.2. Additional Investment Tax Credit.**

For purposes of this Agreement, Operator has assumed it would receive an Investment Tax Credit ("ITC") of thirty percent (30%). In the event that Operator does not attain or receive a 30% ITC, and Operator is to pay LAWA based on the Operating Payment, Operator shall still pay and LAWA shall still receive Monthly Payments based on the Guaranteed Rate as described in Section 7.1.1 and Table A. In the event the PV System qualifies for any additional ITC adders and the ITC attained or received by Operator is increased by an amount equal to or greater than ten percent (10%) above the initial thirty percent (30%) ITC due to additional qualifiers, the Guaranteed Rate payable by the Operator to LAWA shall be increased based on the schedule provided in Exhibit B. LAWA's Guaranteed Rate for the Site Location shall be increased, based on the rates for the Site Location provided in Exhibit B and Table B below, upon Operator's receipt of a 40% ITC, and again upon Operator's receipt of a 50% ITC, if applicable. Operator shall provide to LAWA documentation indicating the final ITC attained by the PV System and received by the Operator.

TABLE B – Guaranteed Rate for Additional ITC			
Site No.	Site Location/Address	Guaranteed Rate at 40% ITC (\$/kWh)	Guaranteed Rate at 50% ITC (\$/kWh)
6	7610 Woodley Ave	See Exh. B	See Exh. B

7.1.3. Delivery of Monthly Payments. The Monthly Payment required in Section 7.1 shall be paid by Operator to LAWA as described in Section 7.1. In the event the Payment Commencement Date falls on any date other than the first day of the calendar month, the applicable payment for that month shall be calculated pro rata according to the number of days during which the Site Location, or any part of same, was used by Operator during said month. All payments shall include the contract number, which is stamped on the first page of this Agreement, on each payment check and the remittance advice attached to the invoice, if any, delivered to Operator by LAWA. Upon written approval by the Chief Executive Officer, Operator may be approved to make electronic payments to LAWA.

7.1.4. Unless electronic payments are to be made as provided in Section 7.1.3, all payments shall be mailed to the following address:

City of Los Angeles  
Los Angeles World Airports  
P.O. Box 54078  
Los Angeles, CA 90054-0078

7.1.5. LAWA may, from time to time, designate another address to which Monthly Payments shall be made and will provide at least thirty (30) days advance written notice of such address change. Invoices may be sent by LAWA to Operator as a customer courtesy, and receipt of such invoice shall not be a condition prior to its Monthly Payment.

7.1.6. Operator waives the provisions of California Civil Code Section 1950.7 and all other provisions of law, now or hereafter in effect, that provide that LAWA may claim from the security deposit only those sums reasonably necessary to remedy defaults in the payment of rent, to repair damage caused by Operator, or to clean the Premises.

Any use of the term “rent” in this Agreement shall mean any and all amounts due and payable by Operator to LAWA pursuant to the terms of this Agreement.

#### 7.1.7. Liquidated Damages for Delinquent Payment.

7.1.7.1. Operator's payment of the Monthly Payment and any other charges due hereunder shall be delinquent if not received by LAWA within ten (10) days following the due date. Without waiving any rights available under this Operating Agreement or by law, in the event of delinquent payments, Operator recognizes that LAWA will incur certain expenses, the amount of which is difficult to ascertain. Therefore, in addition to payment(s) owing, Operator agrees to pay the liquidated damages set forth below to compensate LAWA for all expenses and/or damages and loss resulting from said delinquent payments by Operator.

7.1.7.2. The liquidated damages for delinquent payments shall be assessed each month at a rate of 1 percent interest (i.e., equivalent to twelve percent (12%) per annum compounded monthly) on the Average Daily Balance (as hereinafter defined) of the unpaid amount. "Average Daily Balance" shall mean the sum of Operator's unpaid balance on each day of the monthly billing cycle divided by the number of days in the monthly billing cycle. LAWA may draw such delinquent payments from the FPG, as defined below, required pursuant to Article 2, Section 28 herein. FPG draw shall apply first to unpaid liquidated damages, then to remaining delinquent balances. Delinquent balance remaining after FPG draw shall continue to be assessed liquidated damages pursuant to this Section 7.1.7.2.

#### 7.2 Temporary Removal Adjustment.

7.2.1 Rooftop PV System Temporary Removal. In accordance with, and subject to the terms of, Article 1, Section 4.2.1.1, for any part of the PV System that is mounted on the rooftop of a LAWA building, LAWA shall be entitled to have such part of the PV System removed for the purpose of roof replacement, major roof repair, or other temporary, reasonable activity related to the roof or PV System. Compensation to Operator for such removal will be payable solely in the form of a rent credit (except to the extent such payment exceeds the balance of rent payable hereunder, in which case LAWA shall pay such excess amount to Operator within thirty (30) days following the expiration or termination of this Agreement), and calculated as described in Section 7.2.3 below. In addition, the Monthly Payment shall be proportionally reduced based on the reduction in size of the PV System (in the case of the Operating Payment) and/or Site Location (in the case of the Site Location Fee) due to such temporary removal, during the period of such temporary removal. LAWA will notify Operator in writing of the need to temporarily remove the PV System in whole or in part with no less than sixty (60) days prior written notice including specification of the required date (which shall be no less than sixty (60) days from such notice) the PV System removal must be completed. Operator will complete the removal on or before the date specified in the notice. Removal will include all Operator equipment (PV modules, inverters, and panels as well as racking system and wiring and conduit, and associated apparatus) that would need to be removed in order to effect a roof repair or replacement. Operator is responsible for removal and replacement of the PV System. LAWA, at its sole discretion, may provide a covered and secure location where the removed PV System and Operator equipment may be stored during removal. If LAWA does not provide a location as described in the preceding



sentence, Operator shall be responsible to find such secured location to store the removed PV System and Operator equipment. Operator shall obtain LAWA's approval as to the location and cost of the proposed storage (not to be unreasonably withheld, conditioned or delayed) and, if approved, LAWA shall reimburse Operator's reasonable expenses with the temporary storage of the removed PV System and Operator equipment at the approved location. Should Operator not complete removal as scheduled (except in the event that the actions or omissions of LAWA or its agents are the cause of such failure to timely complete removal), LAWA shall be entitled to waive compensation for lost electrical production for the number of days that the removal is delayed beyond LAWA's specified date of removal completion.

**7.2.2 Other PV System Temporary Removal.** In accordance with Article 1, Section 4.2.1.1, for all PV System installations (ground or carport) other than those specified in Section 7.2.1, LAWA is entitled to a temporary removal for the purpose of major construction or required access to utilities and/or pipelines provided, as applicable, (i) the Monthly Payment Fee shall be proportionally reduced based on the reduction in size of the PV System (in the case of the Operating Payment) and/or Site Location (in the case of the Site Location Fee) due to such temporary removal, during the period of such temporary removal and (ii) LAWA shall pay the compensation as described in Article 1, Section 7.2.3 below. LAWA will notify Operator in writing of the need to temporarily remove the PV System in whole or in part with no less than sixty (60) days prior written notice including specification of the required date the PV System removal be completed. Removal will include all Operator equipment including but not limited to PV modules, panels, racking, wiring conduit, and associated apparatus, that would need to be removed in order to access utilities, pipelines, and/or complete any major construction required. Should Operator not complete removal as scheduled (except in the event that the gross negligence or willful misconduct of LAWA or its agents are the cause of such failure to timely complete removal), LAWA shall be entitled to waive compensation for lost electrical production for the number of days that Operator delays removal beyond LAWA's specified date of removal completion.

**7.2.3 Temporary Removal Adjustment Calculation.** Compensation from LAWA to Operator for the temporary removal of the PV System will be payable and calculated as follows:

**7.2.3.1** For either temporary removal situation, the time and date when the PV System stops and resumes delivering power to LADWP for compensation shall be documented and agreed upon by both Operator and LAWA in writing. Operator shall provide LAWA written notice of PV System stoppage and resumption, as described in the preceding sentence, on or before the dates of the respective action. Compensation for temporary removal of PV modules from a PV System will be calculated using electrical production data/revenue from the PV System operating nearest in distance ("PV Comparison Site") as installed by the Operator under the RFP. Nearest distance will be calculated based upon the shortest direct distance without consideration for roads, topography, water, or other real property improvements. Beginning on the day of disconnection of the complete or partial removal of the PV System, Operator will keep records of the PV Comparison Site's energy production for each day the PV System has been removed by recording the total power produced each day as well as the revenue the PV Comparison Site generates based

upon that individual day's LADWP electricity purchase rates.

**7.2.3.2 Revenue in Dollars per PV Panel per Day Calculation.** Operator will determine the total number of days including the number of PV modules removed within each calendar month. The amount of compensation from LAWA to Operator shall be determined by the following formula:

$$\begin{array}{c} \# \text{ PV MODULES} \\ \text{REMOVED} \end{array} \times \begin{array}{c} \# \text{ DAYS} \\ \text{REMOVED} \end{array} \times \left( \frac{\begin{array}{c} \text{TOTAL PRODUCTION REVENUE} \\ \text{IN \$ OF PV COMPARISON SITE} \\ \text{MODULES} \end{array}}{\begin{array}{c} \# \text{ OF PV MODULES IN} \\ \text{COMPARISON SITE} \end{array}} \right) = \begin{array}{c} \text{TOTAL MONTHLY} \\ \text{REIMBURSEMENT} \\ \text{AMOUNT} \end{array}$$

In the instance that the specification of PV modules at the PV Comparison Site are different from the removed PV System and there is not a PV module of the same original as installed efficiency specification to compare with, Operator will make adjustments to production revenue calculation based upon efficiency rating of each different PV module type as follows:

$$\frac{\text{PV MODULE REMOVED EFFICIENCY}}{\text{PV COMPARISON SITE MODULE EFFICIENCY}} = \text{ADJUSTMENT FACTOR}$$

$$\begin{array}{c} \# \text{ PV} \\ \text{MODULES} \\ \text{REMOVED} \end{array} \times \begin{array}{c} \# \text{ DAYS} \\ \text{REMOVED} \end{array} \times \left( \frac{\begin{array}{c} \text{TOTAL PRODUCTION REVENUE} \\ \text{IN \$ OF PV COMPARISON SITE} \\ \text{MODULES} \end{array} \times \begin{array}{c} \text{ADJUSTMENT} \\ \text{FACTOR} \end{array}}{\begin{array}{c} \# \text{ OF PV MODULES IN COMPARISON SITE} \end{array}} \right) = \begin{array}{c} \text{TOTAL MONTHLY} \\ \text{REIMBURSEMENT} \\ \text{AMOUNT} \end{array}$$

In the instance that no PV Comparison Site is available, the parties shall use the average of the electrical production/revenue data from the PV System from the equivalent month(s) of all prior years or the electrical production/revenue data from the equivalent month of the immediately prior year (if only one year of the Term has passed), as applicable, determine an appropriate calculation in accordance with the contemplated compensation provisions provided herein.

**7.2.3.3 Submission of Request for Compensation.** As soon as data from the comparison site is available, Operator shall provide written notice to LAWA requesting compensation based on the formula provided above and including the data supporting the compensation amount. LAWA shall review the request for compensation notice, and if in agreement with Operator's request shall thereafter pay to Operator such amounts specified therein within forty-five (45) days of receipt of such form. LAWA reserves the right to audit Operator's revenue calculations as described in Article 1, Section 7 to assure accuracy of Operator's

calculation of reimbursement due.

7.2.4 Temporary Removal Adjustment Limitation. In no event during any temporary removal period will the compensation (in the form of a rent credit (except to the extent such compensation exceeds the balance of rent payable hereunder, in which case LAWA shall pay such excess amount to Operator within thirty (30) days following the expiration or termination of this Agreement) to Operator from the removal of all or part of the PV System exceed the Agreement compensation to be paid to LAWA attributable to the PV System over the previous twelve (12) month period unless temporary removal exceeds twelve (12) months (in which case no such cap shall apply). In the event a temporary removal exceeds twelve (12) months, then Operator may, at its option, elect to treat such temporary removal as a permanent removal and the provisions of Article 1, Section 4.2.1 and Article 1, Section 7.3 shall apply (including payment of the compensation specified therein).

7.3. Permanent Removal of the PV System. Compensation from LAWA to Operator for the permanent removal of the PV System as set forth in Article 1, Section 4.2.1 will be based on the amount payable and calculated in accordance with the following provisions (the "Fair Market Value"). LAWA shall pay to Operator the compensation required in this Section 7.3 within sixty (60) days following the determination of such amount and approval of the Board, in each case in accordance with this Section 7.3. Upon LAWA's payment in full to Operator of such compensation, this Agreement shall terminate automatically.

7.3.1. LAWA and Operator will each hire an appraiser at their own expense who is experienced in the appraisal of machinery and equipment, with experience appraising PV solar power systems. The appraiser will value the PV System based upon its remaining expected cash flows from the expected shut down date to the end of the Term, which shall be the amount of compensation payable to Operator in connection with a permanent removal of the PV System (subject to the processes specified below for determining such amount). The following methodology will be used:

(i) Discounted Cash Flow Analysis taking into account the trends in rates paid by LADWP and any expected decreases in the efficiency of the PV System as demonstrated by previous years' electricity production declines, if any. The appraiser will consider the Agreement revenue that would have been due LAWA should the PV System never been removed as an expense to the Operator against their net revenue. Discounting of the cash flow will be based upon verified documentation of the Operator's cost of capital at the time of disconnection. Cash flows will also consider any salvage values for the PV modules being removed at the time of disconnection based upon their estimated useful remaining life as an expense to Operator, as if the reversion of the PV System would not have occurred until the end of the term of the Agreement. Should the removal of the PV System occur within the first seven (7) years of the Commercial Operation Date, the appraiser will consider the loss of tax credits or any other tax benefits related to the PV System (collectively referred to as "Tax Incentives") the Operator incurred as a result of the early removal, and the value of such Tax Incentives shall be included as compensation payable

to Operator as part of the Fair Market Value. Operator shall provide all such documentation and information attesting said loss of Tax Incentives to the appraiser to validate the value of the Tax Incentive loss. Operator will provide to LAWA with copies of any data or documentation provided to the appraiser for the calculation of any Tax Incentive loss derivation. The appraiser must be able to verify such Tax Incentive loss for it to be considered as part of the Discounted Cash Flow Analysis.

(ii) The following process will be followed:

(a) Parties May Negotiate in Good Faith. LAWA and Operator may (but are not required to), in good faith, negotiate the PV System reimbursement valuation applicable to the PV System within thirty (30) days following the applicable request for permanent removal. Such good faith negotiations, initiated by either party, may include the involvement of a third party reviewer to review and make nonbinding recommendations regarding each party's rate adjustment proposal, discussions regarding external and internal factors that may be unique to the land and/or improvements so that the reviewer(s) can take them into consideration when making the recommendations in substantially the same manner as corroborated by the parties and applicable to the PV System. The parties shall have continuing opportunities to negotiate in good faith in an attempt to reach agreement on the PV System reimbursement valuation notwithstanding each party's obligation to perform its duties as described under Section (b) below. If the parties are able to reach an agreement on the PV System reimbursement valuation, then, as of such agreement, said PV System reimbursement valuation shall be presented to the Board as a recommendation for approval and shall be payable by LAWA to Operator within sixty (60) days of the Board's approval of such PV System reimbursement valuation (as provided in the opening paragraph of this Section 7.3). However, if the parties are unable to reach final agreement during negotiation within the thirty (30) days specified above, the parties may continue to negotiate in good faith to attempt to reach agreement until arbitration commences pursuant to Section (f) below.

(b) Appraisal Process. If the parties cannot reach agreement on the PV System reimbursement valuation for the solar system(s) within the time period specified above or the Board does not approve the agreed upon PV System reimbursement valuation as described in Section (a) above, then the parties shall determine the purchase price by the procedures described in Article 1, Sections 5.11.4 7.3.1(c) through (f) below (the "Fair Market Value").

(c) Step 1: Independent Appraisals. LAWA and Operator shall each select an independent, third party appraiser, who is a member of the Appraisal Institute American Society of Appraisers (or their successor organization) and meets the Minimum Qualifications as defined within this Operating Agreement (a "Qualified Appraiser"). Either Operator or LAWA shall, when notified in writing by the other to do so, deliver to the other party the name and address of such appraiser (each, selected Qualified Appraiser, a "Main Appraiser"). The parties shall mutually agree as to the time and place for a conference between the two parties and the Main Appraisers no later than fifteen (15) days from the date of the exchange of names and addresses of the Main Appraisers. At such meeting, both Operator and LAWA may have discussions with the



Main Appraisers as to any externalities that may affect the derivation of the PV System reimbursement valuation and determine the appraisal scope. The Appraisal Instructions to be given to the Main Appraisers are as defined within this Agreement. LAWA and Operator shall each pay the fees and expenses of their respective Main Appraisers. The narrative appraisals must be completed according to the Uniform Standards of Professional Appraisal Practice (USPAP) for the year in which the appraisal is completed. No later than sixty (60) calendar days after the date of the appraiser meeting, a copy of the completed, final USPAP-compliant appraisal report procured by both LAWA and Operator will be made available for review by the other party on the same day. If either LAWA or Operator will be unable to deliver its appraisal report by the appraisal report delivery deadline, the late party will inform the other party in writing of the reason for the delay and the expected date on which appraisal reports will be exchanged. If either party's appraisal report cannot be delivered within ninety (90) days of the appraiser meeting, the complying party shall then have its appraisal report presented to the Board for approval. Upon exchange of the two appraisal reports, in the event that the determination of the compensation value in the two appraisal reports differs by fifteen percent (15%) or less, the recommended PV System reimbursement valuation that is the average of the determinations in the two appraisal reports shall be the compensation payable to Operator under this Section 7.3 and presented to the Board as a recommendation for approval within ninety (90) days of determination. If the PV System reimbursement valuations in the two appraisal reports differ by more than fifteen percent (15%), the parties shall proceed to Section (e) below.

(d) Step 2: Arbitration Appraiser Selection. The Main Appraisers selected by each party shall be instructed to agree upon and select an Arbitration Appraiser (as defined below) no later than four (4) weeks after the appraiser meeting described in Section (c). The Arbitration Appraiser shall be a Qualified Appraiser that is not (and has not been in the year preceding the date of selection) under contract with LAWA for appraisal services. If the Arbitration Appraiser selected is not available to perform the task pursuant to the instructions set forth in Section (f) below or is unwilling to execute a LAWA contract for the performance of appraisal services, then LAWA and Operator shall inform the Main Appraisers and require them to repeat the selection process again until an available Arbitration Appraiser is selected. If the Main Appraisers cannot come to agreement on the selection of an Arbitration Appraiser within four (4) weeks from the date of the appraiser meeting, the CEO shall select an Arbitration Appraiser, provided the same shall be a Qualified Appraiser that is not (and has not been in the year preceding the date of selection) under contract with LAWA for appraisal services and otherwise meets the requirements of an Arbitration Appraiser as specified herein.

(e) Appraisal Review Period. The parties shall have two (2) weeks to review each other's appraisal reports from the date of the appraisal exchange as described in (c) above. The parties may continue to negotiate the PV System reimbursement valuation during this period. Within fifteen (15) calendar days of the appraisal report exchange in Section (c) above, the parties shall mutually fix a time and place for a negotiation meeting between the parties to be held no later than three (3) weeks from the date of the appraisal report exchange. At such meeting, the parties shall attempt to reach a final agreement on the PV System reimbursement valuation.

Either party may include its Main Appraiser in the meeting, if desired. If Operator and LAWA reach agreement on the PV System reimbursement valuation, such agreed amount shall be the compensation payable to Operator under this Section 7.3 and, as of such agreement, will be presented to the Board as a recommendation for approval. If Operator and LAWA are unable to reach agreement on the PV System reimbursement valuation by the date that is fourteen (14) calendar Days from the date of the negotiation meeting, then the parties shall proceed to Section (f) below.

(f) Step 3: Appraiser Arbitration. LAWA and Operator shall each pay one-half of the fees and expenses of the Arbitration Appraiser. The arbitration appraiser (the "Arbitration Appraiser") selected by the two Main Appraisers or the parties, as the case may be, in Section (d) shall receive copies of both Operator and LAWA's final appraisal reports that were procured in Section (c). The Arbitration Appraiser shall be allowed twenty-one (21) days to review both appraisal reports. After review of the two appraisal reports, the Arbitration Appraiser will determine which of the PV System reimbursement valuations from the two appraisal reports are the most reasonable, considering comparable data selection, market information and applicable valuation methodology. The Arbitration Appraiser will communicate its decision in writing to both Operator and LAWA twenty-one (21) days after engagement. The Arbitration Appraiser's determination shall be the compensation payable to Operator under this Section 7.3 and shall be presented to the Board as a recommendation for approval within ninety (90) days of determination.

(g) Appraisal Criteria. The following appraisal criteria shall apply to Sections (c) through (f) (the "Minimum Qualifications"):

(i) Appraiser Minimum Qualifications. The Main Appraiser must possess, at a minimum, an MAI or SRPA designation and must be licensed in the State of California. The Main Appraiser must perform all of the calculations and technical portions of the appraisal report as well as derive the final value conclusions within the appraisal report. The Main Appraiser must have knowledge of PV solar power systems.

(ii) Main Appraisers must be in good standing with the California Bureau of Real Estate Appraisers (CBREA) or its successor organization and have no more than one complaint filed against him or her for any reason and no complaints that have resulted in any disciplinary actions. The Main Appraisers must certify in the appraisal report that he or she has never received any disciplinary actions from the CBREA. The Main Appraisers must be able to provide documentation of the sources of comparable PV System fee rate and sales data to the reasonable satisfaction of LAWA and Operator.

(iii) Appraisal Instructions. The Main Appraiser shall consider the following in completing the appraisal report:



(A) City of Los Angeles Administrative requirements that are in force upon Operator within this Agreement at the date of value.

(B) City regulations that may affect value.

(C) Any public or private easements, such as utilities or rights of way or water rights.

(h) LAWA and Operator shall have the right to modify any conditions of the appraisal process upon mutual written agreement of the parties.

(i) In the event that a matter is required to be presented to the Board for approval as provided herein (a "Board Matter"), then such Board Matter shall be considered by the Board within ninety (90) days following the agreement of the parties as to the reimbursement valuation or following the date the Arbitration Appraiser makes a determination regarding the reimbursement valuation.

#### 7.4. Recordkeeping and Audit Rights.

7.4.1. Operator shall keep and maintain full, complete and accurate books of accounts and records of the services performed under this Agreement in accordance with generally accepted accounting principles consistently applied, which books and records shall be readily accessible to and open for inspection and copying at Operator's southern California offices (as provided in Section 33.12.1 [Notices], below) by LAWA, its auditors or other authorized representatives. Such books and records shall be maintained by Operator for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved.

7.4.2 During the term of this Agreement, LAWA may audit, review and copy any and all writings (as that term is defined in Section 250 of the California Evidence Code) of Operator and subcontractors arising from or related to this Agreement or performance of the scope of work contemplated hereby, whether such writings are (a) in final form or not, and (b) prepared by Operator, subcontractors or any individual or entity acting for or on behalf of Operator or a subcontractor. Operator shall be responsible for obtaining access to and providing writings of subcontractors. Operator shall provide LAWA at Operator's sole cost and expense a copy of all such writings within twenty-one (21) days of a written request by LAWA. LAWA's right shall also include inspection at reasonable times of the Operator's office or facilities which are engaged in the performance of the scope of work contemplated hereby.

## **Section 8. Termination.**

8.1. Termination by LAWA. Any of the following shall constitute a "Default Event" by Operator under this Agreement and LAWA shall thereafter have the remedies specified in Section 8.2 hereof:

8.1.1 Operator's failure to pay LAWA under Article 1, Section 7 of this Agreement if the failure continues for thirty (30) days after written notice of the failure from LAWA to Operator; provided that, in no event shall any failure of LADWP to pay LAWA be deemed a failure of Operator under this Section 8.1.1.

8.1.2 Operator's breach of any term, provision or covenant of this Agreement and if (A) such breach can be cured within thirty (30) days after LAWA's notice of such breach and Operator fails to so cure, or (B) Operator fails to commence and take reasonable steps to cure within such thirty (30) day period if a longer cure period is needed.

8.1.3 To the extent permitted by law:

8.1.3.1 A general assignment by Operator or any guarantor of the Agreement, or any rights granted to Operator hereunder, to, and for the benefit of the creditors, without written consent of LAWA;

8.1.3.2 The filing by or against Operator, or any guarantor, of any proceeding under an insolvency or bankruptcy law, unless (in the case of an involuntary proceeding) the proceeding is dismissed within sixty (60) days;

8.1.3.3 The appointment of a trustee or receiver to take possession of all or substantially all the assets of Operator or any guarantor, unless possession is unconditionally restored to Operator or that guarantor within thirty (30) days and the trusteeship or receivership is dissolved; and/or

8.1.3.4 Any execution or other judicially authorized seizure of all or substantially all the assets of Operator located on the premises, or of Operator's interest in this Agreement, unless that seizure is discharged within thirty (30) days; and

8.1.3.5 Termination of Operator's SOPPA with LADWP.

8.1.4. Cross Default. A material breach of the terms of any other lease, license, permit, or contract held by Operator with LAWA shall constitute a Default of the terms of this Agreement and shall give LAWA the right to terminate this Agreement for cause in accordance with the procedures set forth in this Section 8.1.

8.2 LAWA's Remedies on Operator's Default. Subject to Section 9.2.2, on the occurrence of Default Event, in addition to any other rights or remedies now or later available to LAW A at law or in equity, LAW A shall have the right to pursue any one or more of the following remedies. These remedies are not exclusive but are instead cumulative.

8.2.1. Terminate this Agreement and all rights of Operator under this Agreement, by giving Operator thirty (30) days written notice that this Agreement is terminated, in which case, LAW A may recover from Operator the aggregate sum of:

8.2.1.1. The worth at the time of award of any unpaid Monthly Payment, charges, fees or monies that had been earned at the time of termination;

8.2.1.2. The worth at the time of award of the amount by which (A) the unpaid Monthly Payment, fees, charges, or monies that would have been earned after termination until the time of award exceeds (B) the amount of monetary loss, if any, that Operator affirmatively proves could be reasonably avoided;

8.2.1.3. The worth at the time of award of the amount by which (A) the unpaid Monthly Payment, fees, charges, or monies for the balance of the term after the time of award exceeds (B) the amount of monetary loss, if any, that Operator affirmatively proves could be reasonably avoided;

8.2.1.4. Any other amount necessary to compensate LAW A for all the detriment caused by Operator's failure to perform Operator's obligations, including any such amounts ascertained or determined at any time after the Default Event; and

8.2.1.5. All other amounts in addition to or in lieu of those previously set out as may be permitted from time to time by applicable California law.

8.2.1.6. As used in Article 1, Sections 8.2.1.1. and 8.2.1.2., the "worth at the time of award" is computed by adding interest at the rate of ten percent (10%) per annum. As used in Article 1, Section 8.2.1.3, the "worth at the time of award" is computed by discounting that amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award plus one percent (1%).

8.2.2. Continue this Agreement, and from time to time, without terminating this Agreement, either

8.2.2.1. Recover all Monthly Payments and other amounts payable as they become due or,

8.2.2.2. Subject to Section 3.2, relet the Site Location or any part on behalf of Operator on terms and at the Monthly Payment that LAWA, in LAWA's discretion, may deem advisable, and apply the proceeds of reletting to the Monthly Payment and other amounts payable by Operator. To the extent that the Monthly Payment and other amounts payable by Operator under this Agreement exceed the amount of the proceeds from reletting, LAWA may recover the excess from Operator as and when due.

8.2.3. Upon the occurrence of a Default Event, but provided that the Financing Party (as defined below) is not then pursuing a cure of such Default Event in accordance with the terms of Article 1, Section 9.2.2 hereof, LAWA shall also have the right, with or without terminating this Agreement, to re-enter the Site Location and remove all property from the Site Location. LAWA may store the property removed from the Site Location at the expense and for the account of Operator.

8.2.4. None of the following remedial actions, alone or in combination, shall be construed as an election by LAWA to terminate this Agreement unless LAWA has in fact given Operator written notice that this Agreement is terminated or unless a court of competent jurisdiction decrees termination of this Agreement: (a) any act by LAWA to maintain or preserve the Site Location; (b) any efforts by LAWA to relet the Site Location; and/or (c) any re-entry, repossession, or reletting of the Site Location by LAWA pursuant to this Section. If LAWA takes any of the previous remedial actions without terminating this Agreement, LAWA may nevertheless at any later time terminate this Agreement by written notice to Operator, provided that no Financing Party is then pursuing a cure of such Default Event.

8.2.5. If LAWA relets the Site Location, LAWA shall apply the revenue from the reletting as follows: first, to the payment of any indebtedness other than Monthly Payment due from Operator to LAWA; second, to the payment of any cost of reletting; third, to the payment of the cost of any maintenance and repairs to the Site Location; and fourth, to the payment of Monthly Payment and other amounts due and unpaid under this Agreement. LAWA shall hold and apply the residue, if any, to payment of future amounts payable under this Agreement as the same may become due, and shall be entitled to retain the eventual balance with no liability to Operator. If the revenue from reletting during any month, after application pursuant to the previous provisions, is less than the sum of (i) LAWA's expenditures for the Site Location during that month and (ii) the amounts due from Operator during that month, Operator shall pay the deficiency to LAWA immediately upon demand.

8.2.6. After the occurrence of a Default Event, LAWA, in addition to or in lieu of exercising other remedies, may, but without any obligation to do so, cure the breach underlying the Default Event for the account and at the expense of Operator. However, LAWA must, by prior written notice to Operator (and any Financing Parties, if applicable) first allow Operator a reasonable opportunity to cure, except in cases of emergency; where LAWA may proceed without prior notice to Operator. Operator shall, upon demand, immediately reimburse LAWA for all costs, including costs of settlements, defense, court costs, and attorney fees, that LAWA may incur

in the course of any cure.

8.2.7. No security or guaranty for the performance of Operator's obligations that LAWA may now or later hold shall in any way constitute a bar or defense to any action initiated by LAWA or unlawful detainer or for the recovery of the Site Location, for enforcement of any obligation of Operator, or for the recovery of damages caused by a breach of this Agreement by Operator or by a Default Event, provided however that any recovery by LAWA under any such security or guaranty shall be applied to offset the damages incurred by LAWA and satisfy any amounts owed by Operator (i.e., LAWA shall not be entitled to double recovery).

8.2.8. Except where this is inconsistent with or contrary to any provisions of this Agreement, no right or remedy conferred upon or reserved to either party is intended to be exclusive of any other right or remedy, or any right or remedy given now or later existing at law or in equity or by statute. Except to the extent that either party may have otherwise agreed in writing, no waiver by a party of any violation or nonperformance by the other party of any obligations, agreements, or covenants under this Agreement shall be deemed to be a waiver of any subsequent violation or nonperformance of the same or any other covenant, agreement, or obligation, nor shall any forbearance by either party to exercise a remedy for any violation or nonperformance by the other party be deemed a waiver by that party of the rights or remedies with respect to that violation or nonperformance.

8.3 Termination by Operator. The following shall be considered a default of LAWA. Operator shall have the right to pursue remedies at law or in equity and all the rights and remedies and Operator may terminate the Agreement in accordance with the terms and conditions set forth in this Agreement:

8.3.1 LAWA's breach of any term, provision or covenant of this Agreement and if (A) such breach can be cured within thirty (30) days after Operator's notice of such breach and LAWA fails to so cure, or (B) LAWA fails to commence and pursue said cure within such thirty (30) day period if a longer cure period is needed.

8.4. Limitation of Liabilities.

8.4.1 Except as otherwise specifically and expressly provided in this Agreement, neither LAWA nor Operator shall be liable to the other party under this Agreement for any indirect, special or consequential damages, including loss of use, loss of revenues, loss of profit, interest charges, cost of capital or claims of its buyers or members to which service is made.

8.4.2 Under no circumstances shall LAWA be required to make a termination payment or any other payment to Operator if Operator is then in default beyond any applicable notice and cure periods (except for payments due under this Agreement for performance prior to termination).



8.5. Survival of Obligations. In addition to any other provisions stated to survive expiration or earlier termination of this Agreement, including Article 1, Section 4.4.6.1, Section 4.7, and Section 4.7.5.1 shall survive the expiration or earlier termination of this Agreement.

**Section 9. Assignments, Transfers, and Delegations; Financing.**

9.1. Assignments; Transfers. Operator shall not, in any manner, assign or transfer this Agreement, or any portion thereof or any interest herein ("Assignment"; for avoidance of doubt, a sublease or termination thereof shall not constitute an Assignment), without the prior written consent of the Board, nor sublet or sublease the whole or any part of the Site Location, nor license or permit the use of the same, in whole or in part, without the prior written consent of the CEO, except as permitted under the Los Angeles World Airports Leasing Policy, as may be modified or amended from time to time. Any attempts to transfer, assign, or sublease without the consent required by this Section shall be void and shall transfer no rights to the Site Location. Consent to one Assignment, subletting, or use, or occupation shall not be deemed to be a consent to any subsequent Assignment, subletting, occupation, or use. This Agreement shall not nor shall any interest therein, be assignable as to the interest of Operator by operation of law without the prior written consent of Board. For purposes of this Agreement, an Assignment shall include any change in the majority ownership of or the power to vote, directly or indirectly, the majority of outstanding capital stock, membership interest or other ownership interests of Operator; provided, moreover, for purposes of this Section 9.1, a serial or cumulative transfer of more than fifty percent (50%) of the ownership interests of Operator within any consecutive twelve (12) month period shall also constitute an Assignment for purposes of this Agreement; provided, however, that a serial or cumulative transfer of fifty percent (50%) or less of the ownership interests of Operator shall not constitute an Assignment for purposes of this Agreement. Notwithstanding the foregoing, LAWA hereby approves the Assignment and/or sublease by Operator to Flyaway FIT, LLC, a California limited liability company ("Flyaway FIT").

9.1.1 LAWA shall not unreasonably withhold its consent to the Assignment of this Agreement or the subletting of the Site Location or any portion thereon provided, however, that the use of said premises by any such assignee or sublessee must be consistent with the use authorized herein and the prospective subtenant and/or assignee must agree to execute LAWA's Consent to Sublease and/or Assignment Agreement. A request by Operator for consent to an Assignment (as required herein) shall be submitted to LAWA in writing at least ninety (90) days before LAWA's requested consent, along with a fully executed copy of the proposed assignment agreement, as well as a copy of all contracts or writings which set forth payments from assignee(s) to Operator and/or which describe the acts or services to be performed by or for the assignee(s) in connection with the use of the Site Location covered by this Agreement. A request by Operator for a Consent to Sublease (as required herein) shall be submitted to LAWA in writing at least thirty (30) days before LAWA's requested consent, along with a fully executed copy of the sub-Operating Agreement. Operator shall promptly advise LAWA of early termination of Assignments.



9.1.2 In the case of an Assignment, Operator, at LAWA's discretion, shall pay to LAWA a fee ("Assignment Fee") based on the following formulas:

9.1.2.1 If there are ten (10) years or more remaining on the Term of this Agreement when the Assignment occurs, Operator shall pay to LAWA an amount equal to twenty percent (20%) of the Net Transaction Value. For purposes of calculating the Assignment Fee, the "Net Transaction Value" shall be defined as the difference between the following: (1) the gross transaction value attributed to the Operating Agreement (including improvements thereon owned by Operator) and inuring to the benefit of Operator and/or its Affiliates (as defined below), such value as reasonably determined by LAWA and (2) the depreciated value of the Qualified Investments that Operator has made to the Site Location at the time of the Assignment.

9.1.2.2 If there are less than ten (10) years but more than five (5) years remaining on the term of this Agreement when the Assignment occurs, Operator shall pay to LAWA an amount equal to fifteen percent (15%) of the Net Transaction Value.

9.1.2.3 If there are five (5) years or less remaining on the term of the Agreement when the Assignment occurs, Operator shall pay to LAWA an amount equal to ten (10%) of the Net Transaction Value.

9.1.2.4 Notwithstanding the foregoing, no Assignment Fee shall be charged in the event of an assignment to Flyaway FIT (including, without limitation, the assignment contemplated by Section 9.1) or any Affiliate of Operator, or an assignment, sublease or transfer of the Agreement to a Financing Party or otherwise in connection with Operator's financing under this Agreement, whether or not Operator receives any compensation for any such assignment or transfer, provided however, in the case of a transfer to an Affiliate of Operator, LAWA shall receive a reasonable administrative fee for costs reasonably incurred in connection with the processing of the consent to assignment and reimbursement of its attorneys' fees in connection with the review, preparation and processing of the consent to the assignment of the Agreement to the Affiliate. For purposes of this Agreement, "Affiliate" shall mean (i) any entity not less than fifty percent (50%) of whose outstanding ownership interest shall, at the time, be owned directly or indirectly by Operator or (ii) any entity which, directly or indirectly, controls or is controlled by or is under common control with Operator. For this purpose, control shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such entity, whether through the ownership of voting securities or by contract or otherwise.

## 9.2 Financing.

9.2.1 Financing Parties. As used herein, (a) "Financing Party" or "Financing

Parties” shall mean any party (i) providing direct or indirect senior or subordinated construction, interim or long-term debt or equity financing or refinancing (including any Tax Equity Financing (as defined below) and tax credit sale financing) to Operator, to any permitted assignee of all or any portion of this Agreement, or to any Affiliates of Operator for or in connection with the development, construction, purchase, installation, ownership, or operation and maintenance of the PV System, whether that financing or refinancing takes the form of private debt, public debt or any other form (including debt financing or refinancing), including any equity investor directly or indirectly providing financing or refinancing for the PV System or purchasing equity ownership interests of Operator in connection with any such financing or refinancing (including, without limitation, as a participant in a Tax Equity Financing), and any trustee or agent acting on their behalf, (ii) providing direct or indirect interest rate protection agreements to hedge any of the foregoing obligations, and/or (iii) participating directly or indirectly in a lease financing, including any sale leaseback or leveraged leasing structure, with respect to the PV System, and of which Operator has provided LAWA with written notice; and (b) “Tax Equity Financing” shall mean with respect to Operator or its Affiliates or the PV System, any transaction or series of transactions resulting in a party (or successor in interest or assignee of such party) providing financing or refinancing for the PV System to Operator or its Affiliates and whose return is substantially derived from tax credits, and includes any leasing transaction (including a sale-leaseback, inverted lease or the like) that has the result of the foregoing.

9.2.2 Rights of Financing Parties. Notwithstanding anything in this Agreement to the contrary, Operator shall have the right to assign all or any portion of Operator’s interest in this Agreement, mortgage, encumber, pledge or hypothecate all or any portion of Operator’s interest in the PV System or this Agreement, or transfer title to the PV System and the other improvements constructed on the Site Location by Operator, in each case to or in favor of a Financing Party, with the prior written consent of the Chief Executive Officer, which consent shall not be unreasonably withheld, approved as to form by the City Attorney (“PV System Financing”). In such event, upon Operator’s written request to the Chief Executive Officer, LAWA shall execute an estoppel certificate in form and substance satisfactory to LAWA and the Financing Party. Any PV System Financing attempted without the prior written consent of the Chief Executive Officer shall be null and void and shall be a Default Event (as herein defined). In connection with Operator’s request for consent to any such PV System Financing, Operator shall submit for the Chief Executive Officer’s prior review and written approval any and all instruments and documents to be executed by, or binding upon, Operator in connection therewith (the “PV System Financing Documents”). In the event such PV System Financing is approved in writing by the Chief Executive Officer and the Agreement is so assigned, Operator’s interest in the PV System is so encumbered, or title to the improvements is so transferred, except as provided for herein, LAWA shall not be bound, nor shall the terms, conditions, and covenants of the Agreement nor the rights and remedies of LAWA hereunder be in any manner limited, restricted, modified, or affected by reason of the PV System Financing Documents. The following provisions shall apply with respect to each of the approved Financing Parties: (a) provided that all monetary Default events provided in this Agreement have been cured any approved Financing Parties shall be permitted to foreclose on their respective interests in this Agreement, the PV

System, Operator or its Affiliates (including any such foreclosure that results in a change in control), and to make sales or assignments of the PV System, Operator or its Affiliates after or in lieu of foreclosure, all with prior written notice to LAWA, (b) such Financing Party shall have the right, but not the obligation, to perform any act required to be performed by Operator under this Agreement, to prevent or cure a default by Operator, provided Financing Party provides written notice to LAWA, such act performed by such Financing Party shall be as effective to prevent or cure a default as if done by Operator, (c) each Financing Party shall have the same periods as are given Operator for remedying a Default Event or causing it to be remedied, plus, in each case, provided that the Financing Party shall pay all unpaid Monthly Payments owed under this Agreement and, to the extent susceptible of cure by the Financing Party, shall promptly commence and diligently pursue to completion any cure with respect to any other acts required to be performed by Operator under this Agreement, an additional period of thirty (30) days after the expiration thereof or after LAWA has served a notice or a copy of a notice of such Default Event upon the Financing Party, whichever is later, (d) LAWA shall be required to send each Financing Party a copy of any and all written notices of Default Events or notice to cure Default Events under the Agreement delivered to Operator related to this Agreement only if Operator has given LAWA written notice of such Financing Party pursuant to the terms of this Agreement, (e) within thirty (30) business days of the receipt of a written reasonable request from Operator or any Financing Party, LAWA shall execute or arrange for the delivery of documents reasonably requested by Operator or such Financing Party to confirm the status of this Agreement, provided Operator provides a form of such document with the request and such document is acceptable to the LAWA CEO and approved as to form by City Attorney, (f) LAWA agrees that no Financing Party shall be obligated to perform any obligation or be deemed to incur any liability or obligation provided in this Agreement on the part of Operator or shall have any obligation or liability to LAWA with respect to this Agreement except to the extent any Financing Party has expressly assumed the obligations of Operator hereunder and delivered written notice of same to LAWA; provided, that LAWA shall nevertheless be entitled to exercise all of its rights hereunder in the event that Operator or its Financing Parties fail to perform Operator's obligations under this Agreement within the cure periods specified in this Agreement, (g) LAWA will not exercise any right to terminate or suspend this Agreement unless it shall have given each Financing Party prior written notice of its intent to terminate or suspend this Agreement, and LAWA shall accept a cure performed by any Financing Party so long as the cure is accomplished within the applicable cure period provided above or otherwise agreed by LAWA and any Financing Party, and (h) LAWA agrees and acknowledges that the Financing Parties are third-party beneficiaries of the provisions of this Section 9.2.2.

9.2.3 An approved Financing Party may transfer the interest in the Agreement to a third-party successor ("Successor"), subject to the Board's prior written consent, which should not be unreasonably denied, conditioned, or delayed. This is on the condition that, (i) the Successor and/or its principal or management company demonstrates adequate financial capability to fulfill the remaining obligations under this Agreement as they become due, and (ii) the proposed Successor is not on a list of businesses or entities with whom the City is prohibited from conducting business or entering into a contract. Upon such a succession or assumption of the interest, the Successor shall comply with all terms, conditions, and covenants of this Agreement and continue

operations on the Site Location strictly for the purposes outlined in this Agreement, or for any purpose that the Chief Executive Officer may authorize in writing at that time. Furthermore, no succession by a Successor will relieve Operator from its responsibilities pursuant to this Agreement.

9.2.4 Once a Financing Party and the PV System Financing Documents are approved, two (2) copies of any and all PV System Financing Documents shall be filed with LAWA at least two (2) weeks prior to the effective date thereof, and Operator shall obtain Chief Executive Officer's prior written consent of any changes or amendments thereto. Upon and immediately after the recording of any approved PV System Financing Documents, Operator shall cause to be recorded in the Office of the County Recorder for the County of Los Angeles a request for a copy of any notice of Default Event and of any notice of sale, as provided in Section 2924b of the Civil Code of the State of California, duly executed and acknowledged by LAWA and specifying that said notice be mailed to LAWA at the address set forth in Section 33.12.

9.2.5 Consent by the Chief Executive Officer to one PV System Financing or one Financing Party shall not be a waiver of LAWA's rights under this Section as to any subsequent PV System Financing or assignment or other transfer by such Financing Party, and any such subsequent PV System Financing or successor Financing Party shall be subject to LAWA's review and approval in accordance with the terms and conditions of the Agreement. This prohibition against the transfer of any Financing Party's interest includes any transfer which would otherwise occur by operation of law.

## **ARTICLE 2: STANDARD TERMS AND PROVISIONS**

### **Section 10. Nondiscrimination and Equal Employment Practices/ Affirmative Action Program.**

#### **10.1. Federal Non-Discrimination Provisions.**

10.1.1. The Operator assures that it will comply with pertinent statutes, Executive Orders, and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This Section 10.1.1 obligates the Operator or its transferee for the period during which Federal assistance is extended to the airport program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases, this Section 10.1.1 obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property. This Section 10.1.1 binds Operator from the bid solicitation period through the completion of the Agreement. All sub-agreements awarded under or pursuant to this



Agreement shall contain this provision.

10.2. Municipal Non-Discrimination Provisions.

10.2.1. Non-Discrimination In Use Of Airport. There shall be no discrimination against or segregation of any person, or group of persons, on account of race, religion, national origin, ancestry, sex, sexual orientation, age, physical handicap, marital status, domestic partner status, or medical condition in the Agreement, transfer, use, occupancy, tenure, or enjoyment of the Airport or any operations or activities conducted on the Airport. Nor shall Operator or any person claiming under or through Operator establish or contract any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of Operators, sub-Operators, or vendees of the Airport. Any assignment or transfer, which may be permitted under this Agreement, shall also be subject to all non-discrimination clauses contained in Section 10.2.

10.2.2. Non-Discrimination In Employment. During the term of this Agreement, Operator agrees and obligates itself in the performance of this Agreement not to discriminate against any employee or applicant for employment because of the employee's or applicant's race, religion, national origin, ancestry, sex, sexual orientation, age, physical handicap, marital status, domestic partner status, or medical condition. Operator shall take affirmative action to insure that applicants for employment are treated, during the term of this Agreement, without regard to the aforementioned factors and shall comply with the affirmative action requirements of the Los Angeles Administrative Code, Sections 10.8, et seq., or any successor ordinances or law concerned with discrimination.

10.2.3. Equal Employment Practices. Throughout the term of this Agreement, Operator agrees to comply with Section 10.8.3 of the Los Angeles Administrative Code ("Equal Employment Practices"), including any future amendments thereto, which is incorporated herein by this reference. A copy of Section 10.8.3 has been attached to this Agreement for the convenience of the parties as Exhibit K. By way of specification but not limitation, pursuant to Sections 10.8.3.E and 10.8.3.F of the Los Angeles Administrative Code, the failure of Operator to comply with the Equal Employment Practices provisions of this Agreement may be deemed to be a material breach of this Agreement. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard have been given to Operator. Upon a finding duly made that Operator has failed to comply with the Equal Employment Practices provisions of this Agreement, this Agreement may be forthwith terminated, cancelled, or suspended.

10.2.4. Affirmative Action Program. Throughout the term of this Agreement, Operator agrees to comply with Section 10.8.4 of the Los Angeles Administrative Code ("Affirmative Action Program"), including any future amendments thereto, which is incorporated herein by this reference. A copy of Section 10.8.4 has been attached to this Agreement for the convenience of the parties as Exhibit L. By way of specification but not limitation, pursuant to

Sections 10.8.4.E and 10.8.4.F of the Los Angeles Administrative Code, the failure of Operator to comply with the Affirmative Action Program provisions of this Agreement may be deemed to be a material breach of this Agreement. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard have been given to Operator. Upon a finding duly made that Operator has failed to comply with the Affirmative Action Program provisions of this Agreement, this Agreement may be forthwith terminated, cancelled, or suspended.

10.3. All sub-agreements awarded under or pursuant to this Agreement shall contain similar provisions, and Operator shall require each of its sub-Operators to complete a certification and submit to Operator an Affirmative Action Plan acceptable to LAWA.

#### **Section 11. Insurance.**

11.1. Operator shall procure at its expense, and keep in effect at all times during the term of this Agreement, the types and amounts of insurance specified on Insurance, Exhibit M, attached hereto and incorporated by reference herein. The specified insurance shall also, either by provisions in the policies, by LAWA's own endorsement form or by other endorsement attached to such policies, include and insure LAWA, its Department of Airports, its Board and all of LAWA's officers, employees, and agents, their successors and assigns, as additional insureds, against the areas of risk described on Insurance, Exhibit M, hereof with respect to Operator's acts or omissions in its operations, use, and occupancy of the Airport or other related functions performed by or on behalf of Operator under this Agreement.

11.2. Each specified insurance policy (other than Workers' Compensation and Employers' Liability and fire and extended coverages) shall contain a Severability of Interest (Cross Liability) clause which states, "It is agreed that the insurance afforded by this policy shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company's liability," and a Contractual Endorsement which shall state, "Such insurance as is afforded by this policy shall also apply to liability assumed by the insured under this Agreement with the City of Los Angeles."

11.3. All such insurance shall be primary and noncontributing with any other insurance held by City's Department of Airports where liability arises out of or results from the acts or omissions of Operator, its agents, employees, officers, assigns, or any person or entity acting for or on behalf of Operator. Such policies may provide for reasonable deductibles and/or retentions acceptable to the CEO based upon the nature of Operator's operations and the type of insurance involved.

11.4. LAWA shall have no liability for any premiums charged for such coverage(s). The inclusion of LAWA, its Department of Airports, Board and all of City's officers, employees, and agents, their successors and assigns, as insureds is not intended to, and shall not, make them, or any of them, a partner or joint venturer with Operator in Operator's operations at Airport. In the



event Operator fails to furnish LAWA evidence of insurance and maintain the insurance as required, LAWA, upon ten (10) days prior written notice to comply, may (but shall not be required to) procure such insurance at the cost and expense of Operator, and Operator agrees to promptly reimburse LAWA for the cost thereof plus fifteen percent (15%) for administrative overhead. Payment shall be made within thirty (30) days of invoice date.

11.5. At least ten (10) days prior to the expiration date of the above policies, documentation showing that the insurance coverage has been renewed or extended shall be filed with LAWA. If such coverage is canceled or reduced, Operator shall, within fifteen (15) days of such cancellation of coverage, file with LAWA evidence that the required insurance has been reinstated or provided through another insurance company or companies.

11.6. Operator shall provide proof of all specified insurance and related requirements to LAWA either by production of the actual insurance policy(ies), by use of LAWA's own endorsement form(s), by broker's letter acceptable to the CEO in both form and content in the case of foreign insurance syndicates, or by other written evidence of insurance acceptable to the CEO. The documents evidencing all specified coverages shall be filed with LAWA in duplicate and shall be procured and approved in strict accordance with the provisions in Sections 11.47 through 11.56 of City's Administrative Code prior to Operator occupying the Airport. The documents shall contain the applicable policy number, the inclusive dates of policy coverages, and the insurance carrier's name, shall bear an original signature of an authorized representative of said carrier, and shall provide that such insurance shall not be subject to cancellation, reduction in coverage, or nonrenewal except after written notice by certified mail, return receipt requested, to the City Attorney of the City of Los Angeles at least thirty (30) days prior to the effective date thereof. LAWA reserves the right to have submitted to it, upon request, all pertinent information about the agent and carrier providing such insurance.

11.7. LAWA and Operator agree that the insurance policy limits specified herein shall be reviewed for adequacy annually throughout the term of this Agreement by the CEO who may, thereafter, require Operator, on thirty (30) days prior, written notice, to adjust the amounts of insurance coverage to whatever reasonable amount the CEO deems to be adequate.

11.8. Submission of insurance from a non-California admitted carrier is subject to the provisions of California Insurance Code Section 1760 through 1780, and any other regulations and/or directives from the State Department of Insurance or other regulatory board or agency. Operator agrees, except where exempted, to provide LAWA proof of said insurance by and through a surplus line broker licensed by the State of California.

## **Section 12. Child Support Orders.**

12.1 This Agreement is subject to Section 10.10, Article I, Chapter 1, Division 10 of the Los Angeles Administrative Code related to Child Support Assignment Orders, which is incorporated herein by this reference. A copy of Section 10.10 has been attached hereto for the

convenience of the parties as Exhibit R. Pursuant to this Section, Operator (and any sub-Operator of Operator providing services to LAWA under this Agreement) shall (1) fully comply with all State and Federal employment reporting requirements for Operator's or Operator's sub-Operator's employees applicable to Child Support Assignment Orders; (2) certify that the principal owner(s) of Operator and applicable sub-Operators are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (3) fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with California Family Code Section 5230, et seq.; and (4) maintain such compliance throughout the term of this Agreement. Pursuant to Section 10.10(b) of the Los Angeles Administrative Code, failure of Operator or an applicable sub-Operator to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders and Notices of Assignment or the failure of any principal owner(s) of Operator or applicable sub-Operators to comply with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally shall constitute a default of this Agreement subjecting this Agreement to termination where such failure shall continue for more than ninety (90) days after notice of such failure to Operator by LAWA (in lieu of any time for cure provided elsewhere in this Agreement).

### **Section 13. Equal Benefits Ordinance.**

13.1. Unless otherwise exempt, Operator shall comply with the applicable provisions of the Equal Benefits Ordinance ("EBO"), Section 10.8.2.1 of the Los Angeles Administrative Code throughout the term of this Agreement. Operator shall not, in any of its operations within the City of Los Angeles or in other locations owned by the City of Los Angeles, including the Airport, discriminate in the provision of Non-ERISA Benefits (as defined below) between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration. As used above, the term "Non-ERISA Benefits" shall mean any and all benefits payable through benefit arrangements generally available to Operator's employees which are neither "employee welfare benefit plans" nor "employee pension plans", as those terms are defined in Sections 3(1) and 3(2) of ERISA. Non-ERISA Benefits shall include, but not be limited to, all benefits offered currently or in the future, by Operator to its employees, the spouses of its employees or the domestic partners of its employees, that are not defined as "employee welfare benefit plans" or "employee pension benefit plans", and, which include any bereavement leave, family and medical leave, and travel discounts provided by Operator to its employees, their spouses and the domestic partners of employees.

13.2. Operator agrees to post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

"During the term of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to employees with spouses and its employees with domestic partners. Additional information about the

City of Los Angeles' Equal Benefits Ordinance may be obtained from the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance at (213) 847-6480."

13.3. The failure of Operator to comply with the EBO will be deemed to be a material breach of the Agreement by LAWA. If Operator fails to comply with the EBO, LAWA may cancel or terminate the Agreement, in whole or in part, and all monies due or to become due under the Agreement may be retained by LAWA. LAWA may also pursue any and all other remedies at law or in equity for any breach. Failure to comply with the EBO may be used as evidence against Operator in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40, et seq., Contractor Responsibility Ordinance. If the LAWA determines that Operator has set up or used its contracting entity for the purpose of evading the intent of the EBO, LAWA may terminate the Agreement.

#### **Section 14. Environmentally Favorable Operations.**

If applicable to this Agreement, Operator acknowledges for Operator and any sub-Operators that Operator's and its sub-Operators' activities under this Agreement will be subject to all LAWA policies, guidelines and requirements regarding environmentally favorable construction, use and/or operations practices (hereinafter collectively referred to as "LAWA Policies") provided in writing to Operator prior to the Effective Date as such LAWA Policies may be promulgated, revised and amended from time-to-time (provided LAWA shall provide Operator with at least thirty (30) days advance written notice of any such LAWA Policies promulgated, revised or amended after the Effective Date).

#### **Section 15. Business Tax Registration.**

Operator represents that it has registered its business with the Office of Finance of the City of Los Angeles and has obtained and presently holds from that Office a Business Tax Registration Certificate, or a Business Tax Exemption Number, required by City's Business Tax Ordinance (Article 1, Chapter 2, Sections 21.00 and following, of City's Municipal Code). Operator shall maintain, or obtain as necessary, all such Certificates required of it under said Ordinance and shall not allow any such Certificate to be revoked or suspended during the term hereof.

#### **Section 16. Living Wage Ordinance and Service Contractor Worker Retention Ordinances.**

##### **16.1. Living Wage Ordinance.**

16.1.1. General Provisions: Living Wage Policy. This Agreement is subject to the Living Wage Ordinance ("LWO") (Section 10.37, et seq., of the Los Angeles Administrative Code) which is incorporated herein by this reference. A copy of Section 10.37 has been attached hereto for the convenience of the parties as Exhibit O. The LWO requires that, unless specific

exemptions apply, any employees of Operator or Operators on City property who render services on the leased premises or licensed premises are covered by the LWO if any of the following applies: (1) the services are rendered on premises at least a portion of which are visited by substantial numbers of the public on a frequent basis, (2) any of the services could feasibly be performed by City of Los Angeles employees if the awarding authority had the requisite financial and staffing resources, or (3) the designated administrative agency of the City of Los Angeles has determined in writing that coverage would further the proprietary interests of the City of Los Angeles. Employees covered by the LWO are required to be paid not less than a minimum initial wage rate, as adjusted each year. The LWO also requires that employees be provided with at least twelve (12) compensated days off per year for sick leave, vacation, or personal necessity at the employee's request, and at least ten (10) additional days per year of uncompensated time pursuant to Section 10.37.2(b). The LWO requires employers to inform employees making less than twelve dollars (\$12) per hour of their possible right to the federal Earned Income Tax Credit ("EITC") and to make available the forms required to secure advance EITC payments from the employer pursuant to Section 10.37.4. Operator shall permit access to work sites for authorized City representatives to review the operation, payroll, and related documents, and to provide certified copies of the relevant records upon request by the City. Whether or not subject to the LWO, Operator shall not retaliate against any employee claiming non-compliance with the provisions of the LWO, and, in addition, pursuant to Section 10.37.6(c), Operator agrees to comply with federal law prohibiting retaliation for union organizing.

16.1.2. Living Wage Coverage Determination. An initial determination has been made that this is an Agreement under the LWO, and, that it is not exempt from coverage by the LWO. Determinations as to whether this Agreement is covered by the LWO, or whether an employer or employee are exempt from coverage under the LWO are not final, but are subject to review and revision as additional facts are examined and/or other interpretations of the law are considered. In some circumstances, applications for exemption must be reviewed periodically. LAWA shall notify Operator in writing about any redetermination by LAWA of coverage or exemption status. To the extent Operator claims non-coverage or exemption from the provisions of the LWO, the burden shall be on Operator to prove such non-coverage or exemption.

16.1.3. Compliance; Termination Provisions And Other Remedies: Living Wage Policy. If Operator is not initially exempt from the LWO, Operator shall comply with all of the provisions of the LWO, including payment to employees at the minimum wage rates, effective on the execution date of this Agreement. If Operator is initially exempt from the LWO, but later no longer qualifies for any exemption, Operator shall, at such time as Operator is no longer exempt, comply with the provisions of the LWO and execute the then currently used Declaration of Compliance Form, or such form as the LWO requires. Under the provisions of Section 10.37.6(c) of the Los Angeles Administrative Code, violation of the LWO shall constitute a material breach of this Agreement and LAWA shall be entitled to terminate this Agreement and otherwise pursue legal remedies that may be available, including those set forth in the LWO, if LAWA determines that Operator violated the provisions of the LWO. The procedures and time periods provided in the LWO are in lieu of the procedures and time periods provided elsewhere in this Agreement.



Nothing in this Agreement shall be construed to extend the time periods or limit the remedies provided in the LWO.

16.1.4. Subcontractor Compliance. Operator agrees to include, in every subcontract or subagreement covering LAWA property entered into between Operator and any subcontractor, a provision pursuant to which such subcontractor (A) agrees to comply with the Living Wage Ordinance and the Service Contractor Worker Retention Ordinance with respect to LAWA's property; (B) agrees not to retaliate against any employee lawfully asserting noncompliance on the part of the subcontractor with the provisions of either the Living Wage Ordinance or the Service Contractor Worker Retention Ordinance; and (C) agrees and acknowledges that LAWA, as the intended third-party beneficiary of this provision may (i) enforce the Living Wage Ordinance and Service Contractor Worker Retention Ordinance directly against the subcontractor with respect to LAWA property, and (ii) invoke, directly against the subcontractor with respect to LAWA property, all the rights and remedies available to LAWA under Section 10.37.5 of the Living Wage Ordinance and Section 10.36.3 of the Service Contractor Worker Retention Ordinance, as same may be amended from time to time.

16.2. Worker Retention Ordinance. This Agreement may be subject to the Worker Retention Ordinance ("WRO") (Section 10.36, et seq, of the Los Angeles Administrative Code), which is incorporated herein by this reference. A copy of Section 10.36 has been attached hereto for the convenience of the parties as Exhibit P. If applicable, Operator must also comply with the WRO which requires that, unless specific exemptions apply, all employers under contracts that are primarily for the furnishing of services to or for the City of Los Angeles and that involve an expenditure or receipt in excess of \$25,000 and a contract term of at least three (3) months shall provide retention by a successor contractor for a ninety-day (90-day) transition period of the employees who have been employed for the preceding twelve (12) months or more by the terminated contractor or subcontractor, if any, as provided for in the WRO. Under the provisions of Section 10.36.3(c) of the Los Angeles Administrative Code, LAWA has the authority, under appropriate circumstances, to terminate this Agreement and otherwise pursue legal remedies that may be available if LAWA determines that the subject contractor violated the provisions of the WRO.

## **Section 17. City Held Harmless.**

17.1. In addition to the requirements of Article 2, Section 11, Insurance, herein, Operator shall, to the fullest extent permitted by law, defend (with counsel satisfactory to LAWA), indemnify and hold harmless City and any and all of its boards, commissioners, LAWA, officers, directors, agents, employees, assigns and successors in interest (collectively "City Defendants") from and against any and all allegations, suits, claims, causes of action, liability, losses, damages, demands or expenses (including, but not limited to, attorney's fees and costs of litigation) (collectively "Claims"), prosecuted by anyone (including Operator and/or Operator's agents, former and current employees, or competitors) by any reason of, arising out of, related to, connected with or pertaining to: (1) the acts or omissions of Operator, its agents, servants,

employees or invitees; (2) Operator's breach of this Agreement; or (3) Operator or its agents, servants, employees or invitees occupancy of the Site Location, except in each case to the extent caused by LAWA's or any City Defendants' gross negligence or willful misconduct.

17.2. In Operator's defense of LAWA under Article 2, Section 17.1, including but not limited to the negotiation, compromise, and settlement of any action, LAWA shall retain discretion in and control of the litigation, negotiation, compromise, settlement, and appeals there from, as required by the Los Angeles City Charter, particularly Article II, Sections 271, 272 and 273 thereof.

17.3. Survival of Indemnities. The provisions under this Article 2, Section 17 shall survive the termination of this Operating Agreement. Rights and remedies available to LAWA hereinabove shall survive the termination of this Operating Agreement. Further, the rights and remedies are cumulative of those provided for elsewhere in this Operating Agreement and those allowed under the laws of the United States, the State of California, and the City of Los Angeles.

#### **Section 18. Campaign Contributions.**

18.1. Operator, its suboperators and subcontractors, and their respective principals (hereinafter, "Principals") are obligated to fully comply with City of Los Angeles Charter Section 470(c)(12) and related ordinances, regarding limitations on campaign contributions and fundraising for certain elected City officials or candidates for elected City office if the contract or lease is valued at \$100,000 or more and requires approval of a City elected official. Additionally, Operator is required to provide and update certain information to the City as specified by law. Operator and any suboperator subject to Charter Section 470(c)(12) shall include the following notice in any contract or lease with a suboperator expected to receive at least \$100,000 for performance under this contract:

"Notice Regarding Los Angeles Campaign Contribution and Fundraising Restrictions" As provided in Charter Section 470(c)(12) and related ordinances, you are suboperator on City of Los Angeles contract #\_\_. Pursuant to City Charter Section 470(c)(12), suboperator and its principals are prohibited from making campaign contributions and fundraising for certain elected City officials or candidates for elected City office for 12 months after the City contract is signed. The suboperator is required to provide to Operator names and addresses of the suboperator's principals and contact information and shall update that information if it changes during the 12 month time period. Suboperator's information included must be provided to Operator within 5 business days. Failure to comply may result in termination of contract or any other available legal remedies including fines. Information about the restrictions may be found at the City Ethics Commission's website at <http://ethics.lacity.org/> or by calling 213/978-1960.

18.2. Operator, its suboperators, and their Principals shall comply with these requirements and limitations. Violation of this provision shall entitle LAWA to terminate this Agreement and pursue any and all legal remedies that may be available.



**Section 19. Small/Very Small Business Enterprise Program and Local Business Preference Program.**

19.1. Pursuant to the provisions of Resolution No. 24820 of the Board of Airport Commissioners, LAWA's Small Business Enterprise (SBE) Program was created to provide additional opportunities for small businesses to participate in construction, non-professional, professional, and personal services projects valued over \$150,000. It is the policy of LAWA to provide Small Business Enterprises (SBE), Very Small Business Enterprises (VSBE) and Minority-Owned, Women-Owned, Disabled Veteran Business Enterprises and all Other Business Enterprises (MBE/WBE/DVBE/OBE) an equal opportunity to participate in the performance of all City contracts in all areas where such contracts afford such participation opportunities. Operator shall assist LAWA in implementing this policy and shall use its best efforts to afford the opportunity for SBEs, VSBEs, MBEs, WBEs, DVBEs, and OBEs to achieve participation in subcontracts where such participation opportunities present themselves and attempt to ensure that all available business enterprises, including SBEs, VSBEs, MBEs, WBEs, DVBEs, and OBEs, have equal participation opportunity which might be presented under this Agreement. See Exhibit N.

19.2. Based on the work to be performed, the mandatory SBE participation level for this PV System project has been set at 7% SBE.

19.3. Pursuant to the provisions of Resolution No. 24781 (for Bids) and Resolution No. 25919 (for Proposals) of the Board of Airport Commissioners, Los Angeles World Airports (LAWA) adopted a Local Business Preference Program (LBPP) for procurement of goods, equipment, and non-professional services, including design and construction to encourage businesses to compete for LAWA contracting opportunities; to locate operations and create jobs in the City and to encourage existing local business to refrain from relocating. Accordingly, it is also the policy of the LAWA to support an increase in local and regional jobs. LAWA's LBPP aims to benefit the Southern California region by increasing jobs and expenditures within the local and regional private sector. Operator shall assist the LAWA in implementing this policy and shall participate in the program to afford the opportunity for Local Business Enterprises to achieve participation in subcontracts where such participation opportunities present themselves.

NOTE: Prior to being awarded a contract with the LAWA, Operator and all subcontractors must be registered on the City's Contracts Management and Opportunities Database, Los Angeles Business Assistance Virtual Network (LABAVN), at <http://www.labavn.org>.

**Section 20. Conflict of Interest.**

20.1. It is hereby understood and agreed that the parties to this Agreement have read and

are aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the California Government Code relating to conflict of interest of public officers and employees, as well as the Los Angeles Municipal Code (LAMC) Municipal Ethics and Conflict of Interest provisions of Section 49.5.1 et seq. and the Conflict of Interest Codes of the City and the LAWA. All parties hereto agree that they are unaware of any financial or economic interest of any public officer or employee of LAWA relating to this Agreement. Notwithstanding any other provision of this Agreement, it is further understood and agreed that if such financial interest does exist at the inception of this Agreement, LAWA may immediately terminate this Agreement by giving written notice thereof.

## **Section 21. Prevailing Wage.**

21.1. Work performed on LAWA property may require payment of prevailing wages. Operator is obligated to make that determination, and will be bound by and comply with the applicable provisions of the California Labor Code and Federal, State, and local laws related to the prevailing wage and labor. Operator will indemnify and pay or reimburse the LAWA for any damages, penalties or fines (including but not limited to, attorney's fees and costs of litigation) that the LAWA incurs, or pays, as a result of noncompliance with applicable prevailing wage laws in connection with the work performed under the contract.

21.2. The "General Prevailing Wage Rates" will be those rates as determined by the Director of the Department of Industrial Relations of the State of California. The general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in this locality for each craft, classification, predetermined increases, if applicable, or type of workman needed to execute this contract are from the State of California Director of the Department of Industrial Relations, and may be obtained by going to the website. Copies of these rates are also on file in the Office of Contract Compliance, Bureau of Contract Administration,

telephone (213) 847-1922 (the contact information is provided for convenience only, but it is the Operator's responsibility to obtain the current applicable phone numbers and websites in the event that those provided are no longer correct).

## **Section 22. Improvement Bond and Performance Bond.**

22.1. After award of the contract, but before any work is performed under the contract, Operator will be required to file a Payment Bond with LAWA to be approved by LAWA. Operator shall provide the Payment Bond on a form provided by LAWA. The Payment Bond shall be for not less than 100 percent of the amount of the work of improvement proposed by Operator to satisfy claims of material suppliers, mechanics, laborers, and subcontractors employed by it on the work. The Payment Bond shall be issued by a surety who is authorized to issue bonds in California.

22.2. After award of the contract, but before any work is performed under the contract,

Operator will be required to file a Performance Bond with LAWA to be approved by the LAWA. Operator shall provide the Performance Bond on a form provided by LAWA. The Performance Bond shall be for 100 percent of the amount of the work of improvement proposed by the contractor to guaranty faithful performance of all work. The Performance Bond shall be issued by a surety who is authorized to issue bonds in California.

**Section 23. Wage and Earnings Assignment Orders/Notices of Assignments.**

23.1. Operator and/or any subcontractor are obligated to fully comply with all applicable state and federal employment reporting requirements for Operator and/or subcontractor's employees.

23.2. Operator and/or subcontractor shall certify that the principal owner(s) are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignments applicable to them personally. Operator and/or subcontractor will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments in accordance with Cal. Family Code Sections 5230 et seq. Operator or subcontractor will maintain such compliance throughout the term of this Agreement.

**Section 24. Recitals Incorporated.** The Recitals set forth above and the Exhibits attached to this Agreement are each incorporated into the body of this Agreement as if set forth in full.

**Section 25. Assignment of Anti-Trust Claims.**

Operator may be subject to California Government Code Sections 4550 – 4554. If applicable, Operator offers and agrees that, it will assign to LAWA all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act or under the Cartwright Act, arising from purchases of goods, services, or materials by the Operator. Such assignment is made and becomes effective at the time LAWA tenders final payment to the Operator.

**Section 26. Title 14, Part 77; Solar Glare Hazard Analysis.**

26.1 Operator shall comply with Federal regulation, Title 14 Part 77 (14 CFR Part 77), for the Site Location. Operator shall be required to provide a Solar Glare Hazard Analysis for FAA review and approval for the Site Location. Once the Solar Glare Hazard Analysis for the Site Location is approved by FAA, Operator shall provide two (2) copies of the Solar Glare Hazard Analysis to LAWA prior to the Commercial Operation Date.

26.2. Operator specifically agrees that LAWA shall not be liable or responsible to Operator for any damage, injury, economic loss or deprivation which may develop or arise by reason of any denial or conditions placed upon Operator at the Site Location by FAA in its review of the Solar Glare Hazard Analysis or review of Operator's compliance with any other regulation. Operator agrees not to institute any legal action or make any claims with regard to any such FAA regulations

or requirements.

**Section 27. Contractor Responsibility Program.**

Operator shall comply with the provisions of the Contractor Responsibility Program adopted by the Board. The Executive Directives setting forth the rules, regulations, requirements and penalties of the Contractor Responsibility Program and the Pledge of Compliance Form is attached hereto as Exhibit Q and incorporated herein by reference.

**Section 28. Faithful Performance Guarantee.**

28.1. Operator shall furnish to LAWA immediately upon LAWA's delivery to Operator of a Notice to Proceed to commence construction of the PV System the Site Location, and maintain throughout the term of this Operating Agreement and for sixty (60) days following expiration or earlier termination of this Agreement, a Faithful Performance Guarantee ("FPG") to secure the faithful performance by Operator of all the terms, provisions, and covenants contained herein including, but not limited to, the payment of the Monthly Payment and any other specified compensation or reimbursement for the planned improvements or maintenance not made by Operator. Such FPG shall be separate from any other guarantee(s) to LAWA by Operator. The initial amount of said FPG for the PV System at its the Site Location shall be as provided in Exhibit B and the total amount of the FPG shall be six (6) times the estimated Operating Payment. Any adjustments to the Monthly Payment, pursuant to Section 7 herein and or adjustment to Exhibit A, shall also result in a commensurate adjustment to the FPG, pursuant to Subsections 28.2 and 28.3 below but in no event shall the FPG be greater than six (6) times the amount of the total Monthly Payment. If all or any part of the FPG is used to pay delinquent account as set forth in Section 7.1.4.2, Liquidated Damages, for Delinquent Payment herein, Operator shall within sixty (60) days after draw down, replenish said FPG so that the FPG equals the amount stated in Exhibit B.

28.2. If Operator has previously provided such FPG to LAWA and if, for any reason, Operator's monthly monetary obligation to LAWA for use of the Site Location under this Operating Agreement is thereafter increased in excess of ten percent (10%), then the amount of the FPG shall, within sixty (60) days after receiving written notice from LAWA, be correspondingly increased to a sum equal to six (6) times the new Monthly Payment amount prescribed under this Operating Agreement.

28.3. If Operator has previously provided such FPG to LAWA and if, for any reason, Operator's monthly monetary obligation to LAWA for use of the Site Location under this Operating Agreement is thereafter decreased in excess of ten percent (10%), then the amount of the FPG shall, within sixty (60) days following written notice to LAWA by Operator, be correspondingly decreased to a sum equal to six (6) time of the new Monthly Payment amount prescribed under this Operating Agreement.

28.4. FPGs of Twenty Five Thousand Dollars (\$25,000) or less shall be in the form of a Cashier's Check, Company Check, Money Order, Certificate of Deposit or Irrevocable Letter of



Credit. FPGs in excess of Twenty Five Thousand Dollars (\$25,000) shall be in the form of an Irrevocable Letter of Credit. Letters of Credit shall be self-renewing from year-to-year and shall remain in full force and effect for a minimum period of ninety (90) days following termination or cancellation of the Operating Agreement. However, the Irrevocable Letter of Credit may be subject to termination upon sixty (60) days written notice (subject to Subsection 28.5), provided that, Operator shall first give LAWA notice in writing of its intent to terminate the Letter of Credit and provide a replacement Irrevocable Letter of Credit to LAWA so that there is no lapse in coverage. All FPGs must be approved as to form by the City Attorney.

28.5. Operator shall furnish the FPG upon issuance of the Notice to Proceed or within sixty (60) days following notice of adjustment of the Monthly Payment as provided above. If, for any reason, said FPG is not provided by Operator and/or is not thereafter maintained in sufficient amount throughout the term hereof, or replenished within sixty (60) days of drawdown and notice thereof to Operator, LAWA, may, upon giving Operator (and any Financing Parties, if applicable) a thirty (30) day advance written notice, and subject to Article 1, Section 9.2.2, pursue the remedies specified in Article 1, Section 8.2 following the occurrence of a Default Event. Within sixty (60) days of the expiration or earlier termination of this Operating Agreement, LAWA shall relinquish to Operator said FPG (or the balance remaining). The FPG shall be submitted to:

Los Angeles World Airports  
Attn: Accounting/Revenue FPG Administrator  
PO Box 92216  
Los Angeles CA 90009-2216

28.6 On the date that the LAWA consents to a new guarantor pursuant to Section 32, if any, but no later than one hundred eighty (180) days from the Site Delivery Date, and provided Operator is not otherwise in Default, the FPG shall be reduced to an amount equal to three (3) times the amount of the total Monthly Payment and LAWA shall return the difference to Operator no later than ten (10) Business Days following the date that LAWA provides written notice to Current Energy that it consents to the replacement guarantor.

## **Section 29. Audits.**

LAWA may, at its sole discretion and with reasonable notice to Operator, require Operator to provide access to all records and other information necessary to perform an audit of Monthly Payments, fees, other charges paid and payable to LAWA, and any required information for payments by LAWA to Operator, including but not limited to invoices and proof of payments related to reimbursement for Operator improvements and other Operator- required investments. LAWA shall have the right to access such records and information for five (5) years past the end of the fiscal year in which they were generated and up to five (5) years past the expiration or early termination of this Agreement. Operator shall retain all records and other information necessary to perform an audit as described above for a minimum of five (5) years.

**Section 30. Taxes, Permits and Licenses.**

30.1. Operator shall pay any and all taxes of whatever character that may be levied or charged upon Operator's improvements, fixtures, equipment, or other property thereon or upon Operator's use thereof. Operator shall also pay all license or permit fees necessary or required by law or regulation for the conduct of Operator's business or use of the Site Location.

30.2. If a claim is made against LAWA for any of the above charges, LAWA shall promptly notify Operator in writing; provided, however, that failure by LAWA to give such notice shall not constitute a waiver of Operator's obligation to pay such taxes, license and/or permit fees.

**Section 31. Attorney's Fees.**

If LAWA shall, without any fault, be made a party to any litigation commenced by or against Operator arising out of Operator's use or occupancy of the Site Location, then Operator shall pay all costs, expenses, and reasonable attorney's fees incurred by or imposed upon LAWA in connection with such litigation. Each party shall give prompt notice to the other of any claim or suit instituted against it that may affect the other party.

**Section 32. Guaranty Requirement.**

Upon execution of this Agreement, Operator shall furnish to LAWA and maintain throughout the Term and for sixty (60) days following expiration or earlier termination of this Agreement, a Guaranty ("Guaranty") from Current Energy, LLC (the "Guarantor"), in the form of Exhibit S attached hereto. This Guaranty shall become effective upon execution of this Lease. Notwithstanding the above, at such time as Current Energy enters into an agreement with a finance partner for the Site Location described in this Agreement, Current Energy may submit a written request to the LAWA CEO to replace the Guarantor with Current Energy's financing partner, subject to LAWA's review and approval. This Guaranty is intended to be a present obligation of a future contingent commitment.

**Section 33. Miscellaneous Provisions.**

33.1. Fair Meaning. The language of this Agreement shall be construed according to its fair meaning, and not strictly for or against either LAWA or Operator.

33.2. Section Headings. The Section headings appearing herein are for the convenience of LAWA and Operator, and shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of this Agreement.

33.3. Void Provisions. If any provision of this Agreement is determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision



of this Agreement, and all such other provisions shall remain in full force and effect. In the event that any of the provisions, or portions or applications thereof, of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, LAWA and Operator shall endeavor to negotiate an adjustment in the provisions of this Agreement with a view toward effecting the purpose of this Agreement, and the validity and enforceability of the remaining provisions, portions or applications thereof shall not be affected thereby.

33.4. Two Constructions. It is the intention of the parties hereto that if any provision of this Agreement is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

33.5. Laws of California. This Agreement, and every question arising hereunder, shall be construed, determined and enforced in accordance with the laws of the State of California. Venue shall lie in the appropriate U.S. Federal Court or California Superior Court located in Los Angeles County.

33.6. Gender. The use of any gender herein shall include all genders, and the use of any number shall be construed as the singular or the plural, all as the context may require.

33.7. Ordinance and Los Angeles Administrative Code (hereinafter referred to as "Code") Language Governs. Ordinance and Code Exhibits are provided as a convenience to the parties only. In the event of a discrepancy between the Exhibits and the applicable ordinance or code language, or amendments thereto, the language of the ordinance or code shall govern.

33.8. Waiver. The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of any other term, covenant, or condition, or of any subsequent breach of the same term, covenant, or condition. The subsequent acceptance of any monies hereunder by LAWA shall not be deemed to be a waiver of any preceding breach by Operator of any term, covenant, or condition of this Agreement other than the failure of Operator to pay the particular monies so accepted, regardless of LAWA's knowledge of such preceding breach at the time of acceptance of such monies.

33.9. Entire Agreement. This Agreement, including its Exhibits, contains the entire agreement between the parties hereto and supersedes any and all prior written or oral agreements between them concerning the subject matter contained herein. There are no representations, agreements or understandings, oral or written, between and among the parties relating to the subject matter contained in this Agreement which are not fully set forth herein. This is an integrated Agreement.

33.10. Amendments to Ordinances and Codes. The obligation to comply with any Ordinances and Codes that have been incorporated into this Agreement by reference shall extend to any amendments which may be made to those Ordinances and Codes during the term of this

Agreement.

33.11. Force Majeure. Notwithstanding any other provision hereof, neither the Operator nor the LAWA shall be held responsible or liable for failure to meet their respective obligations under this Agreement, if such failure shall be due to Force Majeure or other causes beyond the Operator's or LAWA's control. Such causes include but are not limited to: strikes, fire, flood, civil disorder, acts of God or the public enemy, acts of the Federal Government or any unit of state or local government in either sovereign or contractual capacity, insurrection, epidemics, freight embargos or delay in transportation, and changes in federal, state or local laws.

33.12 Notices. Written notices to LAWA hereunder shall be sent to the Chief Executive Officer with a copy sent to the City Attorney of the City of Los Angeles and addressed to said parties at:

Deputy Executive Director  
Commercial Development Group  
Department of Airports  
1 World Way  
Post Office Box 92216  
Los Angeles, CA 90009-2216

Chief Executive Officer  
Department of Airports  
1 World Way  
Post Office Box 92216  
Los Angeles, CA 90009-2216

With a copy to:

City Attorney  
Department of Airports  
1 World Way  
Post Office Box 92216  
Los Angeles, CA 90009-2216

or to such other address as LAWA may designate by written notice to Operator. Copies of all notices shall also be e-mailed to [CDG-Tenant-Notices@lawa.org](mailto:CDG-Tenant-Notices@lawa.org).

33.12.1. Written notices to Operator hereunder shall be given by registered or certified mail, postage prepaid, and addressed to:

Current Energy LLC

Attn: Legal Department  
230 Park Avenue, Suite 845  
New York, NY 10169

25876 The Old Road #418  
Stevenson Ranch, CA 91381

or to such other address as Operator may designate by written notice to LAWA.

33.12.2. The execution of any such notice by the Chief Executive Officer shall be as effective as to Operator as if it were executed by Board or by Resolution or Order of said Board, and Operator shall not question the authority of the Chief Executive Officer to execute any such notice.

33.12.3. All such notices, except as otherwise provided herein, may either be delivered personally to the Chief Executive Officer or to the Office of the City Attorney, Airport Division, in the one case, or to Operator in the other case, or may be deposited in the United States mail, properly addressed as aforesaid with postage fully prepaid by certified or registered mail, return receipt requested, and shall be effective five (5) days after deposit in the mail, or may be delivered by a nationally recognized overnight commercial courier service that requires the recipient's signature for delivery, and shall be effective one (1) business day after delivery to such courier.

33.13 Counterparts and Electronic Signatures. This Agreement and any other document necessary for the consummation of the transaction contemplated by this Agreement may be executed in counterparts, including counterparts that are manually executed and counterparts that are in the form of electronic records and are electronically executed. An electronic signature means a signature that is executed by symbol attached to or logically associate with a record and adopted by a party with the intent to sign such record, including facsimile or e-mail signatures. All executed counterparts shall constitute one agreement, and each counterpart shall be deemed an original. The parties hereby acknowledge and agree that electronic records and electronic signatures, as well as facsimile signatures, may be used in connection with the execution of this Agreement and electronic signatures, facsimile signatures or signatures transmitted by electronic mail in so-called PDF format shall be legal and binding and shall have the same full force and effect as if a paper original of this Agreement had been delivered that had been signed using a handwritten signature. All parties to this Agreement (i) agree that an electronic signature, whether digital or encrypted, of a party to this Agreement is intended to authenticate this writing and to have the same force and effect as a manual signature; (ii) intended to be bound by the signatures (whether original, faxed, or electronic) on any document sent or delivered by facsimile or electronic mail or other electronic means; (iii) are aware that the other party(ies) will rely on such signatures; and, (iv) hereby waive any defenses to the enforcement of the terms of this Agreement based on the foregoing forms of signature. If this Agreement has been executed by electronic signature, all parties executing this document are expressly consenting, under the United States Federal Electronic Signatures in Global and National Commerce Act of 2000 ("E-SIGN") and the California Uniform Electronic Transactions Act ("UETA") (California Civil Code §1633.1 et seq.), that a signature by fax, e-mail, or other electronic means shall constitute an

Electronic Signature to an Electronic Record under both E-SIGN and UETA with respect to this specific transaction.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, LAWA has caused this Agreement to be executed on its behalf by Chief Executive Officer and Operator has caused the same to be executed by its duly authorized officers, all as of the day and year first hereinabove written.

**APPROVED AS TO FORM:**

**CITY OF LOS ANGELES**

By signing below, the signatory attests that they have no personal, financial, beneficial, or familial interest in this Contract.

\_\_\_\_\_  
City Attorney

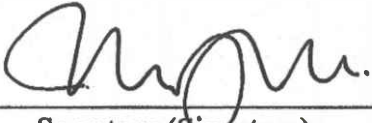
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Deputy/Assistant City Attorney

By \_\_\_\_\_  
Chief Executive Officer  
Department of Airports

**ATTEST:**

**CURRENT ENERGY, LLC**

By   
Secretary (Signature)

CHRISTOPHER CHOI  
Print Name

By   
Signature

PATRICK DELCHOP  
Print Name

[SEAL]

MANAGING PARTNER  
Print Title

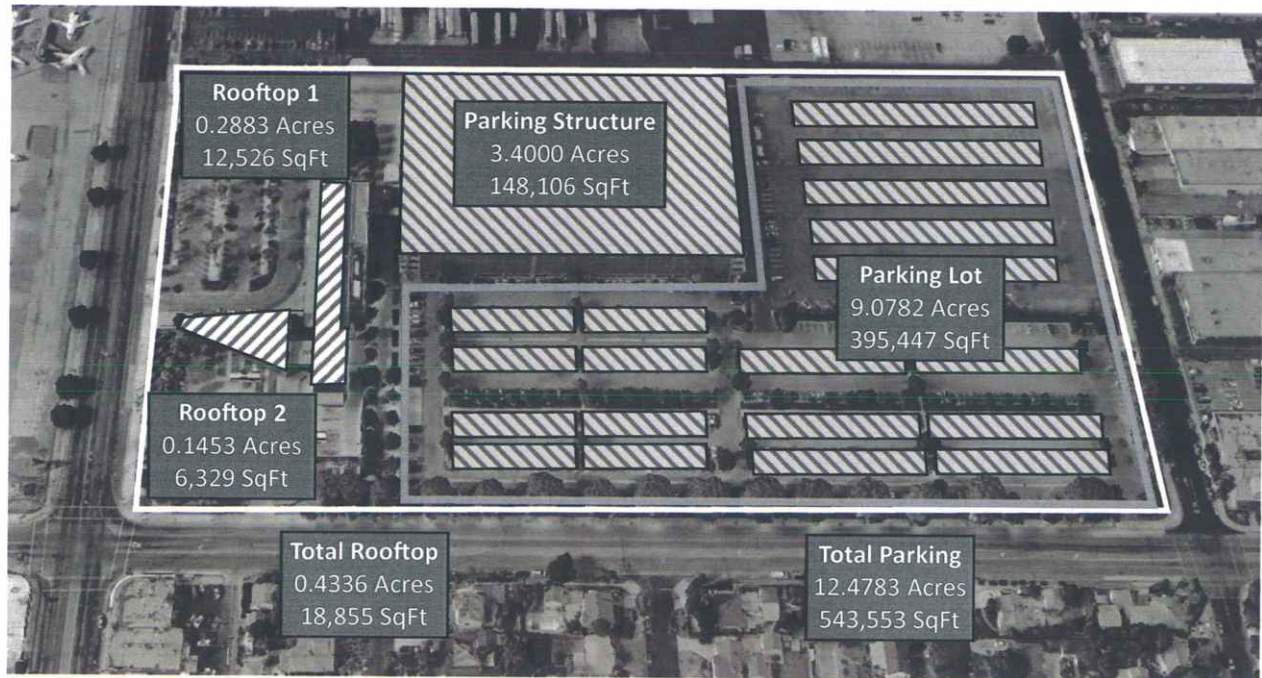
**EXHIBIT A**  
**SITE LOCATION**



# Exhibit A

## Site Location No. 6

### Site Location #6: 7610 Woodley Ave



**EXHIBIT B**  
**PAYMENT SCHEDULE**

**Exhibit B**  
**Payment Schedule**  
**Current Energy LLC**  
**Site Location No. 6**  
**7610 Woodley Avenue**

**PAYMENTS**

Fees and other charges will commence on the Commercial Operation Date. Operator shall pay to LAWA as a monthly payment the greater of Site Location Fee and Operating Payment.

**Payment Schedule From Commercial Operation Date**

			<b><u>Monthly</u></b>
<b><u>Site Location Fee:</u></b>			<b><u>Payments</u></b>
[Rooftop #1:	0.2883 Acres @ \$9,053.85 Per Acre Per Year/12] <sup>1</sup>		<b>\$217.52</b>
[Rooftop #2:	0.1453 Acres @ \$9,053.85 Per Acre Per Year/12] <sup>1</sup>		<b>\$109.63</b>
[Parking Structure:	3.4000 Acres @ \$9,053.85 Per Acre Per Year/12] <sup>1</sup>		<b>\$2,565.26</b>
[Parking Lot:	9.0782 Acres @ \$9,053.85 Per Acre Per Year/12] <sup>1</sup>		<b>\$6,849.39</b>
<b><u>Operating Payment:</u></b>			
[\$0.0171 per kWh of energy purchased by DWP <sup>2, 3</sup> ] (estimated monthly average) <sup>4</sup>			<b>\$10,968.50</b>
<b><u>Interconnection Fee:</u></b>			
[Interconnection Site	2,500 SqFt @ \$1.79 Per Square Feet Per Year/12] <sup>1</sup>		<b>\$372.92</b>
<b><u>System Size</u></b>			
4.44384 MW or 4,443.84 kW			
Operator shall pay to LAWA as a monthly payment the greater of Site Location Fee and Operating Payment			
<b>Total Site Location Fee at Commercial Operation Date:</b>			<b>\$9,741.79</b>
<b>Total Estimated Operating Payment at Commercial Operation Date:</b> <sup>5, 6</sup>			<b>\$10,968.50</b>
<b>Interconnection Fee:</b>			<b>\$372.92</b>
<b>Initial Amount of the FPG ( Section 28.1):</b> <sup>7</sup>			<b>\$30,344.13</b>
<b>FPG due upon Notice to Proceed to construct PV System:</b> <sup>5</sup>			<b>\$34,024.25</b>

**Investment Tax Credit:**

Operator assumes a 30% Investment Tax Credit (ITC), as outlined in Section 7.1.2.

If Operator's ITC is 30%, its guaranteed rate will be 0.0171/kWh.

If Operator's ITC exceeds 30%, its guaranteed rate will increase by an additional \$0.0123/kWh.

If Operator's ITC exceeds 40%, its guaranteed rate will increase by an additional \$0.0247/kWh.

For example, should the PV System qualify for 40% ITC, the total monthly payment to LAWA will be based on a guaranteed rate of \$0.0294/kWh (0.0171+0.0123) and at 50% ITC, the total monthly payment to LAWA will be based on a guaranteed rate of \$0.0541/kWh (0.0294+0.0247).

<sup>1</sup> Subject to fixed 2% adjustment every 5 years per Section 10.1.

<sup>2</sup> Guaranteed Rate of \$0.0171 per kilowatt hour as outlined in the Operating Agreement.

<sup>3</sup> PV System 4.44384 MW (or 4,443.84 kW) as outlined in the Operating Agreement.

<sup>4</sup> Operating Payment is a projected figure in conjunction with a 4.44384 MW system (or 4,443.84 kW). The final determination of Operating Payment will be contingent upon the provisions outlined in the Operating Agreement.

<sup>5</sup> Based on Operating Payment & Interconnection Fee <sup>4</sup> a projected figure calculated using estimates. Subject to change based on final PV System size.

<sup>6</sup> Monthly Operating Payment will fluctuate based on seasonal changes.

<sup>7</sup> Subject to Operating Agreement Section 28.6.

**EXHIBIT C  
PV SYSTEM  
ACTIVATION FORM**

## EXHIBIT C

### PV System Activation Form

RE: Van Nuys Airport (VNY) - Site Location 6

Between: THE CITY OF LOS ANGELES, DEPARTMENT OF AIRPORTS (LAWA) and  
Operator \_\_\_\_\_, a \_\_\_\_\_.

Operating Agreement Commencement Date (Section 1.1): \_\_\_\_\_, 2023

Operating Agreement Expiration Date (Section 1.1): \_\_\_\_\_, 20\_\_\_\_

Site Location Delivery Date (Section 1.1.4): \_\_\_\_\_, 202\_\_\_\_

Commercial Operation Date (Section 1.1.3): \_\_\_\_\_, 202\_\_\_\_

PV System Commencement Date (Section 1.1.1): \_\_\_\_\_, 202\_\_\_\_

PV System Term (Section 1.1.1): \_\_\_\_\_, 202\_\_\_\_ (“PV System Commencement  
Date”) to \_\_\_\_\_, 20\_\_\_\_ (“PV System Expiration Date”)

Extension Right (Section 1.2): NONE

In the event of a conflict between the Operating Agreement and this PV System Activation  
Form, the Operating Agreement will prevail.

**EXHIBIT D**  
**SITE LOCATION**  
**DELIVERY DATES**



**Exhibit D**  
**Site Location Delivery Dates**

<b>Site location</b>	<b>Site Location Delivery Dates</b>
Site Location #6: 7610 Woodley Ave	

**EXHIBIT E**  
**POWER PURCHASE AGREEMENT**  
**[SOPPA]**  
**[to be attached after the PV System**  
**PV System Commencement Date]**

**EXHIBIT F**  
**MILESTONE OBJECTIVES**

# EXHIBIT F

## MILESTONE OBJECTIVES

PROJECT 7610 WOODLEY AVE

SITE NO 6

WTR NO	0				Q3-2024			Q4-2024			Q1-2025			Q2-2025			Q3-2025			Q4-2025			Q1-2026			Q2-2026			Q3-2026		
	ITEM	DESCRIPTION	NOTES	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	
ADMINISTRATIVE AND DESIGN PHASE	1	SITE CONTROL DOCUMENT SIGNED FIT APPLICATION SUBMITTED	*URGENT/CRITICAL																												
	2	FULL DESIGN AND ENGINEERING PACKAGE TO LAWA AND AHJ																													
	3	OBTAIN LADWP FINAL DESIGN PACKAGE / P DRAWING	*URGENT/CRITICAL																												
	4	START FABRICATION OF LONG LEAD TIME ITEMS	*URGENT/CRITICAL																												
	5	OBTAIN ALL PERMITS AND NTP FROM LAWA																													
	6	OBTAIN SOPPA AND IA SIGNATURE FROM LADWP	*URGENT/CRITICAL																												
CONSTRUCTION PHASE	7	FULL SITE SURVEY AND VERIFICATION OF ALL EXISTING CONDITIONS																													
	8	PROJECT SAFETY AND TRAFFIC CONTROL PLAN / SET UP																													
	9	UNDERGROUND AND CIVIL WORK																													
	10	INSTALL SUPERSTRUCTURE																													
	11	INSTALL PV CARPORTS																													
	12	INSTALL SWITCHGEAR																													
	13	INSTALL PV MODULES AND INVERTERS																													
	14	MAKE ALL FINAL CONNECTIONS																													
	15	INTERCONNECT SYSTEM, CONNECT TO GRID																													
	16	TEST AND COMMISSION, TROUBLESHOOT AND VERIFY MONITORING																													
CLOSE OUT	17	PTO ISSUANCE																													
	18	PUNCHLIST ITEMS CLOSEOUT																													
	19	FINAL CLOSE OUT PACKAGE, AS BUILT ISSUANCE																													

\* NOTE: LADWP LEAD TIMES ARE SUBJECT TO CHANGE AND THEY CAN AND DO IMPACT PROJECT SCHEDULE / TIMELINES.

\*\* LONG LEAD TIME SWITCHGEAR ORDER

**EXHIBIT G**  
**FORM OF INTERCONNECTION**  
**AGREEMENT AND EXECUTED**  
**INTERCONNECTION AGREEMENT**

STANDARD OFFER  
FOR FEED-IN TARIFF CUSTOMER GENERATION  
INTERCONNECTION AGREEMENT

BETWEEN

\_\_\_\_\_  
(INTERCONNECTION CUSTOMER)

AND

CITY OF LOS ANGELES  
ACTING BY AND THROUGH THE  
DEPARTMENT OF WATER AND POWER

Project Location \_\_\_\_\_

LADWP NO. \_\_\_\_\_



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This Agreement is made and entered into by and between CITY OF LOS ANGELES ACTING BY AND THROUGH THE DEPARTMENT OF WATER AND POWER (LADWP) and \_\_\_\_\_, an LADWP customer (Customer), sometimes referred to singularly as "Party" and collectively as "Parties", who agree as follows:

1. **RECITALS:** This Agreement is made with reference to the following facts, among others:

1.1 Customer is currently purchasing retail Electric Service from LADWP at the Customer's Site Location:

\_\_\_\_\_  
\_\_\_\_\_

Electric Service at this location is being provided pursuant to the terms and conditions of the applicable Rate Ordinance(s) or rate contract(s).

1.2 Customer currently has, or intends to design, construct, own, operate, and maintain, at its sole risk and expense, a Generation Facility to operate in parallel with LADWP's electric system. The Generation Facility has or will have an installed nameplate rating of \_\_\_\_\_ kilowatts (kW). The Generation Facility is more fully described in Exhibit A of this Agreement.

1.3 If it is deemed necessary by LADWP to do so after evaluating the Generation Facility specifications, LADWP will design, construct, own, operate, and maintain an LADWP Facility and make any necessary modifications to LADWP's electric system for the intended safe operation of the Generation Facility in parallel with LADWP's electric system. Customer agrees to reimburse LADWP for all actual costs (direct and indirect) incurred in performing such work. If the LADWP Facility is constructed, a description of the LADWP Facility will be attached as Exhibit B of this Agreement after such construction.

2. **DEFINITIONS:** The definitions, terms, conditions, and requirements provided in the applicable Rate Ordinance(s) or rate contract(s), the Electric Service Requirements, the Standard Offer Power Purchase Agreement, and the Rules are incorporated in and made a part of this Agreement by reference. The following additional terms, when initially capitalized, whether in the singular or plural tense, shall mean:

2.1 **Agreement:** This Standard Offer for LADWP Feed-in-Tariff Customer Generation Interconnection Agreement.

- 2.2 Authorized Representative: The representative or designated alternate of a Party appointed in accordance with Section 13 of this Agreement.
- 2.3 Capacity: The total nominal nameplate alternating current rating; however, for a Customer Generation Facility utilizing solar photovoltaic (PV) technologies, Capacity shall mean the CEC-AC system rating.
- 2.4 CEC-AC: The solar PV system alternating current rating based upon the product of the Photovoltaics for Utility Scale Applications (PVUSA) Test Conditions rating of the module, module quantity, and the inverter efficiency.
- 2.5 Customer: The LADWP customer or Feed-In Tariff applicant required to establish a customer account for the project at the Customer Site Location.
- 2.6 Customer Generation Facility: All of Customer's electrical and mechanical equipment associated with the generation of electricity at the Customer's location.
- 2.7 Customer's Site Location: As described in Subsection 1.1 of this Agreement.
- 2.8 Effective Date: As defined in Section 26 of this Agreement.
- 2.9 Electric Service: As defined in the Rules.
- 2.10 Electric Service Requirements: Requirements prescribed in writing by LADWP in effect at the time this Agreement is executed, and all revisions thereto or replacements thereof, which are necessary and proper for the regulation of any electric service installed, operated, and maintained within the City of Los Angeles. The Electric Service Requirements shall be in conformance with the Charter of the City of Los Angeles and the Rules.
- 2.11 Emergency Condition: A condition or situation: (1) that in the good faith judgment of the Party making the claim is imminently likely to endanger life or property; or (2) that, in the case of LADWP, is imminently likely (as determined in the sole judgment of LADWP) to cause a material adverse effect on the security of, or damage to, the LADWP interconnection facilities or the electric systems of LADWP or others to which the electric system of

LADWP is directly connected; or (3) that, in the case of the Customer, is imminently likely (as determined in a non-discriminatory manner in good faith) to cause a material adverse effect on the security of, or damage to, Customer's Generation Facility or Customer's interconnection facilities. System restoration and LADWP's black start shall be considered Emergency Conditions. Customer is not obligated by this Agreement to possess black start capability.

- 2.12 Generation Facility: All of Customer's electrical and mechanical equipment basically described in Exhibit A that is associated with the generation of electricity at Customer's Site Location. A single-line diagram of the Generation Facility shall be attached as part of Exhibit A of this Agreement.
- 2.13 In-Service Date: The date of initial interconnection of the Generation Facility to LADWP's electric system.
- 2.14 Interconnection Costs: All reasonable costs, as determined by LADWP in accordance with Prudent Utility Practices, including, but not limited to, planning, engineering, design, supervision, material procurement, construction, quality assurance and inspection, testing, metering, maintenance, negotiation, contract administration, protection, expediting, accounting, budgeting, and other activities reasonably necessary for the interconnection and intended safe parallel operation of the Generation Facility to LADWP's electric system.
- 2.15 LADWP Facility: Electrical and mechanical equipment required and installed, owned, operated, and maintained by LADWP for the intended safe parallel operation of the Generation Facility. This equipment, further described in Exhibit B and Exhibit E of this Agreement, is deemed by LADWP to be appurtenant and/or incidental to the Generation Facility and will be located at the site of the Generation Facility.
- 2.16 Laws: All applicable statutes, ordinances, rules, orders, regulations and codes of the City of Los Angeles, the State of California, and/or Federal governmental authorities having jurisdiction, including, but not limited to, the Charter of the City of Los Angeles as amended.
- 2.17 Prudent Utility Practices: Those practices, methods, and equipment, as changed from time to time, that are commonly used in prudent engineering and operations to design and operate electric equipment lawfully and with safety, dependability, efficiency, and economy.

- 2.18 Rate Ordinance: An ordinance, in accordance with City of Los Angeles Charter Subsection 676(a) or any amendments to or replacements of that subsection, approving the rates fixed by the Board of Water and Power Commissioners of the City of Los Angeles (Board) for electric energy or surplus energy.
- 2.19 Rules: The Rules Governing Water and Electric Service in the City of Los Angeles adopted by the Board under Resolution No. 56, dated September 8, 1983, and all amendments, revisions, and replacements thereof.
- 2.20 Standard Offer Power Purchase Agreement (SOPPA): The Standard Offer Power Purchase Agreement between the LADWP and Customer, relating to the feed-in tariff project at the Project Location, as may be amended, supplemented or otherwise modified from time to time.
- 2.21 Service Point: The point of interconnection between Customer's Site Location and the LADWP electric system. If, as of the date when Customer executes this Agreement, LADWP is already using any meter(s) for Customer's account at the Customer's Site Location, such meter(s) are described in Exhibit C.

3. **AGREEMENT**: In consideration of the terms and conditions contained herein and the mutual benefit to be derived by this Agreement, the Parties further agree as follows:

- 3.1 Customer shall purchase electric service at the Customer's Site Location, as needed, solely from LADWP according to the terms and conditions of the applicable Rate Ordinance(s) or rate contract(s).
- 3.2 Customer shall pay LADWP for all costs associated with the interconnection and intended safe parallel operation of the Generation Facility in accordance with the terms and conditions contained herein.



- 3.3 LADWP may, without any liability therefor, and without prior notice, interrupt Electric Service to the Customer's Site Location in the event of an Emergency Condition. In such a case, LADWP may apportion its available supply of electricity among all customers and in a manner that appears to it most equitable under the prevailing circumstances and conditions. The restoration of interrupted Electrical Service to the Customer's Site Location, in such a case, will be performed by LADWP as rapidly as practicable and in the manner which, in the opinion of LADWP, will result in the greatest overall public benefit.
- 3.4 LADWP and Customer shall comply with the applicable Interconnected Operating Procedures set forth in Exhibit D.
- 3.5 Customer agrees to accept electric service and supply from LADWP subject to the conditions of supply as is provided by LADWP at the Customer's Site Location. LADWP will exercise reasonable diligence and care to furnish and deliver a continuous and sufficient supply of Electric Service to the Customer's Site Location, and to avoid any shortage or interruption of delivery. LADWP cannot, and does not, however, guarantee a continuous or sufficient supply of electrical current, or freedom from fluctuations of voltage, interruption of service, or shortage or insufficiency of supply.
- 3.6 Customer agrees to fully and completely hold harmless and release the City of Los Angeles, LADWP, their boards, officers, agents, employees, assigns, successors-in-interest, contractors, and sub-contractors from any equitable, tort, or statutory causes of action arising from the supply of electric service to Customer's Site Location, including, but not limited to, those due to electric voltage, fluctuations of voltage, interruptions of service for any reason or duration, shortage or insufficiency of supply, and negligence. Neither LADWP nor Customer shall be liable under any legal theory, including indemnity, warranty, contract, strict liability, or any other theory of liability, for any consequential, special, indirect or incidental damages, including, but not limited to, loss of profit, loss of use, cost of capital, or replacement power. LADWP will not be liable to Customer for interruption, shortage, or insufficiency of supply to the Customer's Site Location caused by LADWP's ordinary negligence, the negligence of others, or any cause beyond LADWP's control, or the ordinary negligence of LADWP's employees, servants, or agents. Furthermore, to the extent of liabilities expressly assumed by Customer hereunder, Customer shall provide a complete waiver of subrogation rights in favor of LADWP from all insurance carriers providing coverage to Customer.

**4. RESPONSIBILITIES OF THE CUSTOMER:**

- 4.1 Customer shall own, at its sole risk and expense, the Generation Facility in compliance with all applicable codes, Laws, Electric Service Requirements, Rules, and Prudent Utility Practices. A person or entity acting on Customer's behalf may operate and maintain the Generation Facility in compliance with all applicable codes, Laws, Electric Service Requirements, Rules Prudent Utility Practices, and this Agreement. Meeting this requirement shall not relieve Customer of its obligations pursuant to the terms and conditions of this Agreement.
- 4.2 When Customer has executed the Agreement and submits it to LADWP for LADWP's execution, Customer shall also submit the following information:
  - 4.2.1 Electrical plans including load schedules and single-line diagrams; and
  - 4.2.2 Plot and site development plans showing generator, disconnect, and metering equipment locations and LADWP access to generator, disconnect, and metering equipment locations; and
  - 4.2.3 Energy Source Information:
    - (1) Maximum kilowatt rating
    - (2) Nominal voltage output
    - (3) Voltage regulation
    - (4) Maximum fault current contribution; and
  - 4.2.4 Protective system information:
    - (1) Protective system plan
    - (2) Manufacturer's data sheets and maintenance requirements for protective equipment; and
  - 4.2.5 Any additional information required by LADWP.
- 4.3 If the LADWP Facility is modified or constructed, a written description of the LADWP Facility will be attached as Exhibit E of this Agreement after construction.
- 4.4 Review by LADWP of Customer's original specifications or of any changes or modifications to those specifications shall not be construed as confirming

or endorsing the design or as implying any warranty of safety or durability of the Generation Facility.

- 4.5 LADWP shall not, by reason of review or failure to review, be responsible for strength, details of design, adequacy or capacity of the Generation Facility or its constituent equipment, nor shall LADWP's acceptance be deemed to be an LADWP approval or endorsement of the Generation Facility.
- 4.6 Within thirty (30) calendar days following the In-Service Date or at a date mutually agreed to between the Authorized Representatives, Customer shall submit in writing to LADWP's Authorized Representative that the Generation Facility meets the standards set forth in the applicable Electric Service Requirements.
- 4.7 Customer shall operate and maintain the Generation Facility in accordance with the applicable Electric Service Requirements, Prudent Utility Practices, and this Agreement.
- 4.8 Customer shall not energize, at any time, a de-energized portion of LADWP's electric system without express written permission from LADWP's Authorized Representative.
- 4.9 The Parties recognize that, from time to time, certain improvements, additions, or other changes in the interconnection and protection equipment at the Generation Facility or elsewhere at Customer's Site Location may be required for the intended safe parallel operation of the Generation Facility with LADWP's electric system. Such improvements, additions, or other changes shall be in accordance with applicable Laws, Rate Ordinance(s), rate contract(s), Electric Service Requirements, Rules, and Prudent Utility Practices. LADWP shall have the right to require Customer to make those changes upon reasonable advance written notice from LADWP's Authorized Representative.
- 4.10 Failure of Customer to comply with Subsection 4.9 within a reasonable period of time after receipt of such written notice as provided in Subsection 4.9 may result in the Generation Facility being disconnected from LADWP's electric system pursuant to Section 7.

**5. RESPONSIBILITIES OF LADWP:**

- 5.1 LADWP shall be the sole provider of electric service required by Customer at Customer's Site Location. Electric Service provided by LADWP shall be provided in compliance with all applicable Laws, Rate Ordinance(s), rate contract(s), Electric Service Requirements, Rules, and Prudent Utility Practices.
- 5.2 If it is deemed necessary by LADWP to do so after evaluating any improvements, additions, or other changes to the Generation Facility's plans, LADWP will design, construct, own, operate, and maintain an LADWP Facility and make any necessary modifications to LADWP's electric system for the intended safe operation of the Generation Facility in parallel with LADWP's electric system, consistent with applicable Laws, Rate Ordinance(s), rate contract(s), Electric Service Requirements, Rules, and Prudent Utility Practices.
- 5.3 LADWP reserves the right to make measurements or other tests on the Generation Facility, from time to time, as specified in the Electric Service Requirements, subject to Section 11. If the measurements or tests determine that the Generation Facility does not meet the specifications of the Electric Service Requirements, LADWP will require Customer to disconnect the Generation Facility from LADWP's electric system pursuant to Section 7. Customer shall make, or cause to be made, the appropriate changes to the Generation Facility before reconnection to LADWP's electric system.
- 5.4 The Parties recognize that, from time to time, certain improvements, additions, or other changes in LADWP's electric system may be required for the intended safe parallel operation of the Generation Facility. Such improvements, additions, or other changes will be in accordance with Prudent Utility Practices. LADWP shall have the right to make those changes upon reasonable advance written notice from LADWP's Authorized Representative to Customer. LADWP shall bill Customer for such improvements, additions, or other changes in accordance with Section 8 of this Agreement.
- 5.5 LADWP shall bill Customer for the actual costs to perform work incurred in the implementation of this Agreement pursuant to Subsections 1.3, 3.2, 5.2, 5.4, 8.2, 8.4, and 8.5 of this Agreement.

## **6. METERING:**

- 6.1 LADWP shall install, at Customer's sole expense, metering equipment and recorders at the Service Point and at the output point of the Generation Facility to measure electric energy and other electric parameters, as deemed appropriate by LADWP. Such metering equipment and recorders shall be independent from and not connected to the Generation Facility's control system. Customer shall provide and maintain a dedicated analog telephone service line solely for the purpose of delivering data from metering equipment, if required, as determined by LADWP.
- 6.2 For Generation Facilities with nameplate ratings of at least 1,000 kW, Customer shall provide LADWP with the capability to remotely monitor the Generation Facility. LADWP shall install, at Customer's sole expense, telemetering equipment at the Service Point and at the output point of the Generation Facility to monitor the electrical generation at LADWP's Energy Control Center.
- 6.3 LADWP meters shall be sealed with LADWP seals only. The seals shall not be broken except when the meters are inspected, tested, or adjusted by LADWP. LADWP shall test the meters, at its own expense, in accordance with its routine practice and the Rules.
- 6.4 Customer may request testing of meters prior to their normally scheduled test dates, and LADWP shall test the meters upon request within a reasonable time. Customer shall be given reasonable notice to have a representative present at the time of meter testing. Customer shall pay for the cost of the requested meter testing if the meters are found to be within the tolerances specified within the Rules.
- 6.5 Disputes concerning alleged meter discrepancies shall be resolved in accordance with applicable Laws, Rate Ordinance(s), rate contract(s), and the Rules.

## **7. DISCONNECTION OF THE GENERATION FACILITY:**

- 7.1 LADWP shall require Customer to disconnect the Generation Facility from LADWP's electric system if Customer does not comply with the covenants of this Agreement and applicable Laws, Rate Ordinance(s), rate contract(s),

Electric Service Requirements, or Rules. Unless Subsection 7.2 applies, LADWP's Authorized Representative shall provide Customer with thirty (30) calendar days' written notice of such intent and identify the issue(s) of non-compliance before LADWP may disconnect the Generation Facility. If Customer determines that any such issue(s) cannot be cured within thirty (30) days, Customer shall so notify LADWP with written notice within thirty (30) days of receiving LADWP's written notice. Customer's written notice shall contain a statement of the reasons why the issue(s) cannot be cured or complied with within thirty (30) days, and Customer will provide an estimated schedule for curing the non-compliance. Upon receipt of such written notification from Customer, LADWP's Authorized Representative, at his or her sole discretion, may establish, after consultation with Customer, a new date to achieve compliance. If Customer cures the non-compliance issue(s) by the established date to achieve compliance, then LADWP will take no further action regarding that issue of non-compliance.

- 7.2 In accordance with procedures established in the Electric Service Requirements, LADWP shall require Customer to disconnect the Generation Facility immediately from LADWP's electric system (i) upon the occurrence of an Emergency Condition involving the Generation Facility or (ii) to allow LADWP to repair, replace, or maintain any equipment associated with LADWP's electric system.
- 7.3 Each Party shall endeavor to correct the condition on its respective electric system or equipment that resulted in the separation and shall coordinate reconnection of the Generation Facility for parallel operation.
- 7.4 LADWP shall provide for reconnection of the Generation Facility to LADWP's electric system when reasonable to do so in accordance with applicable Laws, Rate Ordinance(s), rate contract(s), Electric Service Requirements, Rules, and Prudent Utility Practices.
- 7.5 LADWP shall not be liable to Customer or any person or entity acting on Customer's behalf, including, but not limited to, any agent, designee, contractor, or lessee, for damages (of any type or nature whatsoever) resulting from the connection or disconnection of the Generation Facility from LADWP's electric system.



## **8. INTERCONNECTION BILLING DETERMINANTS:**

This Section 8 shall apply (i) if, after initial review of the Generation Facility plans and specifications or after review of any proposed improvements, additions, or other changes to the Generation Facility plans and specifications, LADWP determines that an LADWP Facility must be constructed or modifications must be made to LADWP's electric system for the intended safe operation of the Generation Facility in parallel with LADWP's electric system, or (ii) LADWP otherwise determines that modifications must be made to LADWP's electric system for the intended safe operation of the Generation Facility in parallel with LADWP's electric system.

- 8.1 For each detailed cost estimate and detailed design for the LADWP Facility and modifications to LADWP's electric system, LADWP shall bill Customer a nonrefundable amount equal to ten percent (10%) of the preliminary estimate of the Interconnection Costs. The estimate made shall be based on Generation Facility specifications, pursuant to Subsection 4.2. Upon receipt of the nonrefundable amount, LADWP shall prepare a detailed cost estimate and a detailed design in a timely manner.
- 8.2 LADWP shall bill Customer for the amount of the Interconnection Costs based on the detailed cost estimate, less the ten percent (10%) previously advanced pursuant to Subsections 1.3 and 8.1.
- 8.3 Upon receipt of the necessary funds, LADWP shall proceed with the LADWP Facility and any necessary modifications to the electric system for the intended safe parallel operation of the Generation Facility.
- 8.4 If it is determined, at the completion of the LADWP Facility, that Customer has advanced funds which are greater or less than the actual Interconnection Costs, LADWP's Authorized Representative shall make the appropriate adjustment within ninety (90) calendar days after the in-service date of the new or modified LADWP Facility. Payment shall be made within thirty (30) calendar days thereafter.
- 8.5 If it is determined, pursuant to Subsection 5.2 or 5.4 of this Agreement, that LADWP must make improvements, additions, or other changes to either the LADWP Facility or to LADWP's electric system, LADWP shall bill Customer for all costs incurred for such improvements, additions, or other changes.

**9. ELECTRIC SERVICE BILLING DETERMINATIONS:**

LADWP shall bill Customer for Electric Service after the end of each billing period. The bill shall be calculated using the applicable rate(s) in the appropriate rate schedule(s) in the applicable Rate Ordinance(s) or rate contract(s) and recorded billing data that shall consist of metered values deemed required by LADWP. The recorded billing data shall be obtained from LADWP revenue meters and recorders. Customer shall send the payment to the address specified in Subsection 10.2.

**10. BILLINGS AND PAYMENTS:**

10.1 Billings and payments pursuant to Section 8, Interconnection Billing Determinants, shall be transmitted to the following addresses:

10.1.1 If to LADWP:

Department of Water and Power of the City of Los Angeles  
PO Box 30870, Room 434  
Los Angeles, California 90030-0870  
Attention: General Accounting

10.1.2 If to Customer:

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10.2 Billings and payments pursuant to Section 6, Metering, Section 9, Electric Service Billing Determinations, and Section 13, Administration, shall be transmitted to the following addresses:

10.2.1 If to LADWP:

Department of Water and Power of the City of Los Angeles  
PO Box 51111

Los Angeles, CA 90051-5700  
Attention: Accounts Receivable

10.2.2 If to Customer:

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- 10.3 Either Party may change, by written notice to the other Party, the name or address of the person to receive invoices or payments pursuant to this Agreement.
- 10.4 All bills for Electric Service, except as provided otherwise in this Agreement, are due and payable by Customer upon presentation. Payment shall be made in accordance with the Rules.
- 10.5 If the correctness of any bill for Electric Service, or any part thereof, or if the correctness of other charges or practices of LADWP is disputed by Customer, LADWP shall conduct an investigation in accordance with the Rules.

11. **INGRESS AND EGRESS:**

- 11.1 LADWP shall have, at all times, the right of ingress to and egress from Customer's premises for the following reasons:
- 11.1.1 Any purpose related to furnishing or receiving electric energy, including, but not limited to, inspection and maintenance; or
- 11.1.2 In order to exercise any and all rights secured to LADWP by law, this Agreement, or the Rules.
- 11.2 While on Customer's premises, LADWP shall abide by Customer's safety rules and regulations.

**12. INDEMNIFICATION:**

- 12.1 Customer shall indemnify, defend, and hold harmless the City of Los Angeles, the Board, LADWP, and their officers, agents, and employees from and against any and all liability, costs, losses, claims, demands, judgments, actions, and causes of action for personal injury, including, but not limited to, bodily injury, or for any property destruction or damage, to third parties or to either Party to this Agreement, attributable to, in whole or in part, or resulting from, the errors, acts, or omissions of Customer or any person or entity acting on Customer's behalf, including, but not limited to, any agent, designee, contractor of any tier, or lessee, in any manner arising from or in connection with this Agreement.
- 12.2 LADWP shall not be indemnified under this Section 12 for liability or loss resulting from its sole negligence or willful misconduct.

**13. ADMINISTRATION:**

- 13.1 Within thirty (30) calendar days after the effective date of this Agreement, Customer and LADWP's Director of Resource Planning, Development, and Programs or designee shall each designate, by written notice to the other, a representative who is authorized to act in each Party's behalf with respect to those matters delegated to the Authorized Representatives. Each Party may designate an authorized alternate with full authority to act in the absence of the Authorized Representative. Each Party shall have the right to change its Authorized Representative or authorized alternate by written notice to the other Party.
- 13.2 The Authorized Representatives shall provide liaison between the Parties and a means of securing effective cooperation, interchange of information, and consultation on a prompt and orderly basis concerning the various matters that may arise, from time to time, in connection with this Agreement.
- 13.3 The Authorized Representatives shall review and attempt to resolve any disputes between the Parties under this Agreement. Should the Authorized Representatives be unable to resolve a dispute, the matter shall be referred to Customer and LADWP's Director of Resource Planning, Development, and Programs who shall use their best efforts for resolution.

- 13.4 Prior to the In-Service Date, the Authorized Representatives shall agree on written procedures pertaining to the synchronization, operation, maintenance, administration, and other activities that may require coordination between the Parties and that are not already contained in Exhibit D.
- 13.5 All actions, agreements, resolutions, determinations, or reports made by the Authorized Representatives shall be made in writing and shall become effective when signed by the Authorized Representatives.
- 13.6 Any expenses incurred by an Authorized Representative or authorized alternate in connection with their duties shall be paid by the Party they represent unless otherwise agreed to in writing by Customer and LADWP's Director of Resource Planning, Development, and Programs.
- 13.7 The Authorized Representatives shall have no authority to modify this Agreement, except that that they may mutually make any improvements, additions, or changes to the Interconnected Operating Procedures set forth in Exhibit D.

**14. DEFAULT:**

- 14.1 Default by Customer: The occurrence of any of the following shall constitute a material breach and default of this Agreement by Customer:
- 14.1.1 Failure by Customer to make payment to LADWP of uncontested amounts within the times set forth in this Agreement; or
- 14.1.2 Failure by Customer to comply with requirements pertaining to the safety of persons or property set forth herein or in the applicable Laws, Rate Ordinance(s), rate contract(s), the Electric Service Requirements, or the Rules; or
- 14.1.3 Failure by Customer to substantially observe and perform any other material provision of this Agreement within thirty (30) calendar days of receiving written notice from LADWP of the provisions of this Agreement with which LADWP believes Customer has not complied. If Customer determines that any such provision cannot be complied with within thirty (30) days, Customer shall so notify

LADWP in writing within thirty (30) days of receiving LADWP's written notice. Customer's written notice shall contain a statement of the reasons why the provision cannot be complied with within thirty (30) days, and Customer shall provide an estimated schedule for compliance with the provision. Upon receipt of such written notification from the Customer, LADWP's Authorized Representative, at his or her sole discretion, may establish, after consultation with Customer, a new date to achieve compliance. If Customer complies with the provision by the established date to achieve compliance, then LADWP will take no further action regarding that instance of non-compliance.

14.1.4 Default by Customer under the SOPPA or any Ancillary Document (as defined in the SOPPA).

14.2 Default by LADWP: Failure by LADWP to substantially observe and perform any material provision required by this Agreement, where such failure results in a condition materially harmful to Customer and continues for thirty (30) calendar days after receipt of written notice from Customer, shall constitute a material breach and default by LADWP of this Agreement, provided, however, that if the nature of such default is curable, but that the same cannot with due diligence be cured within the thirty (30) calendar day period, LADWP shall not be deemed to be in default if it commences to cure the default within the thirty (30) calendar day period and thereafter diligently prosecutes the same to completion.

15. REMEDIES UPON DEFAULT: Either Party shall be entitled to monetary damages based on proof of actual damages resulting from default of the other Party. The non-defaulting Party shall have the right to terminate this Agreement upon the occurrence of any of the events of default described in Section 14.

16. FORCE MAJEURE: Neither Party shall be considered to be in default in the performance of any of its obligations under this Agreement (other than obligations of said Party to make payments due) if failure of performance shall be due to an uncontrollable force. The term "uncontrollable force" shall mean any cause beyond the control of the Party affected, including, but not limited to, failure of or threat of failure of facilities, flood, earthquake, storm, fire, lightning, epidemic, war, civil disturbance or disobedience, labor dispute, labor or material shortage, sabotage, restraint by court order or public authority, and action or nonaction by or inability to obtain authorizations or approvals from any governmental agency or authority, which by exercise of due diligence it shall be unable to overcome.



Nothing contained herein shall be construed so as to require a Party to settle any strike or labor dispute in which it may be involved. Either Party rendered unable to fulfill any obligation under this Agreement by reason of uncontrollable force shall give prompt notice of such fact to the other Party and shall exercise due diligence to remove such inability with all reasonable dispatch.

**17. AUTHORIZATIONS AND APPROVALS:**

17.1 Each Party shall obtain all the necessary authorizations, licenses, approvals, and permits from Federal, State, or local agencies having jurisdiction.

17.2 This Agreement and all operations hereunder are subject to the applicable Laws.

**18. EFFECT OF SECTION HEADINGS:** Section headings appearing in this Agreement are inserted for convenience only and shall not be construed as interpretations of text.

**19. NONWAIVER:** None of the provisions of this Agreement shall be deemed waived unless expressly waived in writing. Any omission or failure of either Party to demand or enforce strict performance of provisions of the Agreement shall not be construed as a waiver or as a relinquishment of any rights. All provisions and rights shall continue and remain in full force and effect as if such omission or failure had not occurred.

**20. NONDEDICATION OF FACILITIES:** This Agreement shall not be construed as a dedication of any properties or facilities, or any portion thereof, by either Party to each other or the public.

**21. NO THIRD-PARTY BENEFICIARIES:** This Agreement is for the sole benefit of the Parties hereto and shall not be construed as granting rights to any person or entity other than the Parties or imposing on either Party obligations to any person other than a Party.

**22. NOTICES:**

22.1 Any written notice under this Agreement shall be deemed properly given if delivered in person or sent by registered or certified mail, postage prepaid, to the person specified below unless otherwise provided for in this Agreement:

22.1.1 If to LADWP:

Department of Water and Power of the City of Los Angeles  
PO Box 51111, Room 1255  
Los Angeles, California 90051-5700  
Attention: Director of Resource  
Planning, Development, and Programs

22.1.2 If to Customer:

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22.2 Either Party may, by written notice to the other Party, change the name or address of the person to receive notices pursuant to this Agreement.

23. **TRANSFER OF INTEREST:** Neither Party shall assign or transfer this Agreement, in whole or in part, without the prior written consent of the other Party. The consent to assign or transfer shall not be unreasonably withheld. LADWP's Director of Resource Planning, Development, and Programs or designee shall execute assignment or transfer of this Agreement or the consent to assign or transfer this Agreement.
24. **SEVERAL OBLIGATIONS:** Except as otherwise required for public entities under California Government Code Section 895 et seq. or any amendments to or replacements of that chapter, the duties, obligations, and liabilities of the Parties are several and not joint or collective. Nothing contained in this Agreement shall be construed to create an association, trust, partnership, or joint venture or to impose a trust or partnership duty, obligation, or liability on or with regard to either Party. Each Party shall be individually and severally liable for its own obligations under this Agreement.
25. **SEVERABILITY:** If any paragraph, sentence, clause, phrase, or word shall become without full effect due to any judicial decision or change in applicable

Laws, the balance of this Agreement shall remain in full force and effect provided that the purposes of this Agreement can still be fulfilled.

**26. EFFECTIVE DATE AND TERM:**

26.1 This Agreement shall become effective upon the "Effective Date", which is the first day upon which the Agreement has been executed by both Parties.

26.2 Unless terminated earlier under Section 15, this Agreement shall remain in full force and effect until terminated by mutual written agreement of the Authorized Representatives of the Parties.

26.3 Upon the date of termination of this Agreement, all rights to services provided hereunder shall cease, and neither Party shall claim or assert any continuing right to such services hereunder. However, such termination shall not affect the rights and obligations to pay money for transactions occurring prior to termination. Following the termination of this Agreement, the provisions of Section 12 shall survive for periods when Customer owns the Generation Facility.

**27. GOVERNING LAW AND VENUE:** This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the State of California and the City of Los Angeles, without regard to conflict of law principles. All litigation arising out of, or relating to, this Agreement shall be brought in a State or Federal court in the County of Los Angeles in the State of California. The Parties irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of California and waive any defense of forum non conveniens.

**28. UNDERSTANDING:** This Agreement contains the entire understanding between the Parties with respect to the subject matter hereof, and there are no other promises, terms, conditions, obligations, understandings, or agreements between the Parties with respect thereto. This Agreement supersedes all previous communications, representations, understandings, and agreements, either oral or written, between the Parties with respect to the subject matter hereof.

**29. REPRESENTATION:** Each Party has been represented by legal counsel in the negotiation and execution of this Agreement.

**30. EXHIBITS:** Exhibits A through E attached hereto are incorporated herein by this reference. All terms used in Exhibits A through E, when initially capitalized,

whether in the singular or plural tense, shall have the meaning used in this Agreement.

31. **EXECUTION:** IN WITNESS WHEREOF, the signatories hereto represent that they have been appropriately authorized to enter into this \_\_\_\_\_ - LADWP Customer Generation Interconnection Agreement on behalf of the Party for whom they sign. This Agreement is hereby executed on the day and year written below.

\_\_\_\_\_  
(Customer)  
By:

Name (Signature): \_\_\_\_\_  
Name (Print): \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

CITY OF LOS ANGELES ACTING BY AND THROUGH THE  
DEPARTMENT OF WATER AND POWER

By:

Name (Signature): \_\_\_\_\_  
Name (Print): Martin L. Adams  
Title: General Manager and Chief Engineer  
Date: \_\_\_\_\_

**EXHIBIT A**  
**CUSTOMER GENERATION DATA SHEETS**

Facility Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Owner/Company: \_\_\_\_\_  
Contact Person: \_\_\_\_\_ Phone: \_\_\_\_\_  
Primary Product/Service of Facility: \_\_\_\_\_  
Unit Start-Up Date: \_\_\_\_\_

**SYSTEM CHARACTERISTICS**

Type of Facility [generation type]:

☐ 1. Solar photovoltaic:

Total capacity of Facility [KW DC]: \_\_\_\_\_

Total capacity of Facility [KW AC]: \_\_\_\_\_

Total capacity of Facility [KW CEC-AC]: \_\_\_\_\_

☐ 2. Other Non-Solar Photovoltaic RPS-Eligible Technology:

Generation Type: \_\_\_\_\_

Total Capacity of Facility [KW AC]: \_\_\_\_\_

Thermal \_\_\_\_\_ BTU/Hr \_\_\_\_\_ lbs/hr

Operations: Schedule \_\_\_\_\_ hours/day \_\_\_\_\_ days/year

Typical Daily Profile, O = On and X = Off

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24

**INTERCONNECTION WITH LADWP**

\_\_\_\_\_ Isolated, no connection to power grid

  x   Parallel, connected to grid to purchase power

\_\_\_\_\_ Parallel, connected to grid, utility owned or operated

\_\_\_\_\_ Electric load including planned expansions

GENERATION FACILITY DESCRIPTION

Schematic Diagram and/or Single-Line Diagram

Written Description

(Attach additional pages to this Exhibit A if necessary)



ANNUAL PLAN PRODUCTION/USE CHARACTERISTICS

OUTPUT:        Electric        \_\_\_\_\_ kWh  
                 Thermal        \_\_\_\_\_ Billion BTUs  
                 Mechanical        \_\_\_\_\_ HP-hr

CONSUMPTION: Electric        \_\_\_\_\_ kWh  
                 Thermal        \_\_\_\_\_ MM BTUs

PEAK DEMAND: Electric        \_\_\_\_\_ kWh

System Efficiency:        \_\_\_\_\_ percent

Net Heat Rate:        \_\_\_\_\_ percent

ECONOMIC CHARACTERISTICS

Capital Costs: \_\_\_\_\_

O&M Costs: \_\_\_\_\_ \$/year Fuel

Costs: \_\_\_\_\_ \$/year

Cost of Generated Electricity: \_\_\_\_\_ cents/kWh

FOR LADWP USE ONLY:

ACCOUNT REPRESENTATIVE \_\_\_\_\_

IS No. \_\_\_\_\_ VOLTAGE CONNECTION \_\_\_\_\_

## **EXHIBIT B**

### **SINGLE-LINE DIAGRAM AND EQUIPMENT LIST FOR THE LADWP FACILITY**

If the LADWP Facility is constructed, a single-line diagram and equipment list for the LADWP Facility will be attached to this Exhibit after the LADWP Facility has been designed and constructed. LADWP's Authorized Representative will provide a copy of Exhibit B for Customer's files.

## **EXHIBIT C**

### **METERS USED BY LADWP AT CUSTOMER'S SITE LOCATION**

The meter(s) that are already being used by LADWP for Customer's account at the Customer's Site Location as of the date when Customer executes this Agreement are:

## **EXHIBIT D**

### **INTERCONNECTED OPERATING PROCEDURES**

**1.0 EXHIBIT D DEFINITIONS:** For purposes of this Exhibit D only, the following terms, when initially capitalized, whether in the singular or plural tense, shall mean:

- 1.1 Accident Prevention Tags:** Temporary signs with preprinted instructions and markings that are used to restrict operation or other action so that personnel, systems, and components are protected, warn that the tagged system or component is in a condition associated with test or maintenance activities, or indicate that the system or component is under the operating jurisdiction of an organizational unit other than that of the operating personnel. Commonly used Blocking Devices, or warning devices, such as Blocking Caps, Bank in Service Caps, and Coat Hangers can be used to apply tags but are not Accident Prevention Tags.
- 1.2 Authorized Person:** A person who is authorized to receive Work Authorities on circuits and equipment from the Load Dispatcher, or from the Load Dispatcher's Field Representative. Certification as an Authorized Person is required in order to hold any form of Work Authority.
- 1.3 Blocking Device:** A blocking cap, cover, or other device that is intended to provide a physical obstacle, or a visual reminder, to aid in the prevention of incorrect or unintentional operations. Blocking devices may be used as a means to attach Accident Prevention Tags to a circuit or piece of equipment, but they may never take the place of an Accident Prevention Tag.
- 1.4 Bulk Power System:** Consists of the LADWP Power System's Generation and Transmission System.
- 1.5 Business Day:** Any day that is not a Saturday, a Sunday, or a day on which commercial banks are authorized or required to be closed in Los Angeles, California, or New York, New York.
- 1.6 Clearance:** For LADWP, a Work Authority issued by the Load Dispatcher, or from the Load Dispatcher's Field Representative, that states that the specified circuit, circuit component, or equipment is Disconnected or

## **EXHIBIT G**

### **Form of Interconnection Agreement**

isolated from specified sources of energy. It is assurance to the Authorized Person receiving the Clearance that the specified circuit, circuit component, or equipment will remain so Disconnected or isolated until the holder of the Clearance releases it. For Customer, a Work Authority that states the specified circuit, circuit component, or equipment is Disconnected or isolated from specified sources of energy. A Clearance permits the performance of work specified on the Clearance request.

- 1.7 Customer's Operational Agent: \_\_\_\_\_
- 1.8 Disconnected: As used in the preparation of electrical circuits and equipment for a Work Authority, means that a required open gap, usually visible, exists between specified sources of electric energy and the circuit component that is cleared.
- 1.9 Electric Station: Any power system facility used for the generation, transmission, or distribution of electrical energy.
- 1.10 Energy Control Center (ECC): LADWP headquarters for conducting Bulk Power System and Electric Station monitoring and control for all operation, maintenance, and modification to the power system.
- 1.11 Field Representative: An Authorized Person who is employed by LADWP and designated by that person's Superintendent to receive Work Authorities and reissue them to Authorized Persons in charge of the work, and who originates Local Work Authorities on circuits and equipment under that person's jurisdiction.
- 1.12 Industrial Station: A transformer installation located on the customer's premises and supplied from the Department's 34,500-volt electric system.
- 1.13 Load Dispatcher: A North American Electric Reliability Corporation (NERC)-certified LADWP Power System employee who is responsible for the daily operation of the LADWP Power System during normal and emergency conditions.
- 1.14 Local Work Authority: A Work Authority that originates from a facility Field Representative, rather than the Load Dispatcher. It applies to a circuit or piece of equipment not under control of the Load Dispatcher. It can include a Local Clearance or Local OK TO.
- 1.15 OK TO: For LADWP, regarding any electrical circuit or equipment, a statement from the Load Dispatcher or representative that specified work

may be done on or near the circuit or equipment. For Customer, regarding any electrical circuit or equipment, a statement from its control center that specified work may be done on or near the circuit or equipment. It is a type of Work Authority.

- 1.16 Outage Coordinator: A Senior Load Dispatcher or Load Dispatcher whose job function is to schedule outages and to take requests for Work Authorities on circuits and equipment under the jurisdiction of the ECC or the ECC Bid Desk.
- 1.17 Safe Work Area: An area that has been made ready for the specified work to be performed. Safe Work Areas are created by work preparation activities such as switching and tagging with Accident Prevention Tags, ventilation, and/or installation of barriers or barricade tape.
- 1.18 Work Authorities: For LADWP, any Clearance or OK TO issued by the Load Dispatcher or the Load Dispatcher's Field Representative to an Authorized Person for the performance of specified work by LADWP. LADWP Work Authorities can be (1) Primary Work Authorities issued by Load Dispatchers either to Field Representatives for reissue to Authorized Persons or directly to Authorized Persons, (2) Secondary Work Authorities issued by Field Representatives to Authorized Persons, or (3) Local Work Authorities issued by Field Representatives to Authorized Persons on circuits or equipment under local jurisdiction.

## 2.0 **GENERAL RESPONSIBILITIES:**

- 2.1 Except where explicitly specified in Subsection 2.2, LADWP has the sole authority and responsibility to operate and maintain any and all of its Industrial Stations at the Customer's Site Location.
- 2.2 Customer has the sole authority and responsibility to operate and maintain

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- 2.3 Customer shall comply with reliability-based directives and orders issued by LADWP in LADWP's role as Transmission Operator and Load Serving Entity unless such actions would violate safety, equipment, regulatory or statutory requirements. Under such circumstances, Customer shall immediately inform LADWP of its inability to perform the directive in accordance with NERC Standard TOP-001-1a R3.
- 2.4 LADWP shall notify at least one of the Customer contacts listed in Subsection 10.2 whenever it plans to enter Customer's Site Location.



### **3.0 OUTAGE REQUESTS: SCHEDULED AND UNSCHEDULED WORK:**

- 3.1** All requests for outages and Work Authorities will be pre-programmed whenever possible. To the extent possible, outages and other maintenance activities affecting the reliability of the interconnection or delivery of energy shall be coordinated to minimize the impact to both Parties. Customer will be notified at least three (3) Business Days in advance of all scheduled outages and non-emergency work, including visual inspections; such notification will be made to at least one of the Customer contacts listed in Subsection 10.2.
- 3.2** Scheduled Work: Requests for work and visual inspections shall be submitted to LADWP's Outage Coordinator. A Party may, in accordance with Prudent Utility Practices and in coordination with the other Party, remove from service any of its respective facilities that may impact the other Party's facilities as necessary to perform maintenance or testing or to install or replace equipment. The Outage Coordinator will coordinate outage requests, with Customer's cooperation. Requests for work shall normally be submitted at a minimum of three (3) Business Days prior to the date of the work.
- 3.3** Each Party shall, to the extent practical, provide reasonable advance notice of its planned maintenance outages, including any updates or modifications to its planned outage schedule, to the other Party prior to such outages. Such notice shall normally be submitted at a minimum of three (3) Business Days prior to the date of the associated work.
- 3.4** Unscheduled Work: Requests for work in real time shall be for urgent or emergency purposes only and shall be coordinated between LADWP's Load Dispatcher or Senior Subtransmission Dispatcher and Customer's Operational Agent.

### **4.0 SWITCHING:**

- 4.1** LADWP's ECC will direct all switching at its Industrial Station at Customer's Site Location. This includes, but is not limited to, directions to remove and to reinstall conductor connections where needed to establish electrical isolation via a physical air gap.
- 4.2** LADWP Operations personnel will perform all switching at its Industrial Station at Customer's Site Location and will notify Customer according to Subsection 4.3.

- 4.3 All switching will be coordinated between the Parties' respective control centers, with notifications made prior to commencing such switching, and will be in accordance with procedures and terms set forth in this Exhibit D. LADWP's ECC and Customer's Operational Agent will communicate with all affected parties prior to, and after completion of, all switching. No switch that has been operated and tagged in order to provide a Safe Work Area may be operated again without the approval of LADWP's ECC, the Customer's Operational Agent, and any Work Authority holders, and then only if it does not violate any outstanding Work Authorities or safety rules.

**5.0 WORK AUTHORITIES:**

- 5.1 Following completion of switching for a Clearance, OK TO, or other Work Authority, the control center requesting the Work Authority will receive said Work Authority from the other control center. If work is going to be performed by more than one Party, the respective control centers will exchange the appropriate Work Authorities.
- 5.2 LADWP's ECC will issue, and receive return of, Work Authorities for equipment under the sole operational authority of LADWP.
- 5.3 Customer's Operational Agent will issue, and receive return of, Work Authorities for equipment under the sole operational authority of Customer.
- 5.4 Upon completion of work, the control center of the performing Party will release its Work Authority, which means that the applicable facility is back under operating control. No switching to restore any equipment covered under this Exhibit D will be performed until all applicable Work Authorities on the equipment have been released, and the control centers have exchanged information on the status of, and any changes to, the circuit or terminal equipment.

**6.0 REPORTING AND DOCUMENTATION:**

- 6.1 LADWP and Customer shall keep each other informed in real time as to changes in the status of all equipment at their respective facilities that may affect the other Party.
- 6.2 Each Party will maintain appropriate records of all switching, Work Authorities, and other pertinent events in accordance with such Party's standard procedures.

6.3 A Party communicating switching instructions and reports of switching shall ensure that the information is communicated in a clear, concise, and definitive manner, shall ensure that the recipient of the communication repeats the information back correctly, and shall either acknowledge the response as correct or repeat the original statement to resolve any misunderstanding.

6.4 The English language shall be used for all communication between the control centers.

**7.0 ENERGY SCHEDULING AND CURTAILMENT:**

Customer shall immediately, but in a controlled manner, comply with LADWP's requests to curtail output of the Generation Facility if conditions on LADWP's Subtransmission System require a reduction for reliability purposes. This reduction will be for the minimum capacity and duration necessary to resolve the reliability condition.

**8.0 VOLTAGE AND MVAR CONTROL:**

Customer will operate its own voltage control equipment within the capabilities of its equipment to maintain the Subtransmission voltage limits provided by LADWP, within the reactive power capability of the Generation Facility. Customer shall be responsible for under- and over-voltage ride-through capability within the same operating envelope that LADWP uses on its Subtransmission System.

**9.0 EMERGENCY CONDITIONS:**

A Party may take necessary immediate actions under Emergency Conditions without prior notification to the other Party. Said actions shall be immediately communicated to the other Party at the earliest possible time. Any equipment interrupted by said actions shall be restored when reasonable to do so in accordance with applicable Laws, Rate Ordinance(s), rate contract(s), Electric Service Requirements, Rules, and Prudent Utility Practices.

**10.0 CONTACT INFORMATION:**

For purposes of all communications under this Exhibit D only, in accordance with applicable Laws, Rate Ordinance(s), rate contract(s), Electric Service Requirements, Rules, and Prudent Utility Practices, the following contact information shall be used:

**10.1**      If to LADWP:

Energy Control Center c/o Room 1148  
P.O. Box 51111  
Los Angeles, CA 90051-0100

Outage Coordinator      (818) 771-6651  
Load Dispatcher          (818) 771-6643  
Senior Load Dispatcher(818) 771-6640

**10.2**      If to Customer:

Mailing Address:

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Name/Title(s) of Contact(s):

Phone Number(s):

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**11.0**      **ONE-LINE DIAGRAMS:**

Facilities impacted by the Interconnected Operating Procedures contained in this Exhibit D shall be maintained by the responsible Party, in all material respects, in accordance with the depictions contained in the following One-Line Diagrams:

Number

Title

**EXHIBIT E**

**WRITTEN DESCRIPTION OF THE  
CONSTRUCTED OR MODIFIED LADWP FACILITY**

**EXHIBIT H  
INTENTIONALLY  
DELETED**



**EXHIBIT I**  
**BASELINE**  
**REPORT**  
**(To be provided**  
**by Operator)**

**EXHIBIT J**  
**LICENSE**

**LICENSE AGREEMENT**  
**BETWEEN THE CITY OF LOS ANGELES, DEPARTMENT OF AIRPORTS AND**  
**FLYAWAY FIT, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY.**  
**AT VAN NUYS AIRPORT**

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7610 Woodley Avenue – Flyaway Property

THIS LICENSE AGREEMENT (“License”) is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2024 (“Effective Date”), at Los Angeles, California, by and between the **CITY OF LOS ANGELES**, a municipal corporation, acting by order of and through its Board of Airport Commissioners (the (“Board”) of the DEPARTMENT OF AIRPORTS also known as Los Angeles World Airports or LAWA (“City”, “LAWA” or “Licensor”) and **FLYAWAY FIT, LLC**, a California limited liability company (“Licensee”) (sometimes herein referred to individually as a “party” or together as “parties”).

**RECITALS**

WHEREAS, LAWA owns the certain real property located at 7610 Woodley Avenue, Los Angeles, California, 91343 (“Property”), including all buildings, improvements, structures and fixtures located thereon (collectively, the “Premises”); and

WHEREAS, Licensee desires to obtain, and LAWA desires to provide, a nonexclusive license for the use a specified portion of the rooftops of the one or more buildings at the Property and/or other areas as described herein for Interconnection (the “Licensed Area”, as more particularly defined in Exhibit “A” attached hereto and made a part hereof) for the installation, maintenance and operation of the solar photovoltaic system (the “PV System”), as set forth in the certain Operating Agreement between the parties hereto and of even date herewith (the “Operating Agreement”), and subject to the terms and conditions of this License; and

WHEREAS, this License is granted for the sole purpose of effectuating performances under the Operating Agreement.

The parties hereto, for and in consideration of the covenants and conditions hereinafter contained to be kept and performed, DO HEREBY AGREE AS FOLLOWS:

1. **Grant of License.** LAWA hereby grants to Licensee and its agents and contractors a right to enter upon, occupy, and use the “Licensed Area”, as depicted on Exhibit A, for the License Term (defined below), which Licensed Area is owned by LAWA and under the control of LAWA, together with the right of ingress and egress over the Premises to and from the Licensed Area, subject to the terms and conditions herein, for the Permitted Use. Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Operating Agreement. Notwithstanding anything to the contrary contained herein, Licensee shall have the sole right to develop and use the Premises for the Permitted Use and Licensor shall not permit the use of the Premises by any other party for solar energy purposes and/or energy storage purposes.

2. **Licensee Rights Subordinate.** The rights granted to Licensee pursuant to this License are non-exclusive and subject to the rights of LAWA (including without limitation its third party lessee(s), sublessees, permittee(s), and licensee(s)) to use the Licensed Area (and any additional real property owned by LAWA surrounding the Licensed Area) for the purposes to which it now is and may, at the option of LAWA, be devoted. This License and all rights of Licensee hereunder are subject and subordinate to all existing (as of the Effective Date) leases, easements, rights of way, declarations, restrictions or other matters of record and all existing agreements of the City with respect to the Premises. Licensee undertakes and agrees to use the Licensed Area and to exercise its rights granted under this License jointly with LAWA and other third parties authorized by LAWA, and, notwithstanding the PV system and required accessories and equipment, will at all times exercise the rights herein granted in such manner as will not unreasonably interfere with the full use and enjoyment of the Licensed Area by LAWA. LAWA shall use the Licensed Area and exercise its rights with respect to the Licensed Area jointly with Licensee, and will at all times use the Licensed Area and exercise its rights with respect thereto, and will cause its lessees, sublessees, permittees, and licensees to use the Licensed Area and exercise their respects rights with respect thereto, in such manner as will not unreasonably interfere with the full use and enjoyment of the Licensed Area by Licensee (including its operation).

3. **Term.**

3.1. The term of the License ("Term") shall be concurrent with the Term of the Operating Agreement as described in Sections 1.1 therein.

3.2. This License does not provide authorization for the potential approval or construction of the PV System or use of the Premises for the PV System operation prior to compliance with CEQA, NEPA and all other applicable laws.

3.3. The date on which this License expires or otherwise terminates shall be referred to herein as the "Termination Date." If the SOPPA or Operating Agreement for the PV System is terminated for any reason, or the PV System is purchased by LAWA pursuant to and as permitted by the Operating Agreement, this License shall simultaneously expire or terminate, as applicable, without any action required by LAWA or Licensee. Notwithstanding anything herein to the contrary, Licensee acknowledges that it has no right to an extension of this License or a right to a new license at the expiration of this License.

4. **Use.**

4.1. **Permitted Use.** LAWA does hereby grant to Licensee a license to use the Licensed Area for the purpose of the installation, development, construction, operation, management, interconnection, inspection, maintenance, repair, improvement, enhancement, alteration, replacement, and removal of the PV System and uses incidental thereto and for no other use or purpose (the "Permitted Use").

4.2. **As-Is Condition/No LAWA Warranties.** Except as otherwise expressly provided in the Operating Agreement, the Licensed Area is delivered by LAWA, and accepted by Licensee, in an "AS-IS, WHERE-IS, WITH ALL FAULTS" condition, and Licensee hereby

accepts the Licensed Area in its "as-is" condition and Licensee acknowledges that LAWA has not made any statements or representations or warranties regarding the condition of the Licensed Area and the Premises. Licensee is not relying upon any LAWA statement or representation or warranty by LAWA or any third party regarding the Licensed Area, Premises, the fitness or suitability of the Licensed Area or Premises for any particular use of Licensee, the compliance of the Premises or Licensed Area with codes or applicable law, or any other matter. Licensee has had an opportunity to inspect the Premises, including the Licensed Area and every aspect thereof and represents to LAWA that the Premises and the Licensed Area is in acceptable condition for the Permitted Use and assumes all risk associated therewith. LAWA hereby expressly disclaims and Licensee hereby waives all implied warranties including, without limitation, any warranty of merchantability or warranty of fitness for a particular use or purpose. LAWA is under no obligation to perform any work or provide any materials to prepare the Premises or Licensed Area for Licensee. Licensee agrees to surrender the Premises upon the expiration or earlier termination of this License, the Operating Agreement or the SOPPA, in a condition substantially similar to the condition of the Premises and Licensed Area on the date the License commences, ordinary wear and tear excepted.

4.3. Limitation on Use. Licensee shall not permit or suffer any use of the Licensed Area or any part thereof other than for the Permitted Use, or provide the PV System for the use of others, without first obtaining the LAWA's written consent.

4.4. Assignments; Financing. LAWA and Licensee acknowledge and agree that Section 9 of the Operating Agreement is hereby incorporated herein by reference as though fully set forth herein and applicable to this License (i.e., with references to "this Agreement" being deemed references to "this License").

4.5. Prohibited Uses. Licensee shall not use or allow the Premises to be used for any improper, immoral, or unlawful purposes, nor shall Licensee cause, maintain or permit any nuisance in, on or about the Premises (it being acknowledged that the Permitted Use shall not constitute a nuisance).

5. License Fees. This License is entered into in partial consideration of and to facilitate the Licensee's sale of electric energy from Licensee to LADWP under the SOPPA, from which Licensee provides an annual revenue to LAWA, as further described in the Operating Agreement and SOPPA. As such, no License Fee shall accrue or be payable during the License Term, provided the Operating Agreement and SOPPA are in full force and effect.

6. Notices. Written notices to LAWA hereunder shall be sent to the Chief Executive Officer with a copy sent to the City Attorney of the City of Los Angeles and addressed to said parties at:

To LAWA:

Chief Executive Officer  
Department of Airports  
1 World Way

Post Office Box 92216  
Los Angeles, CA 90009-2216

With a copy to:

City Attorney  
Department of Airports  
1 World Way  
Post Office Box 92216  
Los Angeles, CA 90009-2216

or to such other address as LAWA may designate by written notice to Licensee. Copies of all notices shall also be e-mailed to [CDG-Tenant-Notices@lawa.org](mailto:CDG-Tenant-Notices@lawa.org).

Written notices to Licensee hereunder shall be given by registered or certified mail, postage prepaid, and addressed to:

Flyaway FIT, LLC  
7900 Balboa Blvd.  
North Terminal  
Van Nuys, CA 91406  
Attn: Current Energy, LLC

Current Energy LLC  
Attn: Legal Department  
230 Park Avenue, Suite 845  
New York, NY 10169

25876 The Old Road #418  
Stevenson Ranch, CA 91381

or to such other address as Licensee may designate by written notice to LAWA.

The execution of any such notice by the Chief Executive Officer shall be as effective as to Licensee as if it were executed by Board or by Resolution or Order of said Board, and Licensee shall not question the authority of the Chief Executive Officer to execute any such notice.

All such notices, except as otherwise provided herein, may either be delivered personally to the Chief Executive Officer or to the Office of the City Attorney, Airport Division, in the one case, or to Licensee in the other case, or may be deposited in the United States mail, properly addressed as aforesaid with postage fully prepaid by certified or registered mail, return receipt requested, and shall be effective five (5) days after deposit in the mail, or may be delivered by a nationally recognized overnight commercial courier service that requires the recipient's signature for delivery, and shall be effective one (1) business day after delivery to such courier.

7. **Expiration or Termination.** Upon the expiration or earlier termination of this License (whether or not following an event of default), Licensee shall surrender the Licensed Area

#### **EXHIBIT J**

#### **License to Rooftop Operating Agreement**



and remove the PV System as required by the Operating Agreement, including, without limitation, Section 4.1.2 of the Operating Agreement. Licensee shall have a continuing license to enter the Licensed Area for such purposes and for the purpose of accessing any transmission lines and/or related improvements and facilities constructed by Licensee as contemplated by the Operating Agreement and/or SOPPA in connection with dismantling and removal thereof until all

requested structures and equipment are removed. This obligation shall survive the termination of this License.

Licensee shall provide written notice to LAWA upon Licensee's removal of all requested structures and equipment from the Premises, as provided above (the "Completion Notice"). Upon delivery of the Completion Notice, LAWA (at its option) will expeditiously conduct an inspection of the Licensed Area to determine (in LAWA's reasonable discretion) if restoration has been completed by Licensee as required herein. If LAWA performs such inspection and determines that restoration has not been completed as required herein, LAWA shall provide written notice to Licensee of the same (the "Failure Notice"). Such inspection shall be performed by LAWA and the Failure Notice shall be delivered to Licensee within thirty (30) days of Licensee's delivery of the Completion Notice or such right to inspect (and to restore at Licensee's cost as provided below) shall be deemed waived by LAWA. Licensee shall have an additional thirty (30) days from delivery of the Failure Notice to cure any items identified by LAWA in the Failure Notice. If, after such thirty (30) day period, Licensee has not cured such items, then LAWA may restore the Licensed Area as is required to be performed by Operator herein, entirely at the expense of the Licensee. LAWA will bill the Licensee and Licensee shall promptly pay LAWA for the restoration costs.

8. **No Holding Over.** In the event Licensee continues using or accessing or remains in possession of the Licensed Area after the expiration of this License (other than in connection with the removal of the PV System as contemplated by Section 7 above) (a "Hold Over"), whether with the consent of LAWA or without the consent of LAWA, and provided that the Operating Agreement is *not* still in effect, Licensee shall become a licensee from month to month only and pay to LAWA a license fee equal to the fair market value for the use of the Licensed Area as provided in this License, as calculated in LAWA's reasonable opinion, for so long as such month to month license shall continue and such month to month license shall be subject to every other provision contained herein and such occupancy shall continue unless terminated by LAWA or Licensee giving the other at least thirty (30) days' prior written notice of the intention to terminate such access or use by Licensee. The foregoing provisions of this Section are in addition to and do not affect the right of re-entry or any right of LAWA hereunder or as otherwise provided by law, and in no way shall such provision affect any right which the LAWA may have to recover damages from Licensee for loss or liability incurred by LAWA resulting from such failure or refusal of Licensee to surrender and vacate the Licensed Area as required herein. Nothing contained in this Section shall be construed as consent by LAWA to any holding over by Licensee and LAWA expressly reserves the right to prohibit access and use of the Licensed Area by Licensee as provided in this License upon the expiration or other termination of this License. In all other respects, the use and access shall be governed by the provisions of this License.

9. **Indemnification.**

9.1. Licensee has inspected the Licensed Area, knows the condition thereof, and on behalf of itself and its successors and assigns undertakes and agrees to indemnify and hold harmless the City of Los Angeles, LAWA, the Board of Airport Commissioners of the City of Los Angeles, and all of their officers, agents, successors in interest, insurers, permitted assigns

and/or employees (individually and collectively, "Indemnitees"), and, at the option of the LAWA, defend by counsel satisfactory to the LAWA, the Indemnitees from and against any and all liens and claims of liens, suits, causes of action, claims, administrative proceedings, charges, damages (including, solely with respect to third party claims, indirect, consequential, and incidental damages), demands, judgments, civil fines, penalties, or losses of any kind or nature whatsoever that are incurred by or asserted against the Indemnitees for death, bodily injury or personal injury to any person, including but not limited to Licensee's employees, customers, invitees and agents, or persons who enter onto the Premises, or damage or destruction of any property of either party hereto, or third persons in any manner in each case to the extent caused by acts, negligence, willful misconduct, non-performance, or breach by Licensee of any term and/or condition of this contract by Licensee or its employees, contractors, agents, or invitees, covered under this License, which are incidental to, or connected in any manner with: 1) this License or 2) the Licensed Area. This indemnity shall be in addition to any other rights or remedies which Indemnitees have under law or under this License.

9.2. Licensee on behalf of itself and its successors and assigns further undertakes and agrees to indemnify and hold harmless the Indemnitees, and at the option of the LAWA, defend by counsel satisfactory to the LAWA, the Indemnitees from and against any and all liens and claims of lien, suits, causes of action, claims, administrative proceedings, charges, damages, demands, judgments, civil fines, penalties, (including but not limited to costs, expenses, and legal liability for environmental investigations, monitoring, containment, abatement, removal, repair, cleanup, restoration, remediation, penalties and fines arising from the violation of any local, regional, state, or federal law, or regulation, disbursements, and other environmental response costs), or losses of any kind or nature whatsoever that are incurred by or asserted against the Indemnitees, for death, bodily injury or personal injury to any person, including Licensee employees and agents, or damage or destruction of any property of either party hereto, or third persons in each case to the extent caused by the acts, negligence, willful misconduct, non-performance, or breach by Licensee of any term and/or condition of this contract, relating directly or indirectly to the release or spill of any legally designated hazardous material or waste, resulting from or incident to the presence upon or performance of activities by Licensee or its personnel with respect to the Licensed Area/Property covered under this License, on the part of the Licensee, or the Licensee's officers, agents, invitees, employees, or sub-licensee of any tier. This indemnity shall be in addition to any other rights or remedies which Indemnitees have under law or under this License.

10. **Assumption of Risk/Release.** To the maximum extent allowed by law, Licensee assumes any and all risk of loss, damage or injury of any kind to any person or property arising out of Licensee's use of the Licensed Area. Licensee's assumption of risk shall not include loss or damage caused by the negligence or willful misconduct by LAWA or its agents or invitees and except therefore, shall include, without limitation, loss or damage caused by any condition of LAWA's property, including without limitation any electrical transmission lines and associated structures and equipment, accident or fire or other casualty on the Licensed Area, or electrical discharge, on or near the Licensed Area. Licensee, as a material part of the consideration for this License, hereby waives all claims and demands against LAWA for any such loss, damage or injury of Licensee and/or its Personnel, except if caused by the negligence or willful misconduct

of LAWA or its agents or invitees. In that connection, Licensee waives the benefit of California Civil Code Section 1542, which provides as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party. The provisions of this Section shall survive the termination of this License.

**11. Improvements; Work on Licensed Area.**

11.1 Licensee shall not make or place any improvements in the Licensed Area except in accordance with the Operating Agreement and SOPPA.

11.2 Any and all improvements made by Licensee shall be at Licensee's sole cost and expense. Licensee shall retain responsibility for all such improvements during the License Term. All such improvements must be at all times in compliance with all applicable laws.

12. **License.** Except as expressly provided otherwise in Section 1, Licensee hereby acknowledges that this License grants a non-exclusive right only. Subject to Licensee's express rights herein, Licensee is hereby notified that facilities of LAWA or other licensees of LAWA may exist on the Licensed Area. Licensee shall take reasonable precautions and actions to avoid infringement, interference, or damage to all such installations. LAWA and any of its licensees, tenants, and invitees will take reasonable precautions and actions to avoid infringement, interference, or damage to the Licensee's property and equipment.

13. **Licensee Responsible for Personnel.** Licensee shall be responsible for the training of its personnel and contractors under all applicable laws including, but not limited to, training with regard to the operation of equipment, and the handling and disposal of hazardous materials and wastes in connection with the permission herein given.

14. **Maintenance.** The responsibility for maintenance and repair of the Licensed Area and the Premises shall be as set forth in the Operating Agreement (including, without limitation, Section 6.2 thereof). During construction of the improvements, access across other LAWA property to the Licensed Area shall be between the hours of 7:00 a.m. through 7:00 p.m., Monday through Friday and 8:00 a.m. through 5:00 p.m. on Saturdays.

15. **Access Procedures.** Licensee shall access the Premises by conforming to LAWA's security and operational procedures of which it has prior written notice and shall take reasonable precautions to prevent unauthorized ingress and egress to LAWA property by Licensee's agents or invitees. There is expressly reserved unto LAWA and unto all authorized employees of said LAWA the right of continuous access, except that Licensee may, in its reasonable discretion, prohibit access to the PV System (and the area immediately surrounding the PV System) by any persons as required for safety and operational requirements or as otherwise required by applicable law.

16. **Recordation of Memorandum.** Within ten (10) business days of a request from LAWA, the parties hereto shall enter into a memorandum of this License for recordation, at Licensee's sole cost and expense, in the official records of the county in which the Licensed Area is located. The parties consent and agree to execute and deliver such memorandum or amendments thereto as may be necessary to correct the legal descriptions of the Licensed Area.

17. **Governing Law and Venue.** This License shall be interpreted, governed by, and construed under the laws of the State of California or the laws of the United States, as applicable, as if executed and to be performed wholly in the State of California, the City of Los Angeles. Venue shall lie in the City of Los Angeles.

18. **Construction, Maintenance and Operations.** Requirements for Design, Construction, Installation, Maintenance and Operation of the PV System, as provided in the Operating Agreement, are incorporated as terms of this License and, unless otherwise specified herein, Licensee shall comply with these requirements during any work performed in the Licensed Area.

19. **No Third Party Beneficiaries.** Except with respect to Financing Parties as expressly provided in the Operating Agreement, LAWA and Licensee do not intend to create rights in or grant remedies to any third party as a beneficiary of this License Agreement or of any duty obligation, covenant or undertaking established under this License Agreement.

20. **Waivers.** Any waiver at any time by either party hereto of its rights with respect to a default under this License, or with respect to any other matter arising in connection with this License, shall not be deemed a waiver with respect to any subsequent default or other matter arising in connection therewith. Any delay in assessing or enforcing any right, shall not be deemed to be a waiver of such right, provided that all applicable statutory periods of limitation shall apply.

21. **Headings.** The titles or headings to sections shall have no effect on interpretation of provisions.

22. **Default.** The default provisions for this License shall be as set forth in the Operating Agreement (including, without limitation, Section 8 thereof).

23. **Integration; Exhibits.** This License, together with the Operating Agreement, the SOPPA, and the Exhibits and Schedules executed hereunder, constitutes the entire agreement and understanding between the LAWA and Licensee with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect. This License may be modified or amended only in writing, signed by the Parties in interest at the time of the modification or amendment. The Exhibits and Schedules referred to herein are integral parts hereof and thereof and are made a part of this License by reference.

In the event of a conflict between this License and Operating Agreement, the terms of the Operating Agreement shall control.

[SIGNATURES ON FOLLOWING PAGE]



IN WITNESS WHEREOF, LAWA has caused this License to be executed on its behalf by Executive Director and Licensee has caused the same to be executed by its duly authorized officers, all as of the day and year first hereinabove written.

**APPROVED AS TO FORM:**

**CITY OF LOS ANGELES**

By signing below, the signatory attests that they have no personal, financial, beneficial, or familial interest in this Contract.

\_\_\_\_\_,  
City Attorney

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Deputy/Assistant City Attorney

By \_\_\_\_\_  
Chief Executive Officer  
Department of Airports

**ATTEST:**

**CURRENT ENERGY, LLC**

By \_\_\_\_\_  
Secretary (Signature)

By \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

[SEAL]

\_\_\_\_\_  
Print Title



**EXHIBIT A**  
**DESCRIPTION OF LICENSED AREA**

**[see attached]**

**EXHIBIT K  
EQUAL  
EMPLOYMENT  
PRACTICES**

Every non-construction and construction Contract with, or on behalf of, the City of Los Angeles for which the consideration is \$1,000 or more shall contain the following provisions, which shall be designated as the **EQUAL EMPLOYMENT PRACTICES** provision of such contract:

A. During the performance of this Contract, the Contractor agrees and represents that it will provide Equal Employment Practices and the Contractor and each Subcontractor hereunder will ensure that in his or her Employment Practices persons are employed and employees are treated equally and without regard to, or because of, race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

1. This provision applies to work or service performed or materials manufactured or assembled in the United States.

2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.

3. The Contractor agrees to post a copy of Paragraph A., hereof, in conspicuous places at its place of business available to employees and applicants for employment.

B. The Contractor will, in all solicitations or advertisements for employees placed by, or on behalf of, the Contractor, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

C. At the request of the Awarding Authority or the DAA, the Contractor shall certify in the specified format that he or she has not discriminated in the performance of City Contracts against any employee or applicant for employment on the basis or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

D. The Contractor shall permit access to, and may be required to provide certified copies of, all of his or her records pertaining to employment and to employment practices by the awarding authority or the DAA for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of City Contracts. Upon request, the Contractor shall provide evidence that he or she has or will comply therewith.

E. The failure of any Contractor to comply with the Equal Employment Practices provisions of this contract may be deemed to be a material breach of City Contracts. The failure shall only be established upon a finding to that effect by the Awarding Authority, on the basis of its own investigation or that of the DAA. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to the Contractor.

F. Upon a finding duly made that the Contractor has failed to comply with the Equal Employment Practices provisions of a City Contract, the Contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the Awarding Authority, and all monies due or to become due hereunder may be forwarded to, and retained by, the City of Los Angeles. In addition thereto, the failure to comply may be the basis for a determination by the Awarding Authority or the DAA that the said Contractor is a non-responsible bidder or proposer pursuant to the provisions of Section 10.40 of this Code. In the event of such a determination, the Contractor shall be disqualified from being awarded a Contract with the City of Los Angeles for a period of two years, or until the Contractor shall establish and carry out a program in conformance with the provisions hereof.

G. Notwithstanding any other provision of this contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.

H. The Board of Public Works shall promulgate rules and regulations through the DAA, and provide necessary forms and required language to the Awarding Authorities to be included in City Request for Bids or Request for Proposal packages or in supplier registration requirements for the implementation of the Equal Employment Practices provisions of this Contract, and such rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive orders. No other rules, regulations or forms may be used by an Awarding Authority of the City to accomplish the contract compliance program.

I. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.

J. By affixing its signature on a Contract that is subject to this article, the Contractor shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of City Contracts.

K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with employment practices, including, but not limited to:

1. hiring practices;

2. apprenticeships where approved programs are functioning and other on-the-job training for non-apprenticeable occupations;

3. training and promotional opportunities; and

4. reasonable accommodations for persons with disabilities.

**L.** All Contractors subject to the provisions of this section shall include a similar provision in all subcontracts awarded for work to be performed under the Contract with the City, and shall impose the same obligations including, but not limited to, filing and reporting obligations, on the Subcontractors as are applicable to the Contractor. Subcontracts shall follow the same thresholds specified in Section 10.8.1.1. Failure of the Contractor to comply with this requirement or to obtain the compliance of its Subcontractors with all such obligations shall subject the Contractor to the imposition of any and all sanctions allowed by law, including, but not limited to, termination of the Contractor's Contract with the City.

#### SECTION HISTORY

Amended by: Ord. No. 147,030, Eff. 4-28-75; Subsecs. A., B., C., Ord. No. 164,516, Eff. 4-13-89; Subsec. C., Ord. No. 168,244, Eff. 10-18-92; Ord. No. 173,186, Eff. 5-22-00; Subsec. F., Ord. No. 173,285, Eff. 6-26-00, Oper. 7-1-00; In Entirety, Ord. No. 184,292, Eff. 6-27-16.

**EXHIBIT L  
AFFIRMATIVE  
ACTION  
PROGRAM**

Every non-construction and construction Contract with, or on behalf of, the City of Los Angeles for which the consideration is \$25,000 or more shall contain the following provisions which shall be designated as the **AFFIRMATIVE ACTION PROGRAM** provisions of such Contract:

A. During the performance of a City Contract, the Contractor certifies and represents that the Contractor and each Subcontractor hereunder will adhere to an Affirmative Action Program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.

1. This section applies to work or services performed or materials manufactured or assembled in the United States.
2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
3. The Contractor shall post a copy of Paragraph A., hereof, in conspicuous places at its place of business available to employees and applicants for employment.

B. The Contractor shall, in all solicitations or advertisements for employees placed, by or on behalf of, the Contractor, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.

C. At the request of the Awarding Authority or the DAA, the Contractor shall certify on an electronic or hard copy form to be supplied, that the Contractor has not discriminated in the performance of City Contracts against any employee or applicant for employment on the basis or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.

D. The Contractor shall permit access to, and may be required to provide certified copies of, all of its records pertaining to employment and to its employment practices by the Awarding Authority or the DAA for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of City Contracts and, upon request, to provide evidence that it has or will comply therewith.

E. The failure of any Contractor to comply with the Affirmative Action Program provisions of City Contracts may be deemed to be a material breach of a City Contract. The failure shall only be established upon a finding to that effect by the Awarding Authority, on the basis of its own investigation or that of the DAA. No finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to the Contractor.

F. Upon a finding duly made that the Contractor has breached the Affirmative Action Program provisions of a City Contract, the Contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the Awarding Authority, and all monies due or to become due hereunder may be forwarded to and retained by the City of Los Angeles. In addition thereto, the breach may be the basis for a determination by the Awarding Authority or the Board of Public Works that the Contractor is a non-responsible bidder or proposer pursuant to the provisions of Section 10.40 of this Code. In the event of such determination, the Contractor shall be disqualified from being awarded a contract with the City of Los Angeles for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.

G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that the Contractor has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a City Contract, there may be deducted from the amount payable to the Contractor by the City of Los Angeles under the contract, a penalty of ten dollars for each person for each calendar day on which the person was discriminated against in violation of the provisions of a City Contract.

H. Notwithstanding any other provisions of a City Contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.

I. The Public Works Board of Commissioners shall promulgate rules and regulations through the DAA and provide to the Awarding Authorities electronic and hard copy forms for the implementation of the Affirmative Action Program provisions of City contracts, and rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive Orders. No other rules, regulations or forms may be used by an Awarding Authority of the City to accomplish this contract compliance program.

J. Nothing contained in City Contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.

K. By affixing its signature to a Contract that is subject to this article, the Contractor shall agree to adhere to the provisions in this article for the duration of the Contract. The Awarding Authority may also require Contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Program.



1. The Contractor certifies and agrees to immediately implement good faith effort measures to recruit and employ minority, women and other potential employees in a non-discriminatory manner including, but not limited to, the following actions as appropriate and available to the Contractor's field of work. The Contractor shall:

(a) Recruit and make efforts to obtain employees through:

(i) Advertising employment opportunities in minority and other community news media or other publications.

(ii) Notifying minority, women and other community organizations of employment opportunities.

(iii) Maintaining contact with schools with diverse populations of students to notify them of employment opportunities.

(iv) Encouraging existing employees, including minorities and women, to refer their friends and relatives.

(v) Promoting after school and vacation employment opportunities for minority, women and other youth.

(vi) Validating all job specifications, selection requirements, tests, etc.

(vii) Maintaining a file of the names and addresses of each worker referred to the Contractor and what action was taken concerning the worker.

(viii) Notifying the appropriate Awarding Authority and the DAA in writing when a union, with whom the Contractor has a collective bargaining agreement, has failed to refer a minority, woman or other worker.

(b) Continually evaluate personnel practices to assure that hiring, upgrading, promotions, transfers, demotions and layoffs are made in a non-discriminatory manner so as to achieve and maintain a diverse work force.

(c) Utilize training programs and assist minority, women and other employees in locating, qualifying for and engaging in the training programs to enhance their skills and advancement.

(d) Secure cooperation or compliance from the labor referral agency to the Contractor's contractual Affirmative Action Program obligations.

(e) Establish a person at the management level of the Contractor to be the Equal Employment Practices officer. Such individual shall have the authority to disseminate and enforce the Contractor's Equal Employment and Affirmative Action Program policies.

(f) Maintain records as are necessary to determine compliance with Equal Employment Practices and Affirmative Action Program obligations and make the records available to City, State and Federal authorities upon request.

(g) Establish written company policies, rules and procedures which shall be encompassed in a company-wide Affirmative Action Program for all its operations and Contracts. The policies shall be provided to all employees, Subcontractors, vendors, unions and all others with whom the Contractor may become involved in fulfilling any of its Contracts.

(h) Document its good faith efforts to correct any deficiencies when problems are experienced by the Contractor in complying with its obligations pursuant to this article. The Contractor shall state:

(i) What steps were taken, how and on what date.

(ii) To whom those efforts were directed.

(iii) The responses received, from whom and when.

(iv) What other steps were taken or will be taken to comply and when.

(v) Why the Contractor has been or will be unable to comply.

2. Every contract of \$25,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall also comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.

L. The Affirmative Action Program required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Awarding Authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:

1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
2. Classroom preparation for the job when not apprenticeable;
3. Pre-apprenticeship education and preparation;
4. Upgrading training and opportunities;
5. Encouraging the use of Contractors, Subcontractors and suppliers of all racial and ethnic groups; provided, however, that any contract subject to this ordinance shall require the Contractor, Subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the Contractor's, Subcontractor's or supplier's geographical area for such work;
6. The entry of qualified women, minority and all other journeymen into the industry; and
7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.

M. Any adjustments which may be made in the Contractor's work force to achieve the requirements of the City's Affirmative Action Program in purchasing and construction shall be accomplished by either an increase in the size of the work force or replacement of those employees who leave the work force by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.

N. This ordinance shall not confer upon the City of Los Angeles or any Agency, Board or Commission thereof any power not otherwise provided by law to determine the legality of any existing collective bargaining agreement and shall have application only to discriminatory employment practices by Contractors engaged in the performance of City Contracts.

O. All Contractors subject to the provisions of this article shall include a similar provision in all subcontracts awarded for work to be performed under the Contract with the City and shall impose the same obligations including, but not limited to, filing and reporting obligations, on the Subcontractors as are applicable to the Contractor. Failure of the Contractor to comply with this requirement or to obtain the compliance of its Subcontractors with all such obligations shall subject the Contractor to the imposition of any and all sanctions allowed by law, including, but not limited to, termination of the Contractor's Contract with the City.

#### SECTION HISTORY

Amended by Ord. No. 147,030, Eff. 4-28-75; Subsecs. A., B., C., Ord. No. 164,516, Eff. 4-13-89; Subsecs. B. and C., Ord. No. 168,244, Eff. 10-18-92; Title and Section, Ord. No. 173,186, Eff. 5-22-00; Subsec. F., Ord. No. 173,285, Eff. 6-26-00, Oper. 7-1-00; In Entirety, Ord. No. 184,292, Eff. 6-27-16.

**EXHIBIT M**  
**INSURANCE REQUIREMENTS**  
**FOR LOS ANGELES WORLD**  
**AIRPORTS**



**RISK MANAGEMENT DIVISION**  
**INSURANCE REQUIREMENTS**

**NAME:** ROOFTOP PHOTOVOLTAIC (PV) SOLAR POWER SYSTEM FOR VNY  
**AGREEMENT/ACTIVITY:** RFP / Develop. Operate and Maintain Specified Rooftop PV Systems at VNY  
**LAWA DIVISION:** Environmental Programs Division  
**WIZARD FILE NO.:** 10175

The insured must maintain insurance coverage at limits normally required of its type operation; however, the following coverage noted with an "X" is the minimum required and must be at least the level of the limits indicated. All policies must be occurrence based with the minimum required per occurrence limits indicated below.

**LIMITS**

- (X) Workers' Compensation** (Statutory)/Employer's Liability  
( ) Voluntary Compensation Endorsement  
(X) Waiver of Subrogation

**Statutory**

- (X) Automobile Liability** - covering owned, non-owned & hired auto

**\$2,000,000 CLS**

- (X) Commercial General Liability** - including the following coverage:

**\$2,000,000**

- (X) Premises and Operations
- (X) Contractual (Blanket/Schedule)
- (X) Independent Contractors
- (X) Personal Injury
- (X) Damage to Premises Rented to You (minimum \$1 million each occurrence)
- (X) Products /Completed Operations
- (X) Additional Insured Endorsement, specifically naming LAWA  
(Please see attached supplement).

- ( ) Coverage for Hazardous Substances**

**\*\*\*\$\$\$**

\*\*\* If exposure exists; must meet contractual requirements

**\*\*\*\*\*RETURN THIS PAGE WITH EVIDENCE OF YOUR INSURANCE\*\*\*\*\***

**SUBMIT ALL DOCUMENTS TO [RISKINSURANCE@LAWA.ORG](mailto:RISKINSURANCE@LAWA.ORG)**

04/2022



**RISK MANAGEMENT DIVISION**  
**INSURANCE REQUIREMENTS**  
**INSURANCE REQUIREMENTS FOR LOS ANGELES WORLD AIRPORTS (SUPPLEMENT)**

**The only evidence of insurance accepted will be either a Certificate of Insurance, or a True and Certified copy of the policy. The following items must accompany the form of evidence provided:**

**Insurance companies, must have an AM Best rating of A- or better, and have a minimum financial size of at least four**

**Endorsements:**

- **Workers Compensation Waiver of Subrogation Endorsement  
(WC 04 03 06 or similar)**
- **General Liability Additional Insured Endorsement**
- **Ongoing and Products - Completed Operations Endorsement  
(ISO Standard Endorsements preferred)**

**Certificate Holder:**

**Los Angeles World Airports  
PO Box 92216  
Los Angeles, CA 90009**

**A typed legible name of the Authorized Representative must accompany the signature on the Certificate of Insurance and/or the True and Certified copy of the policy.**

**A blanket/automatic endorsement is not acceptable unless you have a direct contract with LAWA.**

**Language written on a certificate of insurance is not acceptable as an endorsement.**

**EXHIBIT N**  
**SMALL/VERY SMALL BUSINESS**  
**ENTERPRISE PROGRAM AND LOCAL**  
**BUSINESS PREFERENCE PROGRAM**



# AFFIDAVIT

## REQUIRED OF ALL PROPOSERS/BIDDERS

**(This Affidavit will become part of the contract for the selected Proposer/Bidder)**

The City of Los Angeles, Los Angeles World Airports (LAWA) is committed to creating an environment that provides all individuals and businesses open access to the business opportunities available at LAWA.

### MANDATORY BUSINESS ENTERPRISE PARTICIPATION LEVELS:

<p>This Project has the following mandatory participation levels:</p> <p style="text-align: center;">SBE <u>  7  </u> %</p> <p style="text-align: center;">LBE <u>  0  </u> %</p> <p style="text-align: center;">LSBE <u>  0  </u> %</p> <p style="text-align: center;">DVBE <u>  0  </u> %</p>	<p>If awarded the contract, the selected Proposer/Bidder commits to achieving the following participation levels on the Project:</p> <p style="text-align: center;">SBE <u>  8  </u> %</p> <p style="text-align: center;">LBE <u>  0  </u> %</p> <p style="text-align: center;">LSBE <u>  0  </u> %</p> <p style="text-align: center;">DVBE <u>  0  </u> %</p>
---	--

Achievement level(s) will be calculated as the percentage of the total contract amount for which SBEs, LBEs, LSBEs or DVBEs were utilized. The selected Proposer/Bidder's performance on the applicable business enterprise levels will be monitored throughout the duration of the contract, and the business enterprise achievement levels will be calculated at the end of the contract term.

### SUBCONTRACTORS:

As applicable, the selected Proposer/Bidder will be required to comply with California's "Subletting and Subcontracting Fair Practices Act" (Public Contract Code Sections 4100 et seq.) ([www.leginfo.ca.gov/cgi-bin/calawquery?code=section=pcc&codebody=&hits=20](http://www.leginfo.ca.gov/cgi-bin/calawquery?code=section=pcc&codebody=&hits=20)).

Any reduction, increase, or other change to the SBE, LBE, LSBE or DBVE Subcontract amounts without prior written approval of Procurement Services Division (PSD) is considered an Unauthorized Subcontractor Substitution, and the selected Proposer/Bidder may be subject to a penalty. A subcontract dollar value increased or reduced solely as the result of a Change Order issued by LAWA to add or delete from the original scope of work shall not be subject to a penalty for an Unauthorized Subcontractor Substitution.

Proposers/Bidders must list all Subcontractors on LAWA's Subcontractor Participation Plan and include all requested information. Only PSD is authorized to grant either initial approval of Subcontractor(s) or additions, deletions, and substitutions.

### PENALTIES:

Violation of the SBE, LBE, LSBE and DVBE Program Rules and Regulations ([http://www.lawa.org/welcome\\_LAWA.aspx?id=146](http://www.lawa.org/welcome_LAWA.aspx?id=146)) may result in financial penalties.

At the end of each project, LAWA may withhold as disputed funds 15% of the total dollar value of all subcontract(s) that appear to be in violation of the SBE, LBE, LSBE or DVBE Programs and 15% of the total dollar value of all subcontract(s) where work was performed on the project without, or prior to, approval by LAWA.

### REPORTING REQUIREMENTS:

The selected Proposer/Bidder shall submit to LAWA, on a monthly basis, together with its invoice the Subcontractor Utilization Report listing the SBE, LBE, LSBE or DVBE subcontractors utilized during the reporting period. LAWA will not process or pay selected Proposer/Bidder's subsequent invoices if the Subcontractor Utilization Reports are not submitted with the monthly invoice.

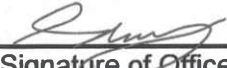
The Contractor must submit the Final Subcontracting Report to PSD within fifteen (15) calendar days after a request for the report by PSD. Failure to comply shall result in the assessment of liquidated damages in the amount of \$100.00 per day by LAWA.

### CERTIFICATION

The Bidder/Proposer certifies that it/he/she has read and understood the SBE, LBE, LSBE and DVBE Program Rules and Regulations (located at [http://www.lawa.org/welcome\\_LAWA.aspx?id=146](http://www.lawa.org/welcome_LAWA.aspx?id=146)) and further certifies that, if awarded the Contract, it/he/she shall fully comply with LAWA's SBE, LBE, LSBE and DVBE Programs.

Current Energy, LLC 25876 THE OLD ROAD #418 STEVENSON RANCH, CA 91381 (562) 225-8156

Company Name, Address and Phone Number



September 19, 2022

Signature of Officer or other Authorized Representative

Date

Steve Heiney, Principal

Print Name and Title of Officer or Other Authorized Representative

Request for Proposals for Rooftop Photovoltaic Solar Power Systems For Van Nuys Airport Properties

Project Title

LAWA Official Site | Small Business Enterprise Program (SBE)

LOS ANGELES WORLD AIRPORTS (lawa.org) SBE RULES & REGS 2019

# SUBCONTRACTOR PARTICIPATION PLAN

## ATTENTION:

**You MUST list ALL anticipated subcontractors, regardless of their dollar amount or percent proposed, and regardless of whether they are certified or not.**

**You MUST fill out ALL applicable fields completely for the Prime and all subcontractors. Failure to provide complete and legible information on this form may result in your firm not receiving full certification credit.**

Request for Proposals for Rooftop Photovoltaic Solar Power Systems

Project Title: For Van Nuys Airport Properties

Today's Date: September 19, 2022

BIDDER/PROPOSER COMPANY INFORMATION		BID/PROPOSAL AMOUNT		DESCRIPTION OF PROJECT SERVICES
NAME: <b>Current Energy, LLC</b>	ETHNICITY: <b>White</b>	\$2,982,800.25		Current Energy will manage the design, engineering, procurement, and installation of the proposed project(s).
ADDRESS: <b>25876 THE OLD ROAD #418</b>	GENDER: <b>Male</b>			Current Energy will interface with all agencies including but not limited to LADWP, LAWA, and the City of Los Angeles.
CITY/STATE/ZIP: <b>STEVENSON RANCH, CA 91381</b>	FEDERAL TAX ID #: <b>81-5097032</b>			NAICS:
CONTACT NAME: <b>Steve Heiney</b>	EMAIL: <b>steve@Currentenergy.net</b>			
TELEPHONE NO: <b>(562) 225-8156</b>				
CERTIFICATION TYPE: <input type="checkbox"/> ACDBE <input type="checkbox"/> DBE <input type="checkbox"/> DVBE <input type="checkbox"/> MBE <input type="checkbox"/> LBE <input type="checkbox"/> LSBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE CERTIFYING AGENCY: <input type="checkbox"/> CITY OF L.A. <input type="checkbox"/> CALIF DGS <input type="checkbox"/> CALTRANS <input type="checkbox"/> METRO <input type="checkbox"/> SBA <input type="checkbox"/> DVA <input type="checkbox"/> USWCC <input type="checkbox"/> NWBOC <input type="checkbox"/> WBEC-WEST <input type="checkbox"/> OTHER				
SUBCONTRACTOR COMPANY INFORMATION		\$ PROPOSED	% PROPOSED	DESCRIPTION OF PROJECT SERVICES
NAME: <b>Morgner Technology Management</b>	ETHNICITY: <b>Hispanic</b>	\$238,624.02	8%	Morgner will provide construction management support services, quality assurance/quality control, Project Controls (Schedule/Budget), Document Control and CAD Services.
ADDRESS: <b>dba Morgner Construction Management</b>	GENDER: <b>Female</b>			NAICS: 236220, 237110, 237310, 541611, 541611, 541620, 541690, 541720, 561320
CITY/STATE/ZIP: <b>1880 Century Park East, Ste 1402</b>	FEDERAL TAX ID #: <b>95-4351674</b>			
CONTACT NAME: <b>Los Angeles, CA 90067</b>	EMAIL: <b>mmorgner@morgnerco.com</b>			
TELEPHONE NO: <b>Monique Morgner Lukeman, CEO (323) 900-0030</b>				
CERTIFICATION TYPE: <input type="checkbox"/> ACDBE <input checked="" type="checkbox"/> DBE <input type="checkbox"/> DVBE <input checked="" type="checkbox"/> MBE <input checked="" type="checkbox"/> LBE <input type="checkbox"/> LSBE <input checked="" type="checkbox"/> SBE <input checked="" type="checkbox"/> WBE CERTIFYING AGENCY: <input checked="" type="checkbox"/> CITY OF L.A. <input checked="" type="checkbox"/> CALIF DGS <input type="checkbox"/> CALTRANS <input checked="" type="checkbox"/> METRO <input checked="" type="checkbox"/> SBA <input type="checkbox"/> DVA <input type="checkbox"/> USWCC <input type="checkbox"/> NWBOC <input type="checkbox"/> WBEC-WEST <input type="checkbox"/> OTHER <b>LGBT issued by NGLCC</b>				
NAME: <b>Argubright Construction</b>	ETHNICITY: <b>White</b>	\$357,936.03	12%	General Construction, PV Installation
ADDRESS: <b>18140 Index St</b>	GENDER: <b>Male</b>			NAICS:
CITY/STATE/ZIP: <b>Northridge, Ca 91326</b>	FEDERAL TAX ID #: <b>20-1468445</b>			
CONTACT NAME: <b>Steve Argubright</b>	EMAIL: <b>argubrightnanger@gmail.com</b>			
TELEPHONE NO: <b>(818) 402-2270</b>				
CERTIFICATION TYPE: <input type="checkbox"/> ACDBE <input type="checkbox"/> DBE <input type="checkbox"/> DVBE <input type="checkbox"/> MBE <input type="checkbox"/> LBE <input type="checkbox"/> LSBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE CERTIFYING AGENCY: <input type="checkbox"/> CITY OF L.A. <input type="checkbox"/> CALIF DGS <input type="checkbox"/> CALTRANS <input type="checkbox"/> METRO <input type="checkbox"/> SBA <input type="checkbox"/> DVA <input type="checkbox"/> USWCC <input type="checkbox"/> NWBOC <input type="checkbox"/> WBEC-WEST <input type="checkbox"/> OTHER				

SUBCONTRACTOR COMPANY INFORMATION		PROFILE INFORMATION	\$ PROPOSED	% PROPOSED	DESCRIPTION OF PROJECT SERVICES
NAME:		ETHNICITY:			
ADDRESS:		GENDER:			
CITY/STATE/ZIP:		EMAIL:			
CONTACT NAME:		FEDERAL TAX ID #:			
TELEPHONE NO:					
CERTIFICATION TYPE: <input type="checkbox"/> ACDBE <input type="checkbox"/> DBE <input type="checkbox"/> DVBE <input type="checkbox"/> MBE <input type="checkbox"/> LBE <input type="checkbox"/> LSBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE					
CERTIFYING AGENCY: <input type="checkbox"/> CITY OF L.A. <input type="checkbox"/> CALIF DGS <input type="checkbox"/> CALTRANS <input type="checkbox"/> METRO <input type="checkbox"/> SBA <input type="checkbox"/> DVA <input type="checkbox"/> USWCC <input type="checkbox"/> NWBOC <input type="checkbox"/> WBEC-WEST <input type="checkbox"/> OTHER				NAICS:	
NAME:		ETHNICITY:			
ADDRESS:		GENDER:			
CITY/STATE/ZIP:		EMAIL:			
CONTACT NAME:		FEDERAL TAX ID #:			
TELEPHONE NO:					
CERTIFICATION TYPE: <input type="checkbox"/> ACDBE <input type="checkbox"/> DBE <input type="checkbox"/> DVBE <input type="checkbox"/> MBE <input type="checkbox"/> LBE <input type="checkbox"/> LSBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE					
CERTIFYING AGENCY: <input type="checkbox"/> CITY OF L.A. <input type="checkbox"/> CALIF DGS <input type="checkbox"/> CALTRANS <input type="checkbox"/> METRO <input type="checkbox"/> SBA <input type="checkbox"/> DVA <input type="checkbox"/> USWCC <input type="checkbox"/> NWBOC <input type="checkbox"/> WBEC-WEST <input type="checkbox"/> OTHER				NAICS:	
NAME:		ETHNICITY:			
ADDRESS:		GENDER:			
CITY/STATE/ZIP:		EMAIL:			
CONTACT NAME:		FEDERAL TAX ID #:			
TELEPHONE NO:					
CERTIFICATION TYPE: <input type="checkbox"/> ACDBE <input type="checkbox"/> DBE <input type="checkbox"/> DVBE <input type="checkbox"/> MBE <input type="checkbox"/> LBE <input type="checkbox"/> LSBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE					
CERTIFYING AGENCY: <input type="checkbox"/> CITY OF L.A. <input type="checkbox"/> CALIF DGS <input type="checkbox"/> CALTRANS <input type="checkbox"/> METRO <input type="checkbox"/> SBA <input type="checkbox"/> DVA <input type="checkbox"/> USWCC <input type="checkbox"/> NWBOC <input type="checkbox"/> WBEC-WEST <input type="checkbox"/> OTHER				NAICS:	
NAME:		ETHNICITY:			
ADDRESS:		GENDER:			
CITY/STATE/ZIP:		EMAIL:			
CONTACT NAME:		FEDERAL TAX ID #:			
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CERTIFICATION TYPE: <input type="checkbox"/> ACDBE <input type="checkbox"/> DBE <input type="checkbox"/> DVBE <input type="checkbox"/> MBE <input type="checkbox"/> LBE <input type="checkbox"/> LSBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE					
CERTIFYING AGENCY: <input type="checkbox"/> CITY OF L.A. <input type="checkbox"/> CALIF DGS <input type="checkbox"/> CALTRANS <input type="checkbox"/> METRO <input type="checkbox"/> SBA <input type="checkbox"/> DVA <input type="checkbox"/> USWCC <input type="checkbox"/> NWBOC <input type="checkbox"/> WBEC-WEST <input type="checkbox"/> OTHER				NAICS:	

**EXHIBIT N**  
**SMALL BUSINESS ENTERPRISE PROGRAM**



SUBCONTRACTOR COMPANY INFORMATION		PROFILE INFORMATION	\$ PROPOSED	% PROPOSED	DESCRIPTION OF PROJECT SERVICES
NAME:		ETHNICITY:			
ADDRESS:		GENDER:			
CITY/STATE/ZIP:		EMAIL:			
CONTACT NAME:		FEDERAL TAX ID #:			
TELEPHONE NO:					
CERTIFICATION TYPE: <input type="checkbox"/> ACDBE <input type="checkbox"/> DBE <input type="checkbox"/> DVBE <input type="checkbox"/> MBE <input type="checkbox"/> LBE <input type="checkbox"/> LSBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE					
CERTIFYING AGENCY: <input type="checkbox"/> CITY OF L.A. <input type="checkbox"/> CALIF DGS <input type="checkbox"/> CALTRANS <input type="checkbox"/> METRO <input type="checkbox"/> SBA <input type="checkbox"/> DVA <input type="checkbox"/> USWCC <input type="checkbox"/> NWBOC <input type="checkbox"/> WBEC-WEST <input type="checkbox"/> OTHER _____				NAICS:	

I certify under the penalty of perjury that the information contained on this form is true and correct and that the firms listed are the subcontractors anticipated to be utilized if this project is awarded to the above prime contractor. I agree to comply with any applicable provisions for additions and substitutions, and I further understand and agree that any and all changes or substitutions must be authorized by the LAWA Procurement Services Division prior to their implementation. An amended Subcontractor Participation Plan is required for any substitution or change to Subcontractors listed on the originally submitted Plan.

<b>Participation Level(s) Proposed by Bidder/Proposer:</b>	_____ %	<input type="checkbox"/> ACDBE
	_____ %	<input type="checkbox"/> DBE
	_____ %	<input type="checkbox"/> DVBE
	_____ %	<input type="checkbox"/> LBE
	_____ %	<input type="checkbox"/> LSBE
	_____ %	<input type="checkbox"/> MBE/WBE
	<u>8</u> %	<input checked="" type="checkbox"/> SBE

<b>Goal(s) Stated in the Request for Bid/Proposal:</b>	_____ %	<input type="checkbox"/> ACDBE
	_____ %	<input type="checkbox"/> DBE
	_____ %	<input type="checkbox"/> DVBE
	_____ %	<input type="checkbox"/> LBE
	_____ %	<input type="checkbox"/> LSBE
	_____ %	<input type="checkbox"/> MBE/WBE
	<u>7</u> %	<input checked="" type="checkbox"/> SBE

  
SIGNATURE

September 19, 2022  
DATE

Steve Heiney  
PRINT NAME

Principal  
TITLE

(562) 225-8156  
PHONE

## EXHIBIT N SMALL BUSINESS ENTERPRISE PROGRAM

# Inclusivity Approach

## Mission

Current Energy is dedicated to building a workplace that reflects America's diversity and aims to model diversity, equity, accessibility and inclusion as a core company principal.

## Approach

### WORKFORCE INCLUSIVITY

Diversity and inclusion at Current Energy is expressed through management's commitment to equality and the treatment of all individuals, empathy to all people and their background, and inclusion of all voices. We understand that the wide range of experiences and perspectives resulting from such diversity and inclusion promotes innovation and business success. It makes us creative, productive, responsive, competitive and creates value for our shareholders.

Current Energy strives to hire local, qualified, experienced people regardless of backgrounds and beliefs. We provide fair opportunities to all employees based on their individual needs. This helps ensure that our programs and processes are fair, impartial, and offer equal possible results for all of our employees.

Specifically for inclusion, we make sure that all employees feel a sense of belonging in the workplace by helping our staff feel comfortable, appreciated, and supported by the company to be their authentic selves, and work in a way that suits them. The way we promote Diversity, Equity and Inclusion includes:

- Being aware of unconscious bias.
- Changing the conversation when it lacks meaning or is unproductive.
- Promoting pay equity by identifying pay gaps
- Acknowledging holidays of all cultures
- Facilitating ongoing feedback and encouraging employees to share their input

### SUCCESSFUL ENGAGEMENT OF SUB CONSULTANTS

As it relates to our contracting community and how we approach inclusivity, we also work within network of over 500+ trades to advertise subcontracting opportunities to local, small and disadvantage businesses including women-owned, newly formed businesses, as well as the LGBTQ communities. We are committed to partnering with companies that share in our mission and align with our inclusion and diversity goals.

For example, major subcontractor, **Morgner, is a certified women, small, disadvantaged (WBE/SBE/DBE) and LGBTQ-owned** company located in Los Angeles. They have served LAWA and VNY Airport projects in varying capacities on over eleven current and completed projects including the \$4.6B APM, \$2.6B Delta Skyway Modernization, \$2B Southwest T1/T1.5 and recently was awarded Southwest's new T0 and 1E terminals where they will play an integral role as the Programs Quality Assurance Manager and Aviation Specialist. Morgner's partnership on both pursuits will play a substantial role in our overall **project management approach, representing almost 20% of the total estimated contract value.**

Additionally, Current Energy has selected **Argubright Construction, Inc., (ACI)**, as the General Contractor to provide solar installation for both Solar Rooftop and Ground Mount projects. ACI's hiring and contracting practices also aligns with our vision for inclusion, diversity and equity. They **operate locally with a staff** of nearly 20 full-time employees and has a workforce of more than **90% minority employees**. They are an equal opportunity employer who continuously involves his workforce in many decision making opportunities, creates succession planning, and focuses on expanding his workforce through education and paid training.

Lastly, we intend to partner with other trades that have yet to be identified at this juncture and will draw from our contracting community whose relevant experiences and values align with the team's.



**Table 5 - Past Performance and History of Inclusivity**

Project/Pursuit Name	Project Goal	% Goal Achieved	Participation				
			SBE	MBE/DBE	LSBE	DVBE	Other
San Diego Airport Quality/ Specialty Inspections and Testing Proposal Pursuit	8%	100%	X	X	X	X	X
SANDAG Mobility Central HUB	4.08%	54%	X	X			X
LA Metro Value Capture	23%	56.8%	X	X			X
LA Metro Union Station Strategic Advisory	30%	32.8%	X	X			X
Southwest Apron Proposal	8%	100%	X	X	X		X
The Clippers Arena Proposal Pursuit	N/A	100%	X	X	X		X

**PAST PERFORMANCE AND HISTORY OF INCLUSIVITY**

Our team has always looked for opportunities to partner with other local, small and disadvantage firms. We also understand that inclusivity is not just about the size of the firm, but the makeup of the firm. Our approach to Inclusivity has always been to extend teaming opportunities to women, minorities, disadvantage, military/veterans, and LGBTQ firms alike. Inclusivity for Current Energy means allowing every firm to carve out their success so the partnership is a meaningful one—one that lasts and hopefully continues to grow into other opportunities.

Our major subcontractor, Morgner will be assisting the project team with proper outreach and tracking of the project's outreach goals. **Table 5** represents their past performance in meeting/exceeding project SBE/DBE goals.

**SUBCONTRACTOR MANAGEMENT AND DISPUTE MANAGEMENT**

Our approach to weeding out the non-performing sub/trade contractors starts at the pre-qualifications process. The pre-qualification includes project specific requirements including RFP and contracting requirements as well as a deeper dive into the company's history, experience, capability and financial stability. We also request information about any legal proceedings or if the company has ever been barred or removed from any jobsite/project.

We also conduct a due diligent vetting with our major partners through team meetings, interviews and a review of their qualifications, business and personal reference checks. Through the vetting process, we study their business operations, structure and culture dynamics and compatibility.

Regardless if the subcontractor comes on board through a formal pre-qualification or was invited through relationship-based process, we typically manage disputes similarly. Our conflict resolution process works most effectively when the project team:

- **Makes a commitment to work together as partners**
- **Endorses common project goals**
- **Understands the plan for managing key challenges**
- **Agrees to a dispute resolution plan**
- **Participates actively in follow-up to measuring partnering progress**

We recognize that over the course of this long-duration project, conflicts may occur. Our collaborative approach to conflict resolution focuses first and foremost on promoting a team atmosphere based on respect and trust and supported by partnering principles. At the project level, we know that partnering is more than just attendance in a partnering workshop.

**First we create a collaborative project approach**

with to help identify potential problems early. By creating and culture of communication and transparency, we can spot a problem before it actually arises - and it starts with requiring the use of preliminary notices all the way down the chain. These include daily reports, weekly progress/project meetings, and monthly reporting.

**Before taking action, we try to talk it out.** We

encourage sit down discussions about the issues to help all involved parties understand everyone's position. This usually helps identify thier factors contributing to their struggles that we may not be aware of i.e. own problems as a vendor, material or workforce shortages, or issues with other subs. The time is typically utilized to create solutions to help minimize the construction impact.

**ADMINISTRATIVE FUNCTION SUPPORT**

Our team's ability to provide administrative function support comes from our Mentor-Protege program, which Morgner will tailor to this pursuit. It's designed to provide other small or emerging business entities with developmental assistance that is mutually beneficial in the areas of planning, business/finance, administration and business development, as well as other mutually agreed upon benefits as it relates to the project or contract scope.

Our goal is to improve the performance of contracts and subcontracts, foster and establish long-term business relationships, strengthen the small business community, and instill a culture of business to business support.

We believe in an instinctive approach that begins with an organization's leadership, professional resources, background, strategy, goals, and mission. Our collaboration provides a foundation that support small businesses, while allowing each firm the opportunity to develop its own niche in a challenging market.

**Business/Financial Management**

We use a method that facilitates an open forum and encourages communication with our SBE/DBE subcontractors. We identify areas of support such in finance, control, management and marketing. This

method involves tailoring to the project goals and objectives, challenges, and risks involved in fulfilling the scope for the subcontractor.

**Project Contract Administration**

In the 30 years of working with public agencies, we have gathered the experienced, understanding-- and patience necessary to satisfy and comply with all the forms, certifications and legal jargon required by a public agency project/bid. We help, often times, hand-hold subcontractors through the entire process from pre-proposal qualifications to contract requirements. Our process is involved, engaging and provides the subcontractors with a step-by-step pathway to their own contract understanding and project success.

**Business Planning and Projection**

For a small business, every aspect of projection is a challenging task due to the evolving atmosphere we face in this billion-dollar market space. Through our years of experience in understanding the political climate in our industry, we were able to share key insights that allowed our subcontractor to plan, strategize and execute the next course of action for their company.

As a small business ourselves, we understand the multiple hats owners wear to make their business succeed. Therefore, we share our resources when necessary with our colleagues and subcontractors. We also share talent resources to fulfill common goals on a project, even if it is not financially rewarding for our company. We firmly believe collaborating with our subcontractors to capitalize on our individual strengths is the key to growing together to support each other wherever we are the weakest.

**SUBCONTRACTOR PROMPT PAYMENT APPROACH**

As the prime proposer and finance manager, Current Energy will review all progress payments for accuracy and completeness and once request for payments are approved, we will comply with LAWA/NVY's 7-day prompt payment requirement to all sub-consultants and trade contractors.

**EXHIBIT O  
LIVING WAGE  
ORDINANCE**

## CHAPTER 1, ARTICLE 11

### LIVING WAGE

Section	
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#### Sec. 10.37. Legislative Findings.

The City awards many contracts to private firms to provide services to the public and to City government. Many lessees or licensees of City property perform services that affect the proprietary interests of City government in that their performance impacts the success of City operations. The City also provides financial assistance and funding to other firms for the purpose of economic development or job growth. The City expends grant funds under programs created by the federal and state governments. These expenditures serve to promote the goals established for the grant programs and for similar goals of the City. The City intends that the policies underlying this article serve to guide the expenditure of such funds to the extent allowed by the laws under which such grant programs are established.

Experience indicates that procurement by contract of services all too often has resulted in the payment by service contractors to their employees of wages at or slightly above the minimum required by federal and state minimum wage laws. The minimal compensation tends to inhibit the quantity and quality of services rendered by those employees to the City and to the public. Underpaying employees in this way fosters high turnover, absenteeism and lackluster performance. Conversely, adequate compensation promotes amelioration of these undesirable conditions. Through this article, the City intends to require service contractors to provide a minimum level of compensation which will improve the level of services rendered to and for the City.

The inadequate compensation leaves service employees with insufficient resources to afford life in Los Angeles. Contracting decisions involving the expenditure of City funds should not foster conditions that place a burden on limited social services. The City, as a principal provider of social support services, has an interest in promoting an employment environment that protects such limited resources. In requiring the payment of a higher minimum level of compensation, this article benefits that interest.

In comparison with the wages paid at San Francisco International Airport, the wage for Los Angeles airport workers is often lower even though the airports are similar in the number of passengers they serve and have similar goals of providing a living wage to the airport workforce. Studies show that higher wages at the airport leads to increases in worker productivity and improves customer service. Higher wages for airport workers also results in a decline in worker turnover, yielding savings to the employers and alleviating potential security concerns. Therefore, the City finds that a higher wage for airport employees is needed to reduce turnover and retain a qualified and stable workforce.

Many airport workers who provide catering services to the airlines are paid below the living wage. Federal law allows employment contract agreements between airline caterers and its workers to remain in effect without an expiration date, effectively freezing wages for workers. Long-term employment contract agreements provide little incentive for employers to renegotiate the employment contract agreements with their workers. Airline catering

workers often struggle to pay their bills, sometimes having to choose between paying medical bills and buying food for their families. The City finds that airline caterers should pay their workers, at a minimum, the living wage with benefits.

Airport workers are also the first to respond when an emergency occurs at the airport. In order to properly assist first responders during a crisis at the airport, the City finds that airport employees of Certified Service Provider License Agreement holders should be formally trained for an emergency response at the airport.

Nothing less than the living wage should be paid by employers that are the recipients of City financial assistance. Whether workers are engaged in manufacturing or some other line of business, the City does not wish to foster an economic climate where a lesser wage is all that is offered to the working poor.

The City holds a proprietary interest in the work performed by many employees of City lessees and licensees and by their service contractors, subcontractors, sublessees and sublicensees. The success or failure of City operations may turn on the success or failure of these enterprises, for the City has a genuine stake in how the public perceives the services rendered for them by such businesses. Inadequate compensation of these employees adversely impacts the performance by the City's lessee or licensee and thereby hinders the opportunity for success of City operations. A proprietary interest in providing a living wage is important for various reasons, including, but not limited to: 1) the public perception of the services or products rendered to them by a business; 2) security concerns related to the location of the business or any product or service the business produces; or 3) an employer's industry-specific job classification which is in the City's interest to cover by the living wage. This article is meant to cover all such employees not expressly exempted.

Requiring payment of the living wage further serves a proprietary concern of the City. If an employer does not comply with this article, the City may: 1) declare a material breach of the contract; 2) declare the employer non-responsible and limit its ability to bid on future City contracts, leases or licenses; and 3) exercise any other remedies available.

#### SECTION HISTORY

Article and Section Added by Ord. No. 171,547, Eff. 5-5-97.  
Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

#### Sec. 10.37.1. Definitions.

The following definitions shall apply throughout this article:

(a) "Airline Food Caterer" means any Employer that, with respect to the Airport:

(1) prepares food or beverage to or for aircraft crew or passengers;

(2) delivers prepared food or beverage to or for aircraft crew or passengers;

(3) conducts security or inspection of aircraft food or beverage; or

(4) provides any other service related to or in connection with the preparation of food or beverage to or for aircraft crew or passengers.

(b) "Airport" means the Department of Airports and each of the airports which it operates.

(c) "Awarding Authority" means the governing body, board, officer or employee of the City or City Financial Assistance Recipient authorized to award a Contract and shall include a department which has control of its own funds.

(d) "City" means the City of Los Angeles and all awarding authorities thereof, including those City departments which exercise independent control over their expenditure of funds.

(e) "City Financial Assistance Recipient" means any person who receives from the City discrete financial assistance for economic development or job growth expressly articulated and identified by the City, as contrasted with generalized financial assistance such as through tax legislation, in accordance with the following monetary limitations. Assistance given in the amount of \$1,000,000 or more in any 12-month period shall require compliance with this article for five years from the date such assistance reaches the \$1,000,000 threshold. For assistance in any 12-month period totaling less than \$1,000,000 but at least \$100,000, there shall be compliance for one year, with the period of compliance beginning when the accrual of continuing assistance reaches the \$100,000 threshold.

Categories of assistance include, but are not limited to, bond financing, planning assistance, tax increment financing exclusively by the City and tax credits, and shall not include assistance provided by the Community Development Bank. City staff assistance shall not be regarded as financial assistance for purposes of this article. A loan at market rate shall not be regarded as financial assistance. The forgiveness of a loan shall be regarded as financial assistance. A loan shall be regarded as financial assistance to the extent of any differential between the amount of the loan and the present value of the payments thereunder, discounted over the life of the loan by the applicable federal rate as used in 26 U.S.C. §§ 1274(d) and 7872(f). A recipient shall not be deemed to include lessees and sublessees.

A recipient shall be exempted from application of this article if:

(1) it is in its first year of existence, in which case the exemption shall last for one year;

(2) it employs fewer than five Employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year; or

(3) it obtains a waiver as a recipient who employs the long-term unemployed or provides trainee positions intended to prepare Employees for permanent positions. The recipient shall attest that compliance with this article would cause an economic hardship and shall apply in writing to the City department or office administering the assistance. The department or office shall forward the waiver application and the department or office's recommended action to the City Council. Waivers shall be effected by Council resolution.

(f) **"Contractor"** means any person that enters into:

(1) a Service Contract with the City;

(2) a contract with a Public Lessee or Licensee; or

(3) a contract with a City Financial Assistance Recipient to help the recipient in performing the work for which the assistance is being given.

(g) **"Designated Administrative Agency (DAA)"** means the Department of Public Works, Bureau of Contract Administration, which shall bear administrative responsibilities under this article.

(h) **"Employee"** means any person who is not a managerial, supervisory or confidential employee who expends any of his or her time working for an Employer in the United States.

(i) **"Employer"** means any person who is:

(1) a City Financial Assistance Recipient;

(2) Contractor;

(3) Subcontractor;

(4) Public Lessee or Licensee; and

(5) Contractor, Subcontractor, sublessee or sublicensee of a Public Lessee or Licensee.

(j) **"Person"** means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association or other entity that may employ individuals or enter into contracts.

(k) **"Public Lease or License"** means, except as provided in Section 10.37.15, a lease, license, sublease or sublicense of City property, including, but not limited to, Non-Exclusive License Agreements, Air Carrier Operating Permits and Certified Service Provider License Agreements (CSPLA), for which services are furnished by Employees where any of the following apply:

(1) The services are rendered on premises at least a portion of which is visited by members of the public (including, but not limited to, airport passenger terminals, parking lots, golf courses, recreational facilities);

(2) Any of the services feasibly could be performed by City employees if the City had the requisite financial and staffing resources; or

(3) The DAA has determined in writing as approved by the Board of Public Works that coverage would further the proprietary interests of the City. Proprietary interest includes, but is not limited to:



(i) the public perception of the services or products rendered to them by a business;

(ii) security concerns related to the location of the business or any product or service the business produces; or

(iii) an Employer's industry-specific job classifications as defined in the regulations.

(l) "Service Contract" means a contract involving an expenditure in excess of \$25,000 and a contract term of at least three months awarded to a Contractor by the City to furnish services for the City where any of the following apply:

(1) at least some of the services are rendered by Employees whose work site is on property owned or controlled by the City;

(2) the services feasibly could be performed by City employees if the City had the requisite financial and staffing resources; or

(3) the DAA has determined in writing as approved by the Board of Public Works that coverage would further the proprietary interests of the City. Proprietary interest includes, but is not limited to:

(i) the public perception of the services or products rendered to them by a business;

(ii) security concerns related to the location of the business or any product or service the business produces; or

(iii) an Employer's industry-specific job classifications as defined in the regulations.

(m) "Subcontractor" means any person not an Employee who enters into a contract:

(1) to assist in performance of a Service Contract;

(2) with a Public Lessee or Licensee, sublessee, sublicensee or Contractor to perform or assist in performing services for the leased or licensed premises.

(n) "Willful Violation" means that the Employer knew of its obligations under this article and deliberately failed or refused to comply with its provisions.

#### SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Subsec. (e), Ord. No. 176,155, Eff. 9-22-04; Subsec. (e), Ord. No. 176,283, Eff. 12-25-04, Oper. 9-22-04; Subsecs. (a) through (l) re-lettered (d) through (o), respectively and new Subsecs. (a), (b), and (c) added, Ord. No. 180,877, Eff. 10-19-09; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

#### Sec. 10.37.2. Payment of Minimum Compensation to Employees.

(a) **Wages.** An Employer shall pay an Employee for all hours worked on a Service Contract or if a Public Lease or License or for a Contractor of a Public Lessee or Licensee, for all hours worked furnishing a service relating to the City, a wage of no less than the hourly rates set under the authority of this article.

##### (1) Non-Airport Employee Wages.

(i) If an Employer provides an Employee with health benefits as provided in Section 10.37.3 of this article, the Employee shall be paid the following:

a. On July 1, 2018, the wage rate for an Employee shall be no less than \$13.25 per hour.

b. On July 1, 2019, the wage rate for an Employee shall be no less than \$14.25 per hour.

c. On July 1, 2020, the wage rate for an Employee shall be no less than \$15.00 per hour.

d. On July 1, 2022, and annually thereafter, the hourly wage rate paid to an Employee shall be adjusted consistent with any adjustment pursuant to Section 187.02 D. of the Los Angeles Municipal Code.

(ii) If an Employer does not provide an Employee with health benefits as provided in Section 10.37.3 of this article, the Employee shall be paid the applicable wage rate in Section

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10.37.2(a)(1)(i) and an additional wage rate of \$1.25 per hour.

(iii) Section 10.37.11 is not applicable to this subdivision.

**(2) Airport Employee Wages.**

(i) If an Employer servicing the Airport provides an Employee with health benefits as provided in Section 10.37.3 of this article, the Employee shall be paid the following:

a. On July 1, 2017, the wage rate for an Employee shall be no less than \$12.08 per hour.

b. On July 1, 2018, the wage rate for an Employee shall be no less than \$13.75 per hour.

c. On July 1, 2019, the wage rate for an Employee shall be no less than \$15.25 per hour.

d. On July 1, 2020, the wage rate for an Employee shall be no less than \$16.50 per hour.

e. On July 1, 2021, the wage rate for an Employee shall be no less than \$17.00 per hour.

f. Beginning on July 1, 2022, the wage rate for an Employee shall increase annually, on July 1, to an amount \$2.00 above the minimum rate under the City's Minimum Wage Ordinance for that same period of time.

(ii) If an Employer servicing the Airport does not provide an Employee with health benefits as provided in Section 10.37.3 of this article, the Employee shall be paid the applicable wage rate in Section 10.37.2(a)(2)(i) and an additional wage rate as follows:

a. On July 1, 2017, an Employer servicing the Airport shall pay an Employee an additional wage rate of \$5.18 per hour.

b. Beginning on July 1, 2018, an Employer servicing the Airport shall pay an Employee an additional wage rate per hour

equal to the health benefit payment in effect for an Employee pursuant to Section 10.37.3(a)(5).

(3) An Employer may not use tips or gratuities earned by an Employee to offset the wages required under this article.

(b) **Compensated Time Off.** An Employer shall provide an Employee compensated time off as follows:

(1) An Employee who works at least 40 hours per week or is classified as a full-time Employee by the Employer shall accrue no less than 96 hours of compensated time off per year.

(2) An Employee who works less than 40 hours per week and is not classified as a full-time Employee by the Employer shall accrue hours of compensated time off in increments proportional to that accrued by an Employee who works 40 hours per week.

(3) **General Rules for Compensated Time Off.**

(i) An Employee must be eligible to use accrued paid compensated time off after the first 90 days of employment or consistent with company policies, whichever is sooner. Compensated time off shall be paid at an Employee's regular wage rate at the time the compensated time off is used.

(ii) An Employee may use accrued compensated time off hours for sick leave, vacation or personal necessity.

(iii) An Employer may not unreasonably deny an Employee's request to use the accrued compensated time off. The DAA, through regulations, may provide guidance on what is considered unreasonable.

(iv) The DAA may allow an Employer's established compensated time off policy to remain in place even though it does not meet these requirements, if the DAA determines that the Employer's established policy is overall more generous.

(v) Unused accrued compensated time off shall carry over until time off reaches a maximum of 192 hours, unless the Employer's established policy is overall more generous.

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(vi) After an Employee reaches the maximum accrued compensated time off, an Employer shall provide a cash payment once every 30 days for accrued compensated time off over the maximum. An Employer may provide an Employee with the option of cashing out any portion of, or all of, the Employee's accrued compensated time off, but, an Employer shall not require an Employee to cash out any accrued compensated time off. Compensated time off cashed out shall be paid to the Employee at the wage rate that the Employee is earning at the time of cash out.

(vii) An Employer may not implement any unreasonable employment policy to count accrued compensated time off taken under this article as an absence that may result in discipline, discharge, suspension or any other adverse action.

(4) **Compensated Release Time.** An Employer servicing the Airport who holds a Certified Service Provider License Agreement and is subject to this article shall comply with the following additional requirements:

(i) A CSPLA Employer shall provide an Employee at the Airport, 16 hours of additional compensated release time annually to attend and complete emergency response training courses approved by the Airport.

(ii) By December 31, 2018, and continuing thereafter on an annual basis, an Employee of a CSPLA Employer shall successfully complete the 16 hours of emergency response training.

(iii) An Employee of a CSPLA Employer hired after December 31, 2018, shall complete the 16 hours of emergency response training within 120 days of the first date of hire.

(iv) The 16 hours of compensated release time shall only be used to attend Airport approved annual emergency response training courses. The 16 hours of compensated release time does not accumulate or carry over to the following year. The 16 hours of compensated release time shall not be included as part of the 96 hours of compensated time off required under this article.

(c) **Uncompensated Time Off.** An Employer shall provide an Employee uncompensated time off as follows:

(1) An Employee who works at least 40 hours a week or is classified as a full-time Employee by an Employer shall accrue no less than 80 hours of uncompensated time off per year.

(2) An Employee who works less than 40 hours per week and is not classified as a full-time Employee by the Employer shall accrue hours of uncompensated time off in increments proportional to that accrued by an Employee who works 40 hours per week.

(3) **General Rules for Uncompensated Time Off.**

(i) An Employee must be eligible to use accrued uncompensated time off after the first 90 days of employment or consistent with company policies, whichever is sooner.

(ii) Uncompensated time off may only be used for sick leave for the illness of an Employee or a member of his or her immediate family and where an Employee has exhausted his or her compensated time off for that year.

(iii) An Employer may not unreasonably deny an Employee's request to use the accrued uncompensated time off. The DAA, through regulations, may provide guidance on what is considered unreasonable.

(iv) Unused accrued uncompensated time off shall carry over until the time off reaches a maximum of 80 hours, unless the Employer's established policy is overall more generous.

(v) An Employer may not implement any unreasonable employment policy to count accrued uncompensated time off taken under this article as an absence that may result in discipline, discharge, suspension or any other adverse action.

#### SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Subsec.

(a), Ord. No. 173,285, Eff. 6-26-00, Oper. 7-1-00; Subsec.

(a), Ord. No. 180,877, Eff. 10-19-09; In Entirety, Ord. No.

184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff.

1-20-18; Subsec. (a)(1), Ord. No. 185,745, Eff. 10-15-18.

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**Sec. 10.37.3. Health Benefits.**

(a) **Health Benefits.** The health benefits required by this article shall consist of the payment by an Employer of at least \$1.25 per hour to Employees towards the provision of health care benefits for an Employee and his or her dependents. On July 1, 2017, the health benefit rate for an Employee working for an Employer servicing the Airport shall be at least \$5.18 per hour. On July 1, 2018, the annual increase for Employees working for an Employer servicing the Airport shall continue as provided in Section 10.37.3(a)(5).

(1) Proof of the provision of such benefits must be submitted to the Awarding Authority to qualify for the wage rate in Section 10.37.2(a) for Employees with health benefits.

(2) Health benefits include health coverage, dental, vision, mental health and disability income. For purposes of this article, retirement benefits, accidental death and dismemberment insurance, life insurance and other benefits that do not provide medical or health related coverage will not be credited toward the cost of providing Employees with health benefits.

(3) If the Employer's hourly health benefit payment is less than that required under this article, the difference shall be paid to the Employee's hourly wage.

(4) Health benefits are not required to be paid on overtime hours.

(5) On July 1, 2018, and annually thereafter each July 1, the amount of payment for health benefits provided to an Employee working for an Employer servicing the Airport shall be adjusted by a percentage equal to the percentage increase, if any, in the United States Bureau of Labor Statistics Consumer Price Index for All Urban Consumers: Medical Care Services, as measured from January to December of the preceding year. The DAA shall announce the adjusted rates on February 1st and publish a bulletin announcing the adjusted rates, which shall take effect on July 1st of each year.

(b) **Periodic Review.** At least once every three years, the City Administrative Officer shall review the health benefit payment by Employers servicing the Airport set forth in Section 10.37.3(a) to determine whether the payment accurately reflects the cost of health care and to

assess the impacts of the health benefit payment on Airport Employers and Airport Employees and shall transmit a report with its findings to the Council.

**SECTION HISTORY**

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; In Entirety, Ord. No. 180,877, Eff. 10-19-09; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

**Sec. 10.37.4. Employer Reporting and Notification Requirements.**

(a) An Employer shall post in a prominent place in an area frequented by Employees a copy of the Living Wage Poster and the Notice Regarding Retaliation, both available from the DAA.

(b) An Employer shall inform an Employee of his or her possible right to the federal Earned Income Credit (EIC) under Section 32 of the Internal Revenue Code of 1954, 26 U.S.C. § 32, and shall make available to an Employee forms informing them about the EIC and forms required to secure advance EIC payments from the Employer.

(c) An Employer is required to retain payroll records pertaining to its Employees for a period of at least four years, unless more than four years of retention is specified elsewhere in the contract or required by law.

(d) A Contractor, Public Lessee, Licensee, and City Financial Assistant Recipient is responsible for notifying all Contractors, Subcontractors, sublessees, and sublicensees of their obligation under this article and requiring compliance with this article. Failure to comply shall be a material breach of the contract.

**SECTION HISTORY**

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

**Sec. 10.37.5. Retaliation Prohibited.**

An Employer shall not discharge, reduce in compensation, or otherwise discriminate against any Employee for complaining to the City with regard to the Employer's compliance or anticipated compliance with this article, for opposing any practice proscribed by this article,

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for participating in proceedings related to this article, for seeking to enforce his or her rights under this article by any lawful means, or for otherwise asserting rights under this article.

#### SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

#### Sec. 10.37.6. Enforcement.

(a) An Employee claiming violation of this article may bring an action in the Superior Court of the State of California against an Employer and may be awarded:

(1) For failure to pay wages required by this article, back pay shall be paid for each day during which the violation occurred.

(2) For failure to comply with health benefits requirements pursuant to this article, the Employee shall be paid the differential between the wage required by this article without health benefits and such wage with health benefits, less amounts paid, if any, toward health benefits.

(3) For retaliation the Employee shall receive reinstatement, back pay or other equitable relief the court may deem appropriate.

(4) For Willful Violations, the amount of monies to be paid under Subdivisions (1) - (3), above, shall be trebled.

(b) The court shall award reasonable attorney's fees and costs to an Employee who prevails in any such enforcement action and to an Employer who prevails and obtains a court determination that the Employee's lawsuit was frivolous.

(c) Compliance with this article shall be required in all City contracts to which it applies. Contracts shall provide that violation of this article shall constitute a material breach thereof and entitle the Awarding Authority to terminate the contract and otherwise pursue legal remedies that may be available. Contracts shall also include an agreement that the Employer shall comply with federal law proscribing retaliation for union organizing.

(d) The DAA may audit an Employer at any time to verify compliance. Failure by the Employer to cooperate

with the DAA's administrative and enforcement actions, including, but not limited to, requests for information or documentation to verify compliance with this article, may result in a determination by the DAA that the Employer has violated this article.

(e) An Employee claiming violation of this article may report the claimed violation to the DAA, which shall determine whether this article applies to the claimed violation.

(1) If any of the Employee's allegations merit further review, the DAA shall perform an audit; the scope of which will not exceed four years from the date the complaint was received.

(2) If the claimed violation is filed after a contract has expired, and information needed for the review is no longer readily available, the DAA may determine this article no longer applies.

(3) In the event of a claimed violation of the requirements relating to compensated time off, uncompensated time off or wages, the DAA may require the Employer to calculate the amount the Employee should have earned and compensate the Employee. Nothing shall limit the DAA's authority to evaluate the calculation.

(i) If the DAA determines that an Employer is in violation of Section 10.37.2(b), the time owed must be made available immediately. At the Employer's option, retroactive compensated time off in excess of 192 hours may be paid to the Employee at the current hourly wage rate.

(ii) If the DAA determines that an Employer is in violation of Section 10.37.2(c), the Employer shall calculate the amount of uncompensated time off that the Employee should have accrued. This time will be added to the uncompensated time off currently available to the Employee and must be available immediately.

(f) Where the DAA has determined that an Employer has violated this article, the DAA shall issue a written notice to the Employer that the violation is to be corrected within ten days or other time period determined appropriate by the DAA.

(g) In the event the Employer has not demonstrated to the DAA within such period that it has cured the violation, the DAA may then:

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(1) Request the Awarding Authority to declare a material breach of the Service Contract, Public Lease or License, or financial assistance agreement and exercise its contractual remedies thereunder, which may include, but not be limited to: (i) termination of the Service Contract, Public Lease or License, or financial assistance agreement; (ii) the return of monies paid by the City for services not yet rendered; and (iii) the return to the City of money held in retention (or other money payable on account of work performed by the Employer) when the DAA has documented the Employer's liability for unpaid wages, health benefits or compensated time off.

(2) Request the Awarding Authority to declare the Employer non-responsible from future City contracts, leases and licenses in accordance with the Contractor Responsibility Ordinance (LAAC Section 10.40, et seq.) and institute proceedings in a manner that is consistent with law.

(3) Impose a fine payable to the City in the amount of up to \$100 for each violation for each day the violation remains uncured.

(4) Exercise any other remedies available at law or in equity.

(h) Notwithstanding any provision of this Code or any other law to the contrary, no criminal penalties shall attach for violation of this article.

#### SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Subsec. (d), Para. (1), Ord. No. 173,747, Eff. 2-24-01; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

#### Sec. 10.37.7. Administration.

The DAA shall administer the requirement of this article and monitor compliance, including the investigation of claimed violations. The DAA shall promulgate rules and regulations consistent with this article for the implementation of the provision of this article. The DAA shall also issue determinations that persons are City Financial Assistance Recipients, that particular contracts shall be regarded as "Service Contracts" for purposes of Section 10.37.1(l), and that particular leases and licenses shall be regarded as "Public Leases" or "Public Licenses" for purposes of Section 10.37.1(k), when it receives an

application for a determination of non-coverage or exemption as provided for in Section 10.37.14 and 10.37.15.

The DAA may require an Awarding Authority to inform the DAA about all contracts in the manner described by regulation. The DAA shall also establish Employer reporting requirements on Employee compensation and on notification about and usage of the federal Earned Income Credit referred to in Section 10.37.4. The DAA shall report on compliance to the City Council no less frequently than annually.

Every three years after July 1, 2018, the Chief Legislative Analyst (CLA) with the assistance of the City Administrative Officer (CAO) shall commission a study to review the state of the Airport's regional economy; minimum wage impacts for Employees servicing the Airport; Airport service industry impacts; temporary workers, guards and janitors impacts; restaurants, hotels and bars impacts; transitional jobs programs impacts; service charges, commissions and guaranteed gratuities impacts; and wage theft enforcement. On an annual basis, the CLA and CAO shall collect economic data, including jobs, earnings and sales tax. The Study shall also address how extensively affected Employers are complying with this article, how the article is affecting the workforce composition of affected Employers, and how the additional costs of the article have been distributed among Employees, Employers and the City.

#### SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Ord. No. 173,285, Eff. 6-26-00, Oper. 7-1-00; Ord. No. 173,747, Eff. 2-24-01; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

#### Sec. 10.37.8. City is a Third Party Beneficiary of Contracts Between an Employer and Subcontractor for Purposes of Enforcement.

Any contract an Employer executes with a Contractor or Subcontractor, as defined in Section 10.37.1(f) and (m), shall contain a provision wherein the Contractor or Subcontractor agree to comply with this article and designate the City as an intended third party beneficiary for purposes of enforcement directly against the Contractor or Subcontractor, as provided for in Section 10.37.6 of this article.

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## SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Ord. No. 173,285, Eff. 6-26-00, Oper. 7-1-00; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

#### Sec. 10.37.9. Coexistence with Other Available Relief for Specific Deprivations of Protected Rights.

This article shall not be construed to limit an Employee's right to bring legal action for violation of other minimum compensation laws.

## SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

#### Sec. 10.37.10. Expenditures Covered.

This article shall apply to the expenditure - whether through aid to City Financial Assistance Recipients, Service Contracts let by the City or Service Contracts let by its Financial Assistance Recipients - of funds entirely within the City's control and to other funds, such as federal or state grant funds, where the application of this article is consonant with the laws authorizing the City to expend such other funds.

## SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

#### Sec. 10.37.11. Timing of Application.

The provisions of this article shall become operative 60 days following the effective date of the ordinance and are not retroactive.

## SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Subsec. (b), Subsec. (c) Added, Ord. No. 173,747, Eff. 2-24-01; Subsec. (d) Added, Ord. No. 180,877, Eff. 10-19-09; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

#### Sec. 10.37.12. Express Supersession by Collective Bargaining Agreement.

The requirements of this article may be superseded by a collective bargaining agreement if expressly stated in the agreement. This provision applies to any collective bargaining agreement that expires or is open for negotiation of compensation terms after the effective date of this ordinance. Any collective bargaining agreement that purports to supersede any requirement of this article shall be submitted by the Employer to the DAA.

(a) A collective bargaining agreement may expressly supersede the requirements of this article with respect to Employees of Employers servicing the Airport only when an Employee is paid a wage not less than the applicable wage rate in Section 10.37.2(a)(2)(i).

(b) A collective bargaining agreement may expressly supersede the requirements of this article with respect to Employees of Airline Food Caterers only when an Employee of the Airline Food Caterer is paid a total economic package no less than the applicable wage rate in Section 10.37.2(a)(2)(ii).

## SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; In Entirety, Ord. No. 184,318, Eff. 7-7-16; Title and Section In Entirety, Ord. No. 185,321, Eff. 1-20-18.

#### Sec. 10.37.13. Liberal Interpretation of Coverage; Rebuttable Presumption of Coverage.

The definitions of "City Financial Assistance Recipient" in Section 10.37.1(e), of "Public Lease or License" in Section 10.37.1(k), and of "Service Contract" in Section 10.37.1(l) shall be liberally interpreted so as to further the policy objectives of this article. All City Financial Assistance Recipients meeting the monetary thresholds of Section 10.37.1(e), all Public Leases and Licenses (including subleases and sublicenses) where the City is the lessor or licensor, and all City contracts providing for services shall be presumed to meet the corresponding definition mentioned above, subject, however, to a determination by the DAA of non-coverage or exemption on any basis allowed by this article, including, but not limited to, non-coverage for failure to satisfy such definition. The DAA shall by regulation establish procedures for informing persons engaging in such transactions with the City of their opportunity to apply for

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a determination of non-coverage or exemption and procedures for making determinations on such applications.

#### SECTION HISTORY

Added by Ord. No. 172,336, Eff. 1-14-99.

Amended by: Ord. No. 173,747, Eff. 2-24-01; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18; In Entirety, Ord. No. 185,745, Eff. 10-15-18.

#### Sec. 10.37.14. Contracts, Employers and Employees Not Subject to this Article.

The following contracts are not subject to the Living Wage Ordinance. An Awarding Authority, after consulting with the DAA, may determine whether contracts and/or Employers are not subject to the Living Wage Ordinance due to the following:

(a) a contract where an employee is covered under the prevailing wage requirements of Division 2, Part 7, of the California Labor Code unless the total of the basic hourly rate and hourly health and welfare payments specified in the Director of Industrial Relations' General Prevailing Wage Determinations are less than the minimum hourly rate as required by Section 10.37.2(a) of this article.

(b) a contract with a governmental entity, including a public educational institution or a public hospital.

(c) a contract for work done directly by a utility company pursuant to an order of the Public Utilities Commission.

#### SECTION HISTORY

Added by Ord. No. 184,318, Eff. 7-7-16.

Amended by: In Entirety, Ord. No. 185,321, Eff. 1-20-18.

#### Sec. 10.37.15. Exemptions.

Upon the request of an Employer, the DAA may exempt compliance with this article. An Employer seeking an exemption must submit the required documentation to the DAA for approval before the exemption takes effect.

(a) A Public Lessee or Licensee, that employs no more than seven people total on and off City property shall be exempted. A lessee or licensee shall be deemed to employ no more than seven people if the

company's entire workforce worked an average of no more than 1,214 hours per month for at least three-fourths of the previous calendar year. If a Public Lease or License has a term of more than two years, the exemption granted pursuant to this section shall expire after two years, but shall be renewable in two-year increments.

(b) Non-Profit Organizations. Corporations organized under Section 501(c)(3) of the United States Internal Revenue Code of 1954, 26 U.S.C. § 501(c)(3), whose chief executive officer earns a salary which, when calculated on an hourly basis, is less than eight times the lowest wage paid by the corporation, shall be exempted as to all Employees other than child care workers.

(c) Students. High school and college students employed in a work study or employment program lasting less than three months shall be exempt. Other students participating in a work-study program shall be exempt if the Employer can verify to the DAA that:

(1) The program involves work/training for class or college credit and student participation in the work-study program is for a limited duration, with definite start and end dates; or

(2) The student mutually agrees with the Employer to accept a wage below this article's requirements based on a training component desired by the student.

(d) Nothing in this article shall limit the right of the Council to waive the provisions herein.

(e) Nothing in this article shall limit the right of the DAA to waive the provisions herein with respect to and at the request of an individual Employee who is eligible for benefits under Medicare, a health plan through the U.S. Department of Veteran Affairs or a health plan in which the Employee's spouse, domestic partner or parent is a participant or subscriber to another health plan. An Employee who receives this waiver shall only be entitled to the hourly wage pursuant to Section 10.37.2(a)(2)(i).

#### SECTION HISTORY

Added by Ord. No. 184,318, Eff. 7-7-16.

Amended by: In Entirety, Ord. No. 185,321, Eff. 1-20-18.

**Sec. 10.37.16. Severability.**

If any subsection, sentence, clause or phrase of this article is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this section, and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**SECTION HISTORY**

Added by Ord. No. 172,336, Eff. 1-14-99.

Amended by: In Entirety, Ord. No. 184,318, Eff. 7-7-16; In  
Entirety, Ord. No. 185,321, Eff. 1-20-18.

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**EXHIBIT P**  
**WORKER RETENTION**  
**ORDINANCE**

## CHAPTER 1, ARTICLE 10

### WORKER RETENTION

(Title amended, Ord. No. 185,356, Eff. 1-26-18.)

Section	
10.36	Findings and Statement of Policy.
10.36.1	Definitions.
10.36.2	Transition Employment Period.
10.36.3	Enforcement.
10.36.4	Exemption for Contractor or Contractor's Prior Employees.
10.36.5	Coexistence with Other Available Relief for Specific Deprivations of Protected Rights.
10.36.6	Expenditures Covered by this Article.
10.36.7	Promulgation of Implementing Rules.
10.36.8	Severability.

#### Sec. 10.36. Findings and Statement of Policy.

The City awards many contracts to private firms to provide services to the public and to City government. The City also leases its property or grants licenses to enter onto its property and these lessees and licensees often perform services that affect the proprietary interests of City government in that their performance impacts the success of City operations. The City also provides financial assistance and funding to other firms for the purpose of economic development or job growth. At the conclusion of the term of a service contract, lease or license with the City or with those receiving financial assistance from the City, a different firm often receives the successor contract to perform the same City services or to lease or license the same City property.

The City obtains benefits achieved through the competitive process of entering into new contracts. It is the experience of the City that reasons for change do not necessarily include a need to replace workers presently performing services who already have useful knowledge about the workplace where the services are performed.

The City has a proprietary interest in the work performed by employees of City contractors, lessees and licensees and by the employees of firms receiving City financial assistance. The success or failure of City operations may turn on the success or failure of these firms, and the City has a genuine stake in how the public perceives

the services rendered by these firms. Replacement of existing employees can adversely impact the performance by these firms and thereby hinders the opportunity for success of City operations.

Incumbent workers have invaluable existing knowledge and experience with the work schedules, practices and clients. Replacing these workers with workers without these experiences decreases efficiency and results in a disservice to the City and City financed or assisted projects.

Retaining existing workers when a change in firm occurs reduces the likelihood of labor disputes and disruptions. The reduction of the likelihood of labor disputes and disruptions results in the assured continuity of services to City constituents and visitors who receive services provided by the City, the City's lessees or licensees, or by City financed or assisted projects.

Contracting decisions involving the expenditure of City funds should avoid a potential effect of creating unemployment and the consequential need for social services. The City, as a principal provider of social support services, has an interest in the stability of employment under contracts, leases and licenses with the City and by those receiving financial assistance from the City. The retention of existing workers benefits that interest.

#### SECTION HISTORY

Article and Section Added by Ord. No. 170,784, Eff. 1-13-96.  
Amended by: Article and Section, Ord. No. 171,004, Eff. 5-18-96;  
In Entirety, Ord. No. 184,293, Eff. 6-27-16; In Entirety,  
Ord. No. 185,356, Eff. 1-26-18.

#### Sec. 10.36.1. Definitions.

The following definitions shall apply throughout this article:

(a) "Awarding Authority" means the governing body, board, officer or employee of the City or City Financial Assistance Recipient authorized to award a Contract and shall include a department which

has control of its own funds if the department adopts policies consonant with the provisions of this article.

(b) **“City”** means the City of Los Angeles and all Awarding Authorities thereof.

(c) **“City Financial Assistance Recipient”** means any person who receives from the City in any 12-month period discrete financial assistance for economic development or job growth expressly articulated and identified by the City totaling at least \$100,000; provided, however, that corporations organized under Section 501(c)(3) of the United States Internal Revenue Code of 1954, 26 U.S.C. § 501(c)(3), with annual operating budgets of less than \$5,000,000, or that regularly employ homeless persons, persons who are chronically unemployed, or persons receiving public assistance, shall be exempt.

Categories of such assistance include, but are not limited to, bond financing, planning assistance, tax increment financing exclusively by the City, and tax credits, and shall not include assistance provided by the Community Development Bank. City staff assistance shall not be regarded as financial assistance for purposes of this article. A loan at market rate shall not be regarded as financial assistance. The forgiveness of a loan shall be regarded as financial assistance. A loan shall be regarded as financial assistance to the extent of any differential between the amount of the loan and the present value of the payments thereunder, discounted over the life of the loan by the applicable federal rate as used in 26 U.S.C. §§ 1274(d) and 7872(f). A recipient shall not be deemed to include lessees and sublessees. Contracts for economic development or job growth shall be deemed providing such assistance once the \$100,000 threshold is reached.

(d) **“Contract”** means:

(1) a contract let to a Contractor by the City or a City Financial Assistance Recipient primarily for the furnishing of services to or for the City or City Financial Assistance Recipient (as opposed to the purchase of goods or other property) and that involves an expenditure or receipt in excess of \$25,000 and a contract term of at least three months; or

(2) a Public Lease or License as those terms are defined in Los Angeles Administrative Code Section 10.37.1(k) but only if the lessee or

licensee is subject to the Living Wage Ordinance and not otherwise exempt from its provisions.

(e) **“Contractor”** means any person that enters into a Contract with the City or a City Financial Assistance Recipient. Governmental entities, including public educational institutions and public hospitals, are not Contractors and are not subject to this article.

(f) **“Designated Administrative Agency (DAA)”** means the Department of Public Works, Bureau of Contract Administration, which shall bear administrative responsibilities under this article.

(g) **“Employee”** means any person employed as an employee of a Contractor or Subcontractor earning no more than twice the hourly wage without health benefits available under the Living Wage Ordinance, Los Angeles Administrative Code Section 10.37 et seq., whose primary place of employment is in the City on or under the authority of a Contract. Examples of Employee includes: hotel Employees; restaurant, food service or banquet Employees; janitorial Employees; security guards; parking attendants; nonprofessional health care Employees; gardeners; waste management Employees; and clerical Employees. Employee does not include a person who is a managerial, supervisory or confidential Employee. An Employee must have been employed by a terminated Contractor for the preceding 12 months or longer.

(h) **“Person”** means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association or other entity that may employ individuals or enter into contracts.

(i) **“Subcontractor”** means any person not an Employee who enters into a contract with a Contractor to assist the Contractor in performing a Contract and who employs Employees for such purpose. A Subcontractor includes a sublessee or sublicensee.

(j) **“Successor Contract”** means a Contract where the service to be performed is substantially similar to the Contract recently terminated. The meaning also includes a Contract that is a Public Lease or License substantially similar to a Public Lease or License recently terminated. Termination includes, but is not limited to: (1) the completion of the Contract; (2) early termination of the Contract in whole or in part; or (3) an amendment that reduces

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services provided under the Contract, in whole or in part.

#### SECTION HISTORY

Added by Ord. No. 170,784, Eff. 1-13-96.

Amended by: Ord. No. 171,004, Eff. 5-18-96; Subsec. (c), Ord. No. 172,843, Eff. 11-4-99; Subsec. (j) added, Ord. No. 176,155, Eff. 9-22-04; Subsec. (j), Ord. No. 176,283, Eff. 12-25-04, Oper. 9-22-04; In Entirety, Ord. No. 184,293, Eff. 6-27-16; In Entirety, Ord. No. 185,356, Eff. 1-26-18.

#### Sec. 10.36.2. Transition Employment Period.

(a) Within ten days of learning that a Contract is to be terminated, the Contractor shall provide to the Successor Contractor, the Awarding Authority and the DAA, the name, address, date of hire, and employment occupation classification of each Employee of the terminated Contractor and Subcontractor working pursuant to the Contract. If the terminated Contractor has not learned the identity of the Successor Contractor, the Contractor shall request the identity from the Awarding Authority. If a Successor Contract has not been awarded by the end of the ten-day period, the Contractor shall provide the employment information referred to earlier in this subsection to the Awarding Authority and the DAA. Where only a subcontract of a Contract has been terminated, the terminated Subcontractor shall for purposes of this Article be deemed a terminated Contractor.

(1) If multiple Contracts providing similar services are terminated, the Awarding Authority shall consult with the DAA to determine whether to pool the Employees, ordered by seniority within job classification and provide a pool list to the Successor Contractor. The Successor Contractor shall provide written notice to the Awarding Authority and the DAA that the Awarding Authority's pool list will be used. The notice must include the following:

(A) the total number of Employees required under the Successor Contract;

(B) a breakdown of the number of Employees required within each job classification and seniority within each class; and

(C) an indication as to which Employees within each job classification shall be offered employment under this article.

The written notice must be provided no later than ten days after the Successor Contractor receives the listing of the terminated Contractor's Employees.

(2) Where the use of Subcontractors has occurred under the terminated Contract or where the use of Subcontractors is to be permitted under the Successor Contract, or where both circumstances arise, the Awarding Authority shall pool, when applicable, the Employees, ordered by seniority within job classification, under such prior Contracts or subcontracts where required by, and in accordance with, rules promulgated by the DAA. The Successor Contractor or Subcontractor shall provide written notice to the Awarding Authority and the DAA that the Awarding Authority's pool list will be used.

(b) If work-related requirements for a particular job classification under the Successor Contract differ from the terminated Contract, the Successor Contractor (or Subcontractor, where applicable) shall give notice to the Awarding Authority and the DAA and provide an explanation including:

(1) the different work-related requirements needed; and

(2) the reason why the different work-related requirements are necessary for the Successor Contract.

(c) Within ten days of receipt of the list of Employees from the terminated Contractor, the Successor Contractor shall make written offers for a 90-day transition employment period to the eligible Employees by letters sent certified mail. The letters shall ask an Employee to return the offers to the Successor Contractor with the Employee's signature indicating acceptance or rejection of the offer of employment. The letters shall state that if an Employee fails to return a written acceptance of the offer within ten days of the date of mailing of the Successor Contractor's certified letter, then the Employee will be presumed to have declined the offer.

The Successor Contractor shall provide copies of the letters offering employment to the Awarding Authority and proof of mailing.

(d) A Successor Contractor shall retain Employees for a 90-day transition employment period. Where pooling of Employees has occurred, the Successor Contractor shall draw from the pools in accordance with rules promulgated by the DAA. During such 90-day period, Employees so hired shall be employed under the terms and conditions established by the Successor Contractor (or Subcontractor) or as required by law.

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(e) If at any time the Successor Contractor determines that fewer Employees are required to perform the new Contract than were required by the terminated Contractor (and Subcontractors, if any), the Successor Contractor shall retain Employees by seniority within job classification. The Successor Contractor shall give notice to the Awarding Authority and the DAA and provide an explanation including:

- (1) the reason that fewer Employees will be needed;
- (2) the total number of Employees required under the Successor Contract;
- (3) a breakdown of the number of Employees required within each job classification;
- (4) a listing of the terminated Contractor's Employees by job classification and seniority within each class; and
- (5) an indication as to which Employees within each job classification will be offered employment under this article.

The notice must be provided no later than ten days after the Successor Contractor receives the list of the terminated Contractor's Employees pursuant to Section 10.36.2(a).

Letters offering employment shall be made by seniority within each job classification. If an Employee in a job classification declines an offer of employment or fails to respond within ten days pursuant to Section 10.36.2(a), the Successor Contractor shall issue a letter offering employment to the next Employee in that job classification. The Successor Contractor shall continue to offer employment in this manner until all required positions are filled for the Successor Contract or until all Employees have been offered employment.

(f) During the 90-day transition employment period, the Successor Contractor (or Subcontractor, where applicable) shall maintain a preferential hiring list of eligible covered Employees not retained by the Successor Contractor (or Subcontractor) from which the successor Contractor (or Subcontractor) shall hire additional Employees, if needed.

(g) During the 90-day transition employment period, the Successor Contractor (or Subcontractor, where applicable) shall not discharge without cause an Employee retained pursuant to this article. "Cause" for this purpose

shall mean fair and honest reasons, regulated by good faith on the part of the Contractor or Subcontractor, that are not trivial, arbitrary or capricious, unrelated to business needs or goals, or pretextual.

(h) At the end of the 90-day transition employment period, the Successor Contractor (or Subcontractor, where applicable) shall perform a written performance evaluation for each Employee retained pursuant to this article. If the Employee's performance during the 90-day period is satisfactory, the Successor Contractor (or Subcontractor) shall offer the Employee continued employment under terms and conditions established by the Successor Contractor (or Subcontractor) or as required by law.

(i) If the City or a City Financial Assistance Recipient enters into a Contract for the performance of work that prior to the Contract was performed by the City's or the City Financial Assistance Recipient's own Employees, the City or the City Financial Assistance Recipient shall be deemed to be a terminated Contractor within the meaning of this article and the Contractor shall be deemed to be a Contractor with a Successor Contract within the meaning of this article.

#### SECTION HISTORY

Added by Ord. No. 170,784, Eff. 1-13-96.

Amended by: Ord. No. 171,004, Eff. 5-18-96; Subsec. (g) added, Ord. No. 172,349, Eff. 1-29-99; In Entirety, Ord. No. 184,293, Eff. 6-27-16; In Entirety, Ord. No. 185,356, Eff. 1-26-18.

#### Sec. 10.36.3. Enforcement.

(a) An Employee who has been discharged in violation of this article by a Successor Contractor or its Subcontractor may bring an action in the Superior Court of the State of California against the Successor Contractor and, where applicable, its Subcontractor, and may be awarded:

(1) Back pay for each day during which the violation continues, which shall be calculated at a rate of compensation not less than the higher of:

(A) The average regular rate of pay received by the Employee from the terminated Contractor during the last three years of the Employee's employment in the same occupation classification; or

(B) The final regular rate paid by the terminated Contractor to the Employee.

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(2) Costs of benefits the Successor Contractor would have incurred for the Employee under the successor Contractor's (or Subcontractor's, where applicable) benefit plan.

(b) If the Employee is the prevailing party in any such legal action, the court shall award reasonable attorney's fees and costs as part of the costs recoverable.

(c) Compliance with this article shall be required in all Contracts and shall provide that violation of this article shall entitle the City to terminate the Contract and pursue all legal remedies.

(d) If the DAA determines that a Contractor or Subcontractor violated this article, the DAA may recommend that the Awarding Authority take any or all of the following actions:

(1) Document the determination in the Awarding Authority's Contractor Evaluation required under Los Angeles Administrative Code Section 10.39, et seq.;

(2) Require that the Contractor or Subcontractor document the determination in each of the Contractor's or Subcontractor's subsequent Contractor Responsibility Questionnaires submitted under Los Angeles Administrative Section 10.40, et seq.;

(3) Terminate the Contract;

(4) Recommend to the Awarding Authority to withhold payments due to the Contractor or Subcontractor.

(e) Notwithstanding any provision of this Code or any other law to the contrary, no criminal penalties shall attach for any violation of this article.

#### SECTION HISTORY

Added by Ord. No. 170,784, Eff. 1-13-96.  
Amended by: Ord. No. 171,004, Eff. 5-18-96; In Entirety, Ord. No. 184,293, Eff. 6-27-16; In Entirety, Ord. No. 185,356, Eff. 1-26-18.

#### Sec. 10.36.4. Exemption for Contractor or Contractor's Prior Employees.

(a) An Awarding Authority may allow a Successor Contractor or Subcontractor to fill a position under a Contractor with a person who has been employed by the Contractor or Subcontractor continuously for at least 12 months prior to the commencement of the Successor

Contract working in a position similar to the position to be filled in the Successor Contract. The Successor Contractor or Subcontractor shall first obtain written approval of the Awarding Authority by demonstrating that: (a) the person would otherwise be laid off work; and (b) his or her retention would be helpful to the Contractor or Subcontractor in performing the Successor Contract.

(b) Nothing in this article shall limit the right of the DAA to waive the provisions herein with respect to a Contractor if it finds it is not in the best interest of the City.

#### SECTION HISTORY

Added by Ord. No. 170,784, Eff. 1-13-96.  
Amended by: Ord. No. 171,004, Eff. 5-18-96; In Entirety, Ord. No. 184,293, Eff. 6-27-16; In Entirety, Ord. No. 185,356, Eff. 1-26-18.

#### Sec. 10.36.5. Coexistence with Other Available Relief for Specific Deprivations of Protected Rights.

This article shall not be construed to limit an Employee's right to bring legal action for wrongful termination.

#### SECTION HISTORY

Added by Ord. No. 170,784, Eff. 1-13-96.  
Amended by: Ord. No. 171,004, Eff. 5-18-96; In Entirety, Ord. No. 184,293, Eff. 6-27-16; In Entirety, Ord. No. 185,356, Eff. 1-26-18.

#### Sec. 10.36.6. Expenditures Covered by this Article.

This article shall apply to the expenditure, whether through Contracts let by the City or by City Financial Assistance Recipients, of funds entirely within the City's control and to other funds, such as federal or state grant funds, where the application of this article is consonant with the laws authorizing the City to expend such other funds. City Financial Assistance Recipients shall apply this article to the expenditure of non-City funds for Contracts to be performed in the City by complying with Section 10.36.2(i) and by contractually requiring their Contractors with Contracts to comply with this article. Such requirement shall be imposed by the recipient until the City financial assistance has been fully expended.

#### SECTION HISTORY

Added by Ord. No. 171,004, Eff. 5-18-96.  
Amended by: Ord. No. 172,337, Eff. 1-14-99; Ord. No. 172,843, Eff. 11-4-99; In Entirety, Ord. No. 184,293, Eff. 6-27-16; In Entirety, Ord. No. 185,356, Eff. 1-26-18.

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**Sec. 10.36.7. Promulgation of Implementing Rules.**

The DAA shall promulgate rules for implementation of this article and otherwise coordinate administration of the requirements of this article.

**SECTION HISTORY**

Added by Ord. No. 171,004, Eff. 5-18-96.

Amended by: Ord. No. 176,155, Eff. 9-22-04; Ord. No. 176,283, Eff. 12-25-04, Oper. 9-22-04; In Entirety, Ord. No. 184,293, Eff. 6-27-16; In Entirety, Ord. No. 185,356, Eff. 1-26-18.

**Sec. 10.36.8. Severability.**

If any subsection, sentence, clause or phrase of this article is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this section, and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**SECTION HISTORY**

Added by Ord. No. 171,004, Eff. 5-18-96.

Amended by: In Entirety, Ord. No. 184,293, Eff. 6-27-16; In Entirety, Ord. No. 185,356, Eff. 1-26-18.

# EXHIBIT Q

## CONTRACTOR RESPONSIBILITY PROGRAM RULES AND REGULATIONS

# **LOS ANGELES WORLD AIRPORTS**



## **CONTRACTOR RESPONSIBILITY PROGRAM**

### **RULES AND REGULATIONS**

**Effective date: August 23, 2011**

Procurement Services Division  
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## EXHIBIT Q

### Contractor Responsibility Program (CRP) Rules & Regulation for Leases

These Rules and Regulations are promulgated pursuant to Board Resolution #21601, the Los Angeles World Airports Contractor Responsibility Program (CRP). Each Requesting LAWA Division shall cooperate to the fullest extent with the Executive Director in the administration of the CRP. The Executive Director may amend these Rules and Regulations from time to time as required for the implementation of the CRP.

## **A. DEFINITIONS**

1. **Adoption of CRP definitions:** For purposes of these Rules and Regulations, the definitions set forth in the Board Resolution are incorporated herein by reference, and include the following:

- a. **Board**
- b. **Executive Director**
- c. **Los Angeles World Airports (LAWA)**
- d. **"Contract"** means any agreement for the performance of any work or service, the provision of any goods, equipment, materials or supplies, or the rendition of any service to LAWA or to the public or the grant of a public lease, which is awarded or entered into by or on behalf of LAWA. These Rules and Regulations shall apply to the following contracts:
  - (1) Contracts for services that require Board approval.
  - (2) Contracts for purchasing goods and products that require Board approval.
  - (3) Construction contracts that require Board approval.
- e. **Contractor**
- f. **Subcontractor**
- g. **Bidder**
- h. **Bid**
- i. **Invitation for Bid ("IFB")**
- j. **Public Lease**

2. **New Definitions:**

- a. **"Awarding Authority"** means either the Executive Director or the Board of Airport Commissioners ("Board") or the Board's designee.
- b. **"CRP Questionnaire"** means the set of questions developed by Procurement Services Division (PSD) that will assist LAWA in determining a bidder or contractor's responsibility. Information solicited from the CRP Questionnaire may include but is not limited to: ownership and name changes, financial resources and responsibility, satisfactory performance of other contracts, satisfactory record of compliance with relevant laws and regulations, and satisfactory record of business integrity. PSD may amend the CRP Questionnaire from time to time.

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### **Contractor Responsibility Program (CRP) Rules & Regulation for Leases**

- c. **"CRP Pledge of Compliance"** means the CRP Pledge developed by PSD. The CRP Rules and Regulations may be updated from time to time by PSD. The CRP Pledge shall require contractors to sign under penalty of perjury that the contractor will:
- (1) Comply with all applicable Federal, State, and local laws and regulations during the performance of the contract, including but not limited to laws regarding health and safety, labor and employment, wage and hour, and licensing laws which affect employees.
  - (2) Notify LAWA within 30 calendar days after receiving notification that any government agency has initiated an investigation that may result in a finding that the contractor did not comply with subparagraph 2(c)(1) above in the performance of the contract.
  - (3) Notify LAWA within 30 calendar days of all findings by a government agency or court of competent jurisdiction that the contractor has violated subparagraph 2(c)(1) above in the performance of the contract.
  - (4) Provide LAWA within thirty (30) calendar days updated responses to the CRP Questionnaire if any change occurs which would change any response contained within the completed CRP Questionnaire. Note: This provision does not apply to amendments of contracts not subject to the CRP and to subcontractors not required to submit a Questionnaire.
  - (5) Ensure that subcontractors working on the LAWA contract shall complete, sign and submit a CRP Pledge of Compliance attesting under penalty of perjury to compliance with paragraphs 2(c)(1) through (4).
  - (6) Notify LAWA within thirty (30) days of becoming aware of an investigation, violation or finding of any applicable Federal, State, or local law involving the subcontractors in the performance of a LAWA contract.
  - (7) Cooperate fully with LAWA during an investigation and to respond to request(s) for information within ten (10) working days from the date of the Notice to Respond.
- d. **"Requesting Division"** means the LAWA division(s) which issued the Request For Bids ("RFB"), Request For Proposal ("RFP") or Request for Qualifications ("RFQ").
- e. **"Responsibility"** means possessing the necessary "trustworthiness" and "quality, fitness and capacity" to perform the work set forth in the contract.

## **B. SUBMISSION OF CRP QUESTIONNAIRES**

1. **Issuance of Invitation for Bids (IFB):** These include Request for Bids (RFB), Request for Proposals (RFP), and Request for Qualifications (RFQ). Unless otherwise exempt from the CRP, if a proposed contract meets the definition of a contract subject to the CRP as

### **EXHIBIT Q**

#### **Contractor Responsibility Program (CRP) Rules & Regulation for Leases**

defined in the Resolution and these Rules and Regulations, LAWA shall include in the IFB:

- a. Language informing potential bidders of the CRP;
- b. The CRP Questionnaire that bidders submit with their bid; and
- c. The CRP Pledge of Compliance that bidders submit with their bid.

**2. Submission of CRP Questionnaires with Bids:**

- a. All bid and proposal submissions are required to contain a completed and signed CRP Questionnaire and a signed CRP Pledge of Compliance.
- b. Failure to submit a CRP Questionnaire and a CRP Pledge of Compliance in accordance with the IFB procedures may make the bidder non-responsive and disqualified from the bidding process.
- c. Submitted CRP Questionnaires and CRP Pledge of Compliance become public records, and information contained therein will be available for public review, except to the extent that such information is exempt from disclosure pursuant to applicable law.

**3. Use of a non-competitive process to procure the proposed contract:** If a non-competitive process is used by LAWA Divisions to procure the proposed contract, the proposed contractor is required to submit the completed CRP Questionnaire and a signed CRP Pledge of Compliance to LAWA for determination of contractor responsibility prior to execution of the contract.

**4. Subcontractors:** The list of subcontractors shall be submitted with the bid and will be made available for public review along with the bidder's Questionnaire. For construction contracts, bidders must list a subcontractor proposed to be used on the City contract if the subcontractor will be performing work on the construction contract in an amount in excess of \$10,000 or in excess of one-half of one percent of the total bid amount, whichever is greater. For service contracts, bidders must list subcontractors as required by the IFB.

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### **C. LAWYER REVIEW OF SUBMITTED CRP QUESTIONNAIRES**

- 1. Departmental Review of submitted bids:** As part of the determination of a bidder's responsiveness, PSD will review the bid submissions to determine whether a completed CRP Questionnaire, signed under penalty of perjury, has been included with the bid. If a completed Questionnaire has not been included with the bid as required by the IFB procedures, the bidder may be deemed to be non-responsive and may be disqualified from the bidding process.
- 2. Posting of CRP Questionnaires and Subcontractor List:** Requesting Divisions will forward to PSD the completed CRP Questionnaires and subcontractor list(s), if any, submitted by the responsive bidders to make available for public review as follows:
  - a. If a contract is to be awarded pursuant to a competitive bid process, the CRP Questionnaires for the three lowest responsive bidders and their list of proposed subcontractors, if any, will be forwarded to PSD to make them available for public review for a minimum period of 14 calendar days.
  - b. If a contract is to be awarded pursuant to a proposal (RFP) or qualifications (RFQ) and award is not based on the lowest submitted bid price, the CRP Questionnaires for the short-listed proposers and their list of proposed subcontractors, if any, will be forwarded to PSD to make them available for public review for a minimum period of 14 calendar days. If no short-listing procedure is used, the CRP Questionnaire for the prospective contractor shall be made available for public review for a minimum period of 14 calendar days.
  - c. If a contract is to be awarded to a Sole Source, the CRP Questionnaire for the proposed contractor and their list of proposed subcontractors, if any, will be forwarded to PSD to make it available for public review for a period of 14 calendar days.
  - d. No contract shall be awarded to any bidder until at least 14 calendar days after the CRP Questionnaire has been made available for public review. If administrative or technical errors prevent or delay the posting of the CRP Questionnaire, the posting period will be extended by the amount of time that the CRP Questionnaire was not available for public review.
  - e. The CRP Questionnaire of the bidder/proposer awarded the contract will be retained by the Requesting Division as part of the contract file. The CRP Questionnaires for the bidders/proposers not awarded the contract will be retained in the customary manner by the Requesting Division.
- 3. Claims Resulting from Public Review:**
  - a. Claims regarding a bidder or contractor's responsibility should be submitted to PSD in writing. However, PSD may investigate a claim regarding a bidder's or a contractor's responsibility, whether or not it is submitted in writing, if PSD in its discretion

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determines that the claim calls into question the bidder's, the proposer's or the contractor's responsibility.

- b. If PSD receives information which calls into question a bidder's responsibility, and the information was received **before** the contract has been executed, PSD shall:
  - (1) Notify the Requesting Division in writing that no contract shall be awarded until PSD has completed investigation into the matter.
  - (2) Investigate the matter as required in Section G, "LAWA INVESTIGATION" to determine its validity.
  - (3) Upon completion of the investigation, PSD shall notify the Requesting Division and the Awarding Authority in writing of the result of the investigation.
  - (4) No contract may be awarded to any bidder until after the investigation has been completed and the Requesting Division and the Awarding Authority have received written notification that the investigation has been completed.
  - (5) Findings from the PSD investigation received by the Awarding Authority will be considered by the Awarding Authority as part of the determination of the bidder's responsibility.
- c. If PSD receives written information that calls into question a contractor's responsibility, and the information was received **after** the contract has been executed, PSD shall investigate the matter as required in Section G, LAWA INVESTIGATION.

#### **D. AWARD AND EXECUTION OF CONTRACTS**

##### **1. Departmental Determination of Responsibility and Award of Contract:**

- a. Requesting Division and the Awarding Authority shall determine whether a bidder/contractor is a responsible bidder, proposer or contractor with the necessary trustworthiness, quality, fitness and capacity to perform the work set forth in the proposed contract by considering the following:
  - (1) Information contained in the CRP Questionnaire;
  - (2) Information and documentation from PSD's investigation;
  - (3) Information regarding the bidder's, proposer's or contractor's past performance that may be contained in the City of Los Angeles' Contractor Evaluation Database.
  - (4) Information that may be available from any compliance or regulatory governmental agency, and
  - (5) Any other reliable information that may be available, including but not limited to information from any individual or any other governmental agency.

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- b. The Board may award and the Executive Director may execute a contract with a bidder or proposer only if:
  - (1) The bidder's or proposer's CRP Questionnaire has been made available for public review for at least 14 calendar days unless otherwise exempted from the posting requirement by the CRP;
  - (2) The bidder or proposer is not being investigated by PSD pursuant to the CRP;
  - (3) The bidder or proposer has not been found to be a non-responsible bidder/proposer pursuant to the CRP;
  - (4) The bidder or proposer does not appear on any City list of debarred bidders or contractors; and
  - (5) The bidder or proposer has met all other applicable City requirements.

## **2. Submission of Pledge of Compliance:**

- a. Unless otherwise exempt from the CRP, all bid/proposal submissions (RFBs, RFPs and RFQs) are required to contain a Pledge of Compliance with the CRP signed under penalty of perjury. Failure to submit a CRP Pledge of Compliance with the bid/proposal may make the bidder non-responsive and disqualified from the bidding process.
- b. Within 10 calendar days of execution of a contract with LAWA, the contractor shall submit to LAWA a signed CRP Pledge of Compliance from each subcontractor listed as performing work on the contract.

## **3. Subcontractor Responsibility:**

- a. Contractors shall ensure that their subcontractors meet the criteria for responsibility set forth in the CRP and these Rules and Regulations unless the subcontract is not subject to the CRP.
- b. Contractors shall ensure that subcontractors working on the LAWA agreement shall complete and submit a signed CRP Pledge of Compliance.
- c. Contractors shall not use in any capacity any subcontractor that has been determined or found to be a non-responsible contractor by LAWA or the City.
- d. Subject to approval by the Requesting Division, contractors may substitute a non-responsible subcontractor with another, responsible subcontractor with no changes in bid amounts.

#### **4. Execution of Contracts:**

- a. Unless exempt from the CRP, all contracts shall contain language obligating the contractor to comply with the CRP.
- b. No contract may be executed unless:
  - (1) The proposed contractor has submitted a signed Pledge of Compliance with the CRP.
  - (2) The proposed contractor's CRP Questionnaire, unless otherwise exempt, has been made available for public review for at least 14 calendar days in accordance with these Rules and Regulations.

#### **E. CONTRACT AMENDMENTS**

- 1. Compliance with the CRP, except for the requirement to submit a CRP Questionnaire, is required in contract amendments if the initial contract was not subject to the CRP, but the total term and amount of the contract, inclusive of all amendments, would make the contract subject to the CRP.
  - a. A contractor subject to the CRP because of an amendment shall submit a CRP Pledge of Compliance to the Requesting Division before the contract amendment can be executed.
  - b. Unless exempt from the CRP, all contract amendments shall contain contract language obligating the contractor to comply with the CRP.

#### **F. CONTRACTOR NOTIFICATION OF INVESTIGATIONS AND UPDATE OF INFORMATION**

##### **1. Notification of Investigations:** Contractors shall:

- a. Notify the Requesting Division and PSD within 30 calendar days of receiving notice of any findings by a government agency or court of competent jurisdiction that the contractor violated any applicable Federal, State, or local law in the performance of a LAWA, City of Los Angeles, County of Los Angeles, State of California, Federal Government or other government contract, including but not limited to laws regarding health and safety, labor and employment, wage and hour, and licensing laws which affect employees.
- b. Notify the Requesting Division and PSD within 30 calendar days of becoming aware of a violation or finding of violation of any applicable federal, state, or local law involving its subcontractors or sub-sub-contractors at any level in the performance of a LAWA contract.

##### **2. Update of CRP Questionnaire Information:**

- a. Updates of information contained in the contractor's responses to the CRP Questionnaire shall be submitted to the Requesting Division and PSD within 30 days of any changes to the responses if the change would affect the contractor's responsibility or ability to continue performing the contract.
  - b. PSD or the Requesting Division shall determine whether a contractor in a specific situation should have provided information or updated information.
    - (1) If PSD or the Requesting Division becomes aware of new information concerning a contractor and determines that the contractor should have provided information or updated LAWA with such information, but the contractor has not done so, PSD shall issue a written notice to the contractor requiring the contractor to submit the required information within 10 calendar days.
    - (2) If PSD or the Requesting Division becomes aware of new information concerning a subcontractor and determines that the subcontractor should have provided information or updated LAWA of such information, but the subcontractor has not done so, PSD shall issue a written notice to the contractor requiring the subcontractor to submit the required information within 10 calendar days.
  - c. Contractor's failure to provide information or updated information when required by LAWA, the CRP or these Rules and Regulations may be considered a material breach of the contract, and, additionally, may result in the initiation of a non-responsibility hearing pursuant to Section I of these Rules and Regulations.
- 3. Contractors shall ensure that subcontractors provide information and updates.** Contractors shall ensure that subcontractors performing work on their LAWA contract abide by these same updating requirements, including the requirement to:
- a. Notify the Requesting Division and PSD within 30 calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that the subcontractor did not comply with any applicable Federal, State, or local law in the performance of the LAWA or City contract, including but not limited to laws regarding health and safety, labor and employment, wage and hour, and licensing laws which affect employees
  - b. Notify the Requesting Division and PSD within 30 calendar days of all findings by a government agency or court of competent jurisdiction that the subcontractor violated any applicable Federal, State, or local law in the performance of a LAWA or City of Los Angeles contract, including but not limited to laws regarding health and safety, labor and employment, wage and hour, and licensing laws which affect employees.
- 4. Submission of CRP Questionnaires and Updates of CRP Questionnaire Is Not Applicable to Subcontractors:** The requirement that contractors submit to LAWA CRP Questionnaires and updates to the CRP Questionnaire responses does not apply to subcontractors.

## **G. LAWA INVESTIGATION**

- 1. Reporting of Alleged Violations:** Allegations of violations of the CRP or these Rules and Regulations shall be reported to PSD. Complaints regarding a bidder's, proposer's or contractor's responsibility should be submitted to PSD in writing. However, PSD may investigate any claim or complaint regarding a bidder's, proposer's or a contractor's responsibility, whether or not it is submitted in writing. Whether based on a written complaint or otherwise, PSD shall be responsible for investigating such alleged violations.
- 2. Process:**
  - a. Upon receipt of a complaint or upon initiation of an investigation, PSD shall notify the Requesting Division, the Awarding Authority and the bidder, proposer or contractor in writing that an investigation has been initiated.
  - b. The bidder, proposer or contractor shall cooperate fully with PSD in providing information. If the bidder/proposer or contractor fails to cooperate with PSD's investigation or fails to timely respond to PSD's requests for information, LAWA may initiate a non-responsibility hearing as set forth in Section I of these Rules and Regulations. A contractor's failure to cooperate may be deemed a material breach of the contract, and the City may pursue all available remedies.
  - c. To the extent permissible, PSD shall maintain the identity of the complainant, if any, confidential.
  - d. Upon completion of the investigation, PSD shall prepare a written report of the findings and notify the Requesting Division, the Awarding Authority and the bidder, proposer or contractor of the results.
- 3. Results of Investigation:**
  - a. When an investigation is completed before the contract is awarded, PSD shall notify the Requesting Division and the Awarding Authority of the results, and Requesting Division and the Awarding Authority will consider the information as part of the determination of a bidder's responsibility during the bid/proposal review process.

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#### **Contractor Responsibility Program (CRP) Rules & Regulation for Leases**

b. When an investigation is completed after the execution of a contract:

- (1) If violations of the CRP are found, PSD shall notify the Requesting Division and contractor of the violation and require the contractor to make corrections or take reasonable measures within 10 calendar days.
- (2) If the contractor fails to make corrections as required, PSD shall notify the Requesting Division and the Awarding Authority and may recommend that the Awarding Authority:
  - (i) Terminate the contract.
  - (ii) Initiate a hearing to declare the contractor a non-responsible contractor.

#### **H. VIOLATIONS OF THE CRP OR THESE RULES AND REGULATIONS**

1. Violations of the CRP or of these Rules and Regulations may be considered a material breach of the contract and may entitle LAWA or the City to terminate the contract.
2. Alleged violations of the CRP or of these Rules and Regulations shall be reported to the PSD which will investigate all such complaints.
3. When a violation of the CRP or of these Rules and Regulations is found, PSD shall notify the contractor and the Awarding Authority of the violation. PSD shall require the contractor to correct the violation within 10 calendar days. Failure to correct violations or take reasonable measures to correct violations within 10 calendar days may result in PSD:
  - a. Recommending that the Awarding Authority declare a material breach of the contract and that the Awarding Authority exercise all contractual and legal remedies available, including but not limited to termination of the contract, and/or
  - b. Recommending that the Awarding Authority declare the contractor a non-responsible contractor by initiating, within 30 calendar days or as soon as practicable, a non-responsibility hearing in accordance with Section I of these Rules and Regulations.

#### **I. NON-RESPONSIBILITY HEARING**

1. The process of declaring a bidder or contractor a non-responsible bidder or contractor shall be initiated by the Awarding Authority after consultation with the City Attorney's Office.
2. Before a bidder, proposer or contractor may be declared non-responsible, the bidder, proposer or contractor shall be notified of the proposed determination of non-responsibility and provided with an opportunity for a hearing.

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3. The Awarding Authority or the Executive Director's designee shall preside over the non-responsibility hearing and shall provide the bidder, proposer or contractor with the following:
  - a. The bidder, proposer or contractor shall be provided with written Notice of intent to declare the bidder, proposer or contractor non-responsible ("Notice") which shall state that the Awarding Authority intends to declare the bidder, proposer or contractor a non-responsible bidder or contractor.
  - b. The Notice shall provide the bidder, proposer or contractor with the following information:
    - (1) That the Awarding Authority intends to declare the bidder or contractor a non-responsible bidder, proposer or contractor.
    - (2) A summary of the information upon which the Awarding Authority is relying.
    - (3) That the bidder, proposer or contractor has a right to respond to the information by requesting a hearing to rebut adverse information and to present evidence of its necessary trustworthiness, quality, fitness and capacity to perform the work required under the contract.
    - (4) That the bidder, proposer or contractor must exercise the right to a hearing by submitting to the Awarding Authority a **written request** for a hearing **within 10 working days** of the date of the Notice.
    - (5) That failure to submit a written request for hearing within 10 working days of the date of the Notice shall be considered a waiver of the right to a hearing that allows the Awarding Authority to proceed with the determination of non-responsibility.
  - c. If the bidder or contractor submits a written request for a hearing, the hearing may be held by the Awarding Authority for recommendation to the Board, which shall make the final decision.
  - d. The hearing must allow the bidder, proposer or contractor an opportunity to address the issues contained in the Notice of Intent to declare the bidder, proposer or contractor non-responsible.
  - e. The Awarding Authority may determine that the bidder, proposer or contractor:
    - (1) Does not possess the necessary trustworthiness, quality, fitness, or capacity to perform the work set forth in the proposed contract, should be declared a non-responsible bidder, proposer or contractor, and recommend to the Board invocation of the remedies set forth in Section J of these Rules and Regulations.
    - (2) Should not be declared a non-responsible bidder or contractor.
  - f. The Board's determination shall be final and constitute exhaustion of administrative remedies.
  - g. The Board's final decision shall be in writing and shall be provided to the bidder,



proposer or contractor, the Requesting Division and to PSD. If the bidder, proposer or contractor is declared to be non-responsible, a copy of the final decision shall also be provided to the CAO.

## **J. NON-RESPONSIBILITY SANCTIONS**

1. A **bidder/proposer** found non-responsible by LAWA shall be disqualified from:
  - a. award of the proposed contract or,
  - b. participating, in any way, in the proposed contract.

Such non-responsible bidder or proposer shall not perform any work in the proposed contract, whether as a prime contractor, a subcontractor, a partner in a partnership, a participant in a joint venture, a member of a consortium or in any other capacity.

2. An existing **contractor** found non-responsible by LAWA may be declared to have a material breach of contract, and LAWA may exercise its contractual and legal remedies thereunder, which are to include, but are not limited to termination of the contract.
3. Upon final determination of a bidder, proposer or contractor as non-responsible, PSD shall provide the Requesting Division and the bidder, proposer or contractor with a written notice summarizing the Awarding Authority's findings and sanctions.
4. PSD shall maintain a listing of bidders/proposers and contractors who have been found non-responsible by LAWA pursuant to the CRP.

## **K. EXEMPTIONS**

1. **Categorical Exemption:** The following types of contracts are categorically exempt from the CRP and these Rules and Regulations:
  - a. Contracts with a governmental entity such as the United States of America, the State of California, a county, city or public agency of such entities, or a public or quasi-public corporation located therein and declared by law to have such status.
  - b. Contracts for the investment of trust moneys or agreements relating to the management of trust assets.
  - c. Banking contracts entered into by the Treasurer pursuant to California Government Code Section 53630 et seq.

**Board approval required for CRP Exemptions:** The following types of contracts are exempt from the requirement to submit a Questionnaire but remain subject to the requirement that the contractor submit a Pledge of Compliance and notify the Awarding Authority within 30 days of any information regarding investigations or the results of investigations by any governmental agency into the contractor's compliance with applicable laws.

## **EXHIBIT Q**

### **Contractor Responsibility Program (CRP) Rules & Regulation for Leases**

- a. Contracts awarded on the basis of exigent circumstances when the Awarding Authority finds the City would suffer a financial loss or that City operations would be adversely impacted.
  - (1) This exemption is subject to approval by PSD.
  - (2) The Awarding Authority shall submit a request to PSD for waiver along with written certification that the required conditions exist.
  - (3) No contract may be exempted under this provision unless PSD has granted written approval of the waiver.
- b. Contracts where the goods or services are proprietary or available from only one source.
  - (1) This exemption is subject to approval by PSD.
  - (2) The Awarding Authority shall submit a request to PSD for waiver along with written certification that the required conditions exist.
  - (3) No contract may be exempted under this provision unless PSD has granted written approval of the waiver.
- c. Contracts awarded in accordance with Charter Section 371(e)(5). The Awarding Authority must certify in writing that award is based on urgent necessity in accordance with Charter Section 371(e)(5).
- d. Contracts entered into based on, Charter Section 371(e)(6), (7) or (8). The Awarding Authority must certify in writing that the contract is entered into in accordance with Charter Section 371(e)(6), (7) or (8).

#### **L. EFFECTIVE DATE OF RULES AND REGULATIONS**

1. These Rules and Regulations apply to IFB's issued after the Executive Director has approved these Rules and Regulations.
2. These Rules and Regulations apply to contracts entered into by LAWA after the Executive Director has approved these Rules and Regulations.
3. Contracts amended after these Rules and Regulations are approved by the Executive Director will become subject to CRP and these Rules and Regulations if they meet definitions contained in the CRP and these Rules and Regulations.

#### **M. CONSISTENCY WITH FEDERAL AND STATE LAW**

The CRP and these Rules and Regulations do not apply in instances where application would be prohibited by Federal and State law or where the application would violate or be inconsistent with the terms and conditions or a grant or contract with the Federal or State agency.

#### **N. SEVERABILITY**

If any provision of the CRP or these Rules and Regulations are declared legally invalid by any court of competent jurisdiction, the remaining provisions remain in full force and effect.

**LOS ANGELES WORLD AIRPORTS  
CONTRACTOR RESPONSIBILITY PROGRAM  
PLEDGE OF COMPLIANCE**

The Los Angeles World Airports (LAWA) Contractor Responsibility Program (Board Resolution #21601) provides that, unless specifically exempted, LAWA contractors working under contracts for services, for purchases, for construction, LAWA licensees with licenses, agreements or permits issued under the Certified Service Provider Program, and LAWA tenants with leases, that require the Board of Airport Commissioners' approval shall comply with all applicable provisions of the LAWA Contractor Responsibility Program. Bidders and proposers are required to complete and submit this Pledge of Compliance with the bid or proposal or with an amendment of a contract subject to the CRP. In addition, within 10 days of execution of any subcontract, the contractor shall submit to LAWA this Pledge of Compliance from each subcontractor who has been listed as performing work on the contract.

The contractor agrees to comply with the Contractor Responsibility Program and the following provisions:

- (a) To comply with all applicable Federal, state, and local laws in the performance of the contract, including but not limited to, laws regarding health and safety, labor and employment, wage and hours, and licensing laws which affect employees.
- (b) To notify LAWA within thirty (30) calendar days after receiving notification that any government agency has initiated an investigation that may result in a finding that the contractor is not in compliance with paragraph (a).
- (c) To notify LAWA within thirty (30) calendar days of all findings by a government agency or court of competent jurisdiction that the contractor has violated paragraph (a).
- (d) To provide LAWA within thirty (30) calendar days updated responses to the CRP Questionnaire if any change occurs which would change any response contained within the completed CRP Questionnaire. Note: This provision does not apply to amendments of contracts not subject to the CRP and to subcontractors not required to submit a CRP Questionnaire.
- (e) To ensure that subcontractors working on the LAWA contract shall complete and sign a Pledge of Compliance attesting under penalty of perjury to compliance with paragraphs (a) through (c) herein. To submit to LAWA the completed Pledges.
- (f) To notify LAWA within thirty (30) days of becoming aware of an investigation, violation or finding of any applicable federal, state, or local law involving the subcontractors in the performance of a LAWA contract.
- (g) To cooperate fully with LAWA during an investigation and to respond to request(s) for information within ten (10) working days from the date of the Notice to Respond.

Failure to sign and submit this form to LAWA with the bid/proposal may make the bid/proposal non-responsive.

---

Company Name, Address and Phone Number

---

Signature of Officer or Authorized Representative

---

Date

---

Print Name and Title of Officer or Authorized Representative

---

Project Title

**EXHIBIT Q**

**Contractor Responsibility Program (CRP) Rules & Regulation for Leases**

**EXHIBIT R**  
**CHILD SUPPORT**

# LOS ANGELES ADMINISTRATIVE CODE

## Div. 10, Ch. 1, Art. 1

### CHILD SUPPORT

#### Sec. 10.10. Child Support Assignment Orders.

##### a. Definitions.

1. **Awarding Authority** means a subordinate or component entity or person of the City (such as a City department or Board of Commissioners) that has the authority to enter into a contract or agreement for the provision of goods or services on behalf of the City of Los Angeles.

2. **Contract** means any agreement, franchise, lease or concession including an agreement for any occasional professional or technical personal services, the performance of any work or service, the provision of any materials or supplies, or the rendering of any service to the City of Los Angeles or to the public which is let, awarded or entered into with, or on behalf of, the City of Los Angeles or any awarding authority thereof.

3. **Contractor** means any person, firm, corporation, partnership or any combination thereof which submits a bid or proposal or enters into a contract with any awarding authority of the City of Los Angeles.

4. **Subcontractor** means any person, firm, corporation, partnership or any combination thereof who enters into a contract with a contractor to perform or provide a portion of any contract with the City.

5. **Principal Owner** means any person who owns an interest of 10 percent or more in a contractor or subcontractor as defined herein.

##### b. Mandatory Contract Provisions.

Every contract that is let, awarded or entered into with or on behalf of the City of Los Angeles shall contain a provision obligating the contractor or subcontractor to fully comply with all applicable State and Federal employment reporting requirements for the contractor or subcontractor's employees. The contractor or subcontractor will also be required to certify that the principal owner(s) thereof are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally, that the contractor or subcontractor will

fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments in accordance with California Family Code §§ 5230 *et seq.* and that the contractor or subcontractor will maintain such compliance throughout the term of the contract.

Failure of a contractor or subcontractor to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignments or Notices of Assignment or failure of the principal owner(s) to comply with any Wage and Earnings Assignments or Notices of Assignment applicable to them personally shall constitute a default under the contract. Failure of the contractor or subcontractor or principal owner thereof to cure the default within 90 days of notice of such default by the City shall subject the contract to termination.

##### c. Notice to Bidders.

Each awarding authority shall be responsible for giving notice of the provisions of this ordinance to those who bid on, or submit proposals for, prospective contracts with the City.

##### d. Current Contractor Compliance.

Within 30 days of the operative date of this ordinance, the City, through its operating departments, shall serve upon existing contractors a written request that they and their subcontractors (if any) comply with all applicable State and Federal employment reporting requirements for the contractor and subcontractor's employees, that they certify that the principal owner(s) of the contractor and any subcontractor are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally, that the contractor and subcontractor will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments in accordance with California Family Code § 5230 *et seq.* and that the contractor and subcontractor will maintain such compliance throughout the term of the contract.

##### e. City's Compliance with California Family Code.

The City shall maintain its compliance with the provisions of California Family Code §§ 5230 *et*



*seq.* and all other applicable law regarding its obligations as an employer to implement lawfully served Wage and Earnings Assignments and Notices of Assignment.

**f. Report of Employees' Names to District Attorney.**

1. The City shall maintain its current practice of assisting the District Attorney's support enforcement activities by annually reporting to the Los Angeles County District Attorney the names of all of its employees and retirees so that the District Attorney may identify those employees and retirees subject to Wage and Earnings Assignment Orders and Notices of Assignment and may establish court orders for support, where appropriate. Should the District Attorney so request it, the City will provide such information on a more frequent basis.

2. All applicants for employment with the City of Los Angeles will be asked to acknowledge their responsibility to comply with any court ordered support obligations and will be advised of the City's practice of assisting the District Attorney as described in the provisions of Subsection f.1., above.

**SECTION HISTORY**

*Added by Ord. No. 172,401, Eff. 2-13-99.*

**EXHIBIT S**  
**GUARANTY**

**GUARANTY AGREEMENT BETWEEN THE CITY  
OF LOS ANGELES, DEPARTMENT OF AIRPORTS  
AND CURRENT ENERGY, LLC COVERING THE OPERATING  
AGREEMENT FOR THE ROOFTOP AND CANOPY PV SYSTEM  
AT VAN NUYS AIRPORT**

This **GUARANTY AGREEMENT** (“**Guaranty**”) is made and entered into as of \_\_\_\_\_, 2024, in Los Angeles, California, by and between the **CITY OF LOS ANGELES**, municipal corporation (“**CITY**” or “**LAWA**”), acting by order of and through its Board of Airport Commissioners (“**Board**”), and **CURRENT ENERGY, LLC**, a California limited liability company (“**Guarantor**”) with respect to that certain Operating Agreement dated \_\_\_\_\_, 2024 entered into between **CITY** and **CURRENT ENERGY, LLC** (“**Operating Agreement**”).

The parties hereto, for and in consideration of the covenants and conditions hereinafter contained to be kept and performed, DO HEREBY AGREE AS FOLLOWS:

1. Guarantor unconditionally guaranties to **CITY** performance of all financial obligations under the Operating Agreement including, but not limited to, the prompt payment when due of the rent, additional rent and all other charges payable by Current Energy, LLC, a California limited liability company, Flyaway FIT, LLC, a California limited liability company, or any other assignee or transferee of Current Energy, LLC or Flyaway FIT, LLC (collectively, “**Operator**”), under the Operating Agreement for the Site Location at Van Nuys Airport, as provided in Exhibit A of the Operating Agreement, and full and faithful performance of the other financial covenants (including, without limitation, the indemnities contained in the Operating Agreement); and Guarantor unconditionally covenants to **CITY** that if:

(a) default or breach shall at any time be made by **Operator** in the covenants to pay rent and additional rent or any other charges payable under the Operating Agreement or in the performance of any of the other covenants (including but not limited to completion of all Improvements) and  
(b) notice of any such default or breach shall have been given by **CITY** to **Operator** and **Operator** shall not have cured such default or breach after the expiration of applicable notice and grace periods, if any, provided for in the Operating Agreement (except that the foregoing clause (b) shall be inapplicable if **Operator** shall be bankrupt or insolvent), then Guarantor shall well and truly perform (or cause to be performed) the covenants, and pay (or cause to be paid) said rent, additional rent or other charges or arrears thereof that may remain due thereon to **CITY**, and also all damages that may arise directly from the non-performance of the financial covenants, or any of them. Guarantor shall pay to **CITY**, within fifteen (15) business days after written notice, all expenses (including, without limitation, reasonable attorneys’ fees and disbursements) incurred by **CITY** in connection with the enforcement or protection of **CITY**’s rights hereunder or under the Operating Agreement. This Guaranty is a guaranty including but not limited to payment, not collection.

2. The liability of Guarantor hereunder shall not be impaired, abated, deferred, diminished, modified, released, terminated or discharged, in whole or in part, or otherwise affected, by any event, condition, occurrence, circumstance, proceeding, action or failure to act, with or without notice to, or the knowledge or consent of, Guarantor, including, without limitation:

(a) any amendment, modification or extension of the Operating Agreement;

(b) any extension of time for performance, whether in whole or in part, of any covenant given prior to or after default under the Operating Agreement;

(c) any exchange, surrender or release, in whole or in part, of any security which may be held by CITY at any time for or under the Operating Agreement;

(d) any waiver of or assertion or enforcement or failure or refusal to assert or enforce, in whole or in part, any covenant, claim, cause of action, right or remedy which CITY may, at any time, have under the Operating Agreement or with respect to any guaranty or any security which may be held by CITY at any time for or under the Operating Agreement or with respect to Operator;

(e) the release of any other guarantor from liability for the performance or observance of any covenant, whether by operation of law or otherwise;

(f) CITY's consent to any assignment or subletting or the assignment or successive assignments of the Operating Agreement by Operator, or any subletting of all or any portion of the Site Location indicated in the Operating Agreement by Operator;

(g) the failure to give Guarantor any notice whatsoever, other than any notice that CITY is required to give pursuant to this Guaranty and pursuant to the Operating Agreement;

(h) any right to require City to proceed against Operator or any other person or any security now or hereafter held by City or to pursue any other remedy whatsoever;

(i) any assignment, conveyance, mortgage, merger or other transfer, voluntary or involuntary (whether by operation of law or otherwise), of all or any part of Operator's interest in the Operating Agreement;

(j) any assignment, conveyance, mortgage, merger or other transfer, voluntary or involuntary (whether by operation of law or otherwise) of all or part of the interest or rights of CITY under the Operating Agreement; or

(k) the bankruptcy or insolvency of Operator.

3. To charge Guarantor under this Guaranty no demand shall be required (other than the fifteen (15) business days' notice required under Section 1), Guarantor hereby expressly waiving any such demand. CITY shall have the right to enforce this Guaranty without pursuing any right or remedy of CITY against Operator or any other party, or any security CITY may hold. CITY may commence any action or proceeding based upon this Guaranty directly against Guarantor without making Operator or anyone else a party defendant in such action or proceeding. Any one or more successive and/or concurrent actions may be brought hereon against Guarantor either in the same action, if any, brought against Operator and/or any other party or in separate actions, as often as CITY, in its sole discretion, may deem advisable.

4. This Guaranty shall be binding upon Guarantor and its heirs, successors and assigns, and shall inure to the benefit of, be binding upon and may be enforced by the successors and assigns of CITY or by any party to whom CITY's interest in the Operating Agreement or any

part thereof, including the rents, may be assigned whether by way of mortgage or otherwise. Wherever in this Guaranty reference is made to either CITY or Operator, the same shall be deemed to refer also to the then successor or assign of CITY or Operator.

5. Guarantor hereby expressly waives and releases (a) notice of the acceptance of this Guaranty and notice of any change in Operator's financial condition; (b) the right to interpose any substantive or procedural defense of the law of guaranty, indemnification or suretyship, except the defenses of prior payment or prior performance (whether before, during or after any applicable notice and grace periods) by Operator (of the obligations which Guarantor is called upon to pay or perform under this Guaranty); (c) any other rights and defenses that are or may become available to Guarantor by reason of Sections 2787 through 2855 of the California Civil Code, except that Guarantor does not waive any rights or defenses available under California Civil Code Section 2809; (d) the right to trial by jury, in any action or proceeding of any kind arising on, under, out of, or by reason of or relating, in any way, to this Guaranty or the interpretation, breach or enforcement thereof; (e) the right to interpose any defense (except as allowed under (b) above), set off or counterclaim of any nature or description in any action or proceeding; and (f) any right or claim of right to cause a marshalling of Operator's assets or to cause CITY to proceed against Operator and/or any collateral held by CITY at any time or in any particular order. Guarantor hereby agrees that this Guaranty constitutes a written consent to waiver of trial by jury pursuant to the provisions of California Code of Civil Procedure Section 631, and Guarantor does hereby authorize and empower CITY, in the name, place and stead of Guarantor, to file this Guaranty with the clerk or judge of any court of competent jurisdiction as a statutory written consent to waiver of trial by jury at CITY's sole discretion.

6. Without limiting Guarantor's obligations elsewhere under this Guaranty, if Operator, or Operator's trustee, receiver or other officer with similar powers with respect to Operator, rejects, disaffirms or otherwise terminates the Operating Agreement pursuant to any bankruptcy, insolvency, reorganization, moratorium or any other law affecting creditors' rights generally, Guarantor shall automatically be deemed to have assumed, from and after the date such rejection, disaffirmance or other termination of the Operating Agreement is deemed effective, all obligations and liabilities of Operator under the Operating Agreement to the same extent as if Guarantor had been originally named instead of Operator as a party to the Operating Agreement and the Operating Agreement had never been so rejected, disaffirmed or otherwise terminated and shall be entitled to all benefits of Operator under the Operating Agreement. Guarantor, upon such assumption, shall be obligated to perform and observe all of the covenants whether theretofore accrued or thereafter accruing, and Guarantor shall be subject to any rights or remedies of CITY which may have theretofore accrued or which may thereafter accrue against Operator on account of any default under the Operating Agreement, notwithstanding that such defaults existed prior to the date Guarantor was deemed to have automatically assumed the Operating Agreement or that such rights or remedies are unenforceable against Operator by reason of such rejection, disaffirmance or other termination, provided that Guarantor shall have a reasonable time after such assumption to cure non-monetary defaults existing as of the date of such assumption. Guarantor shall confirm such assumption at the request of CITY upon or after such rejection, disaffirmance or other termination, but the failure to do so shall not affect such assumption. Guarantor, upon the assumption of the Operating Agreement, shall have all of the rights of Operator under the Operating Agreement (to the extent permitted by law). Neither Guarantor's obligation including but not limited to payment in accordance with this Guaranty nor



any remedy for the enforcement thereof shall be impaired, modified, changed, stayed, released or limited in any manner by any impairment, modification, change, release, limitation or stay of the liability of Operator or its estate in bankruptcy or any remedy for the enforcement thereof, resulting from the operation of any present or future provision of the Bankruptcy Code of the United States or other statute or from the decision of any court interpreting any of the same, and Guarantor shall be obligated under this Guaranty as if no such impairment, stay, modification, change, release or limitation had occurred.

7. This Guaranty and all rights, obligations and liabilities arising hereunder shall be construed according to the substantive laws of California without reference to choice of law principles. Venue shall lie in the appropriate court located in Los Angeles County, California.

8. Until such time as all of Guarantor's obligations have been paid or performed, Guarantor hereby waives any and all rights of subrogation (if any) which it may have against Operator as a result of actions taken or amounts paid in connection with or relating to this Guaranty or to the Operating Agreement.

9. Guarantor represents and warrants to CITY that as of the date hereof:

(a) This Guaranty constitutes the legal, valid and binding obligation of Guarantor, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, and other laws affecting creditors' rights generally, to moratorium laws from time to time in effect and to general principles of equity (regardless of whether enforceability is considered in a proceeding in equity or at law).

(b) No action, suit or proceeding is pending or, to Guarantor's actual knowledge, threatened against Guarantor that would materially affect Guarantor's ability to fully perform its obligations under this Guaranty.

10. If CITY shall be obligated by reason of any bankruptcy, insolvency or other legal proceeding to pay or repay to Operator or to Guarantor or to any trustee, receiver or other representative of either of them, any amounts previously paid by Operator or Guarantor pursuant to the Operating Agreement or this Guaranty, Guarantor shall reimburse CITY for any such payment or repayment and this Guaranty shall extend to the extent of such payment or repayment made by CITY, except to the extent, if any, that such payment or repayment is prohibited by law or that such payment or repayment constitutes merely a reimbursement of any overpayment. CITY shall not be required to litigate or otherwise dispute its obligation or make such payment or repayment if in good faith and on written advice of counsel reasonably acceptable to Guarantor CITY believes that such obligation exists.

11. CITY and Guarantor shall each, not more than once per calendar year and within ten (10) business days following request by the other, execute, acknowledge and deliver to the other a statement certifying that this Guaranty is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating such modifications) and that to the certifying party's actual knowledge, Guarantor is not in default hereunder (or if there is such a default, describing such default in reasonable detail).



12. All remedies afforded to CITY by reason of this Guaranty or the Operating Agreement, or otherwise available at law or in equity, are separate and cumulative remedies, and it is stipulated that no one remedy, whether or not exercised by CITY, shall be deemed to be in exclusion of any other remedy available to CITY and shall not limit or prejudice any other legal or equitable remedy which CITY may have.

13. If any term, covenant, condition or provision of this Guaranty or the application thereof to any circumstance or to Guarantor shall be invalid or unenforceable to any extent, the remaining terms, covenants, conditions and provisions of this Guaranty or the application thereof to any circumstances, or to Guarantor other than those as to which any term, covenant, condition or provision is held invalid or unenforceable, shall not be affected thereby and each remaining term, covenant, condition and provision of this Guaranty shall be valid and shall be enforceable to the fullest extent permitted by law.

14. Written notices to City hereunder shall be sent to the Chief Executive Officer with a copy sent to the City Attorney of the City of Los Angeles and addressed to said parties at:

Chief Executive Officer  
Department of Airports  
1 World Way  
Post Office Box 92216  
Los Angeles, CA 90009-2216

City Attorney  
Department of Airports  
1 World Way  
Post Office Box 92216  
Los Angeles, CA 90009-2216

or to such other address as these parties may designate by written notice to Guarantor.

Written notices to Guarantor hereunder shall be sent and addressed to:

Current Energy LLC  
Attn: Legal Department  
230 Park Avenue, Suite 845  
New York, NY 10169

25876 The Old Road #418  
Stevenson Ranch, CA 91381

or to such other address as Guarantor may designate by written notice to City.

15. All notices, demands, and other communications which are required or may be permitted to be given to CITY or Guarantor by the other hereunder shall be in writing and shall be sent by United States mail, postage prepaid, certified, or by personal delivery or nationally recognized overnight courier, addressed to the addresses set forth in this Guaranty, or to such other place as either party may from time to time designate in a notice to the other party given as provided herein. Notice shall be deemed given upon actual receipt (or attempted delivery if delivery is refused), if personally delivered, or one (1) business day following deposit with a reputable overnight courier that provides a receipt, or on the fifth (5th) day following deposit in the United States mail in the manner described above.

16. This Guaranty shall be entered into in consideration of the execution of the Operating Agreement. The Operating Agreement is further subject to Board and Los Angeles City Council approval. Execution of this Guaranty by CITY shall not ensure such approval.

17. This Guaranty shall continue in full force and effect until all of Operator's remaining financial obligations set forth in the Operating Agreement are met, notwithstanding the termination or earlier expiration of the Operating Agreement.

IN WITNESS WHEREOF, City has caused this Guaranty to be executed on its behalf by Chief Executive Officer and Guarantor has caused the same to be executed by its duly authorized officers and its corporate seal to be hereunto affixed, all as of the day and year first above written.

**APPROVED AS TO FORM:**  
**Hydee Feldstein Soto, City Attorney**

**CITY OF LOS ANGELES**  
**By signing below, the signatory attests**  
**that they have no personal, financial,**  
**beneficial, or familial interest in this**  
**Contract.**

Date \_\_\_\_\_

By \_\_\_\_\_  
Deputy/Assistant City Attorney

By \_\_\_\_\_  
Chief Executive Officer  
Department of Airports

**ATTEST:**

**CURRENT ENERGY, LLC**

By \_\_\_\_\_  
Secretary (Signature)

By \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Title

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Title

**OPERATING AGREEMENT**

**BETWEEN**

**THE CITY OF LOS ANGELES,  
DEPARTMENT OF AIRPORTS**

**AND**

**CURRENT ENERGY, LLC, A CALIFORNIA  
LIMITED LIABILITY COMPANY**

**REGARDING**

**ROOFTOP PHOTOVOLTAIC SOLAR POWER SYSTEM AT VAN NUYS**

**AIRPORT**

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## Exhibits

- Exhibit A – Site Location
- Exhibit B – Payment Schedule
- Exhibit C – PV Activation Forms
- Exhibit D – Site Location Delivery Date
- Exhibit E – Power Purchase Agreement
- Exhibit F – Milestone Objectives
- Exhibit G – Form of Interconnection Agreement
- Exhibit H – Intentionally Deleted
- Exhibit I – Baseline Report
- Exhibit J – License
- Exhibit K – Equal Employment Practices
- Exhibit L – Affirmation Action Program
- Exhibit M – Insurance Requirements for Los Angeles World Airport
- Exhibit N – Small/Very Small Business Enterprise Program and Local Business Preference Program
- Exhibit O – Living Wage Ordinance
- Exhibit P – Worker Retention Ordinance
- Exhibit Q – Contractor Responsibility Program Rules and Regulations
- Exhibit R – Child Support
- Exhibit S – Guaranty

OPERATING AGREEMENT  
BETWEEN THE CITY OF LOS ANGELES  
AND  
CURRENT ENERGY, LLC,  
A CALIFORNIA LIMITED LIABILITY COMPANY  
FOR THE ROOFTOP PHOTOVOLTAIC SOLAR POWER SYSTEM

16461 Sherman Way – Aviation Plaza

THIS OPERATING AGREEMENT (this “Agreement” or “Operating Agreement”), is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2024, at Los Angeles, California, by and between the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Airport Commissioners (“Board”) of the Department of Airports also known as Los Angeles World Airports (collectively referred to as “City” or “LAWA”) and CURRENT ENERGY, LLC, a California limited liability company (“Operator”) (sometimes herein referred to individually as a “party” or together as “parties”).

RECITALS

WHEREAS, LAWA requires specialized services for the development, construction, installation, operation, management and maintenance of rooftop photovoltaic solar power systems at Van Nuys Airport (hereinafter “VNY” or “Airport”); and

WHEREAS, on May 27, 2022, LAWA issued a Request for Proposals for “Rooftop Photovoltaic Solar Power Systems For Van Nuys Airport Properties” (“RFP”) for up to eight potential site locations listed under Table 1 of the RFP; and

WHEREAS, LAWA received a proposal from (“Current Energy”), a California limited liability company, which proposal included development of six of these site locations and a summary of contemplated financing terms which included Current Energy as Operator; and

WHEREAS, Current Energy possesses extensive experience in the financing, development, construction, installation, operation, management, and maintenance of photovoltaic solar power systems and by virtue of training and experience, are well qualified to provide such specialized services to LAWA; and

WHEREAS, by reason of the nature and length of the specialized services required by LAWA, it is not economical or feasible for LAWA to have such specialized services performed by its own employees; and

WHEREAS, LAWA and Operator desire to enter into this Operating Agreement for Operator to develop, install, operate and maintain a photovoltaic (“PV”) solar power system (“PV



System”) on the Airport property specified herein; and

WHEREAS, LAWA and Operator anticipate that, when available, Operator shall agree to enter into an operating agreement for the five other site locations indicated by Operator to be viable for rooftop solar power systems; and

WHEREAS, if additional site locations are available and presented by LAWA to Operator, Operator and LAWA shall enter into a Operating Agreement on substantially the same terms as provided in this Operating Agreement within thirty (30) days. Failure by Operator to accept the site location and enter in an operating agreement for such additional site location shall be deemed a waiver of Operator’s right to develop a rooftop solar power system on that site location under the RFP and will release LAWA to use such site location rooftop for other uses.

The parties hereto, for and in consideration of the covenants and conditions hereinafter contained to be kept and performed, DO HEREBY AGREE AS FOLLOWS:

## **ARTICLE 1: SPECIFIC TERMS AND PROVISIONS**

### **Section 1. Term of Agreement.**

1.1. Term. The term of this Agreement (“Term”) shall commence on the date upon which all parties have executed this Agreement (“Effective Date”) and shall expire (“Expiration Date”) on the twentieth (20th) anniversary of the PV System Commercial Operation Date (as defined below) of the PV System described in the PV System Activation Form (attached as Exhibit C), subject however, to earlier termination in accordance with the provisions set forth herein.

1.1.1. PV System Commencement Date. The “PV System Commencement Date” shall mean the date that is the earlier of: a) 365 days from the Site Location Delivery Date, as defined in Section 1.1.4 or b) the PV System’s Commercial Operation Date.

1.1.2. PV System Activation Form. The Commercial Operation Date shall be established in a written document in a form attached hereto as Exhibit C, (“PV System Activation Form”), without further action by the Board.

1.1.3. Commercial Operation Date. For the purposes of this Agreement, “Commercial Operation Date” shall mean the date the PV System is in full Commercial Operation with Energy sold to the City of Los Angeles Department of Water & Power (“LADWP”). “Energy” shall mean the electrical energy generated by the PV System expressed in units of kilowatt hours or kWh. “Commercial Operation” means completed permitting, construction, and testing of the PV System such that the PV System is both authorized and able to deliver Energy at full capacity to the point of interconnection. At least seven (7) days prior to the Commercial Operation Date for the PV System, Operator shall deliver to LAWA written notice with documentation to evidence

that the PV System is ready to begin Commercial Operation and written notice of the Commercial Operation Date.

If, other than by reason of LAWA's default hereunder, Operator has not achieved Commercial Operation for the PV System within two (2) years after the Site Location Delivery Date, or such later date as LAWA and Operator shall mutually agree in writing, LAWA, at its sole discretion, may terminate this Operating Agreement and Operator's License (as defined below) for the Site Location and LAWA and Operator shall thereafter be released and discharged from all obligations hereunder. Upon any such termination, Operator shall immediately remove all of Operator's equipment from the Site Location, repair any damage caused by installation and/or removal of the PV system in accordance with the terms hereof, and surrender the Site Location in a condition substantially similar to the condition of the Site Location on the date the Site License commenced, ordinary wear and tear excepted.

1.1.4. Delivery Date. The term "Site Location Delivery Date" shall mean the date that LAWA provides Operator possession and the right to use the Site Location, as defined in Section 2.1, to commence installation of the PV System on the Site Location, *provided that* the parties have entered into a License, as described in and pursuant to Section 3.5, for the Site Location. The Site Location Delivery Date for the Site Location shall be described in Exhibit D.

1.1.5. Inspection Access. From the Effective Date until the Site Location Delivery Date, Operator may enter the Site Location solely for inspections, environmental analysis, and other customary due diligence and analysis for the PV System, *provided that* (a) Operator delivers to LAWA at least forty-eight (48) hours prior written notice that it wishes to access the Site Location for the above purpose(s), (b) LAWA provides written approval of such entry and access by Operator (not to be unreasonably withheld, unreasonably conditioned or unreasonably delayed); and (c) Operator does not materially or unreasonably interfere with or disturb any existing uses at the Site Location.

1.2. Notwithstanding anything herein to the contrary, Operator acknowledges that it has no right to an extension of this Agreement or a right to a new operating agreement at the expiration of this Agreement.

## **Section 2. Rights Granted to Operator**

2.1. Scope of Work. Operator shall finance, develop, construct, install, operate, manage, maintain and conduct any other related services for the PV System at the location identified in Exhibit A, which is attached hereto and incorporated by reference to this Agreement (the "Site Location"), or as otherwise may be agreed upon by LAWA and Operator in accordance with the terms and conditions set forth in this Agreement. Exhibit A identifies the Site Location, including the buildings and/or portions of rooftops proposed for the PV System on the Site Location. With respect to this Agreement, Operator's responsibilities include, but are not limited to, financing,

engineering, acquiring all required permits, procurement, installation (including utilities), security (including badging for Operator's employees and contractors at Operator's expense), operation and maintenance, transportation, labor, materials, and any temporary or interim facilities required to maintain essential existing functions in operation throughout the operational period at the Site Location. To the extent reasonably necessary for Operator to perform its responsibilities with respect to the PV System as described in this paragraph, LAWA shall cooperate with reasonable requests from Operator related to Operator's performance of such responsibilities, at no cost or expense to LAWA.

2.1.1. LAWA's Right for Other Sites. LAWA reserves the right to enter into or contract with any other companies or entities to allow use of any other sites, locations, or areas at VNY or other LAWA properties (other than the Site Location) for the installation and operation of solar power systems.

2.2. City of Los Angeles Los Angeles Department of Water and Power.

Operator shall comply with LADWP Feed-in Tariff Program ("FiT Program") Guidelines, which may be modified from time to time at the sole discretion of LADWP, as applicable to the PV System.

2.2.1. SOPPA. Operator shall be solely responsible for entering into a solar power purchase agreement to sell Energy from an Eligible Renewable Electricity Resource as defined in the FiT Program with LADWP (the "SOPPA"); provided that LAWA shall cooperate with Operator as reasonably necessary for entering into such SOPPA at no cost or expense to LAWA. Operator shall provide to LAWA a copy of the fully executed and final SOPPA which shall become Exhibit E to this Agreement without any further action of the Board. Operator shall comply with all the terms, conditions, and provisions of the SOPPA with LADWP. In the event LADWP and Operator amend the SOPPA or add supplemental documents to the SOPPA, Operator shall provide LAWA a copy of the fully executed and final amendment(s) and/or supplemental documents which shall be numbered and attached to this Agreement as Exhibit E-1, E-2, etc., as applicable without any further action of the Board.

2.2.2. SOPPA Subordinate to Operating Agreement. The SOPPA and any agreement entered into between Operator and LADWP related to the PV System shall be subordinate to this Operating Agreement.

2.2.3. Termination of SOPPA. Unless LAWA exercises its right to purchase the PV System pursuant its purchase right in Section 3.3, upon termination of Operator's SOPPA with LADWP, Operator shall notify LAWA of such termination and the PV System shall be removed at Operator's sole cost and expense and the Site Location shall be surrendered in accordance with Article 1, Section 4.1.2.

2.3. Operator's Representations, Warranties, and Covenants. Operator's representations, warranties, and covenants to LAWA as of the Effective Date shall be consistent with Operator's SOPPA with LADWP set forth in Exhibit E.

2.4. Intentionally Deleted.

2.5. Except as expressly provided otherwise in Section 6.2 and Section 6.3, Operator expressly agrees to pay all costs and expenses, direct and indirect, associated with the PV System, including but not limited to all costs associated with inspection, architectural, design and engineering and other professional or consultant services, permitting and inspection fees, project financing, utility relocation and upgrading, environmental review, landscaping, construction, maintenance and operation of the PV System, and other costs related to the PV System.

2.6 LAWA's Representations and Warranties. Except as provided otherwise in Section 2.1, LAWA represents and warrants to Operator that it holds fee title or otherwise controls the Site Location.

### **Section 3. PV System.**

3.1. Operator's PV System. Operator shall develop, construct and install the PV System. PV modules shall have a minimum PV USA Test Conditions ("PTC") rating of 400 watts and a minimum module efficiency of 18%. Inverters shall have a weighted efficiency of not less than 96%. Operator shall be required to submit a FiT Program application to LADWP to build and operate the PV System with a minimum capacity to generate at least eighty percent (80%) of the solar production capacity specified in Operator's Proposal to LAWA with respect to the PV System. If the PV System does not meet such 80% threshold, then Operator shall provide written notice to LAWA indicating that the proposed PV System does not meet such 80% threshold as provided above, prior to entering into any SOPPA and Interconnection Agreement (any such notice, a "Reduced System Notice"), and, in such case, the LAWA CEO (as defined below) may, in his or her sole discretion, terminate this Agreement by providing written notice thereof within thirty (30) days of receipt of the applicable Reduced System Notice. If the LAWA CEO fails to timely provide such written notice, then such right to terminate shall be null and void. In the case of such termination, Operator shall surrender the Site Location in a condition substantially similar to the condition of the Site Location on the date the License commenced, ordinary wear and tear excepted.

3.2. Ownership of PV System. LAWA and Operator acknowledge and agree the PV System is and shall remain the property of Operator and LAWA expressly waives any right, title, or interest in the PV System, except in the event of LAWA's exercise of its right to purchase the PV System pursuant to Section 3.3. LAWA agrees that the PV System shall be considered the property of Operator or a Financing Party (defined below) designated by Operator, and, even though attached or affixed to or installed upon the Site Location, shall not be considered to be fixtures or a part of the Site Location and shall not be or become subject to the lien of any mortgage or deed



of trust heretofore or hereafter placed on the Site Location by LAWA or any other owner of the fee title. Except in the event of LAWA's exercise of its right to purchase the PV System pursuant to Section 3.3, LAWA agrees to subordinate any rights it may have under the laws of the State of California, arising under this Agreement or otherwise, to any lien upon any item constituting part of the PV System to that of Operator's lender's security interest, any right to distress or attachment upon, or any other interest in, any item constituting part of the PV System. The PV System shall at all times retain the legal status of personal property as defined in the Uniform Commercial Code in effect in the State of California. Pursuant to Revenue & Taxation Code Section 107.6, LAWA hereby advises Operator that this Agreement entered into between LAWA and Operator may create a possessory interest, subject to property taxation. In the event Operator's interest in the Site Location, including the project improvements required to be constructed by Operator, becomes subject to the payment of property taxes levied on such interest, for purposes of this Agreement, Operator shall be responsible for the payment of such taxes to the taxing agency.

LAWA further agrees that all Tax Attributes belong solely to Operator, and Operator and LAWA agree that all Environmental Attributes shall be transferred to LADWP. As used herein, (a) "Environmental Attributes" shall mean, without limitation, carbon trading credits, renewable energy credits or certificates, emissions reduction credits, emissions allowances, green tags, tradeable renewable credits, or Green-e® products, and (b) "Tax Attributes" means investment tax credits (including any grants or payments in lieu thereof) and any tax deductions or other benefits under the Internal Revenue Code or applicable federal, state, or local law available as a result of the ownership and/or operation of the PV System or the output generated by the PV System (including, without limitation, tax credits (including any grants or payments in lieu thereof) and accelerated and/or bonus depreciation).

3.3. LAWA's Purchase Right. Beginning on the date that is seven (7) years following the Commercial Operation Date, LAWA shall have the right to purchase (the "Purchase Right") the PV System from Operator and terminate this Operating Agreement ("Equipment Purchase"), on each annual anniversary of the Commercial Operation Date for the PV System, for a purchase price equal to the Fair Market Value (as defined in Section 7.3) of the PV System. LAWA's exercise of the Purchase Right shall be delivered to Operator by notice pursuant to Article 2, Section 33.12 at least ninety (90) days prior to the applicable annual anniversary of the Commercial Operation Date or shall otherwise be deemed waived as to such year. The Purchase Right (and LAWA's purchase of the PV System pursuant thereto) shall require Operator's assignment to LAWA, or its designated operator, of its rights, which shall not be withheld, and LAWA's, or its designated operator's, assumption of Operator's obligations, under the SOPPA and Interconnection Agreement (and LADWP's consent to such assignment and assumption, if applicable).

3.4. Interconnection. Operator shall be solely responsible for extending and terminating the AC power from the PV System to the point of Interconnection (as defined below) to be confirmed by LADWP and in compliance with LADWP's voltage, phase, and frequency requirements. Notwithstanding the foregoing, for the proposed location of Interconnection, LAWA shall review such Interconnection location to determine feasibility for providing a license

and/or access rights as may be reasonably necessary for Operator to accomplish Interconnection at that proposed point of Interconnection location for the Site Location, as further provided in Section 3.5. For purposes of this Agreement, "Interconnection" shall be defined as a LADWP facility designed, constructed, owned, operated, and maintained by LADWP for the safe operation of the PV System in parallel with LADWP's power distribution network. If providing a license or right of entry for Interconnection is not feasible for the Site Location, as may be determined by either party, then that party may terminate this Agreement and LAWA and Operator shall thereafter be released and discharged from all obligations hereunder.

3.4.1 Interconnection Agreement. Operator shall, at its sole cost and expense, negotiate and enter into an agreement with LADWP for Interconnection ("Interconnection Agreement"), as amended, supplemented or otherwise modified from time to time, provided that LAWA shall cooperate with reasonable requests from Operator related to entering into such Interconnection Agreement, provided that such cooperation is at no cost or expense to LAWA. Operator is responsible for compliance with all terms and conditions set forth in the Interconnection Agreement. The form of the Interconnection Agreement between Operator and LADWP is attached hereto as Exhibit G. Operator shall provide LAWA a copy of the negotiated Interconnection Agreement at least thirty (30) days prior to execution of same with LADWP for LAWA to review the Interconnection Agreement for consistency with the terms of this Agreement. LAWA shall have twenty-one (21) days to review the Interconnection Agreement prior to Operator executing the Agreement. If LAWA's CEO, or designee, determines the Interconnection Agreement is inconsistent with the terms of this Agreement (provided such objection is provided to Operator within the 21-day period provided in the prior sentence), LAWA may object to the Interconnection Agreement and shall provide Operator with a list of inconsistent terms or provisions. In such case, Operator shall renegotiate with LADWP to ensure the Interconnection Agreement is consistent with this Agreement. If Operator and LADWP are unable to resolve the inconsistencies indicated by LAWA following good faith negotiations between Operator and LADWP, either party may terminate this Agreement and LAWA and Operator shall thereafter be released and discharged from all obligations hereunder. Notwithstanding the foregoing or anything to the contrary contained herein, LAWA shall have no right to object to, and Operator shall have no obligation to renegotiate with LADWP, any terms or provisions of the Interconnection Agreement to the extent the same are consistent with the form of Interconnection Agreement attached hereto as Exhibit G (and, for the avoidance of doubt, no termination right shall apply in such case). LAWA's failure to provide any objection to the Interconnection Agreement within the time period stated above shall be deemed approval of the Interconnection Agreement. Operator shall provide to LAWA a copy of the fully executed and final Interconnection Agreement for the PV System, which shall be attached to this Agreement as Exhibit G-1 without any further action of the Board.

3.4.2 Interconnection Cost. Operator shall be responsible for the payment of any and all related study and Interconnection costs and fees for the PV System as charged by LADWP. LAWA shall not be responsible for any statements, invoicing, or any other billing related to Interconnection costs charged by LADWP on Operator.



3.4.3 Subordinate to Operating Agreement. The Interconnection Agreement and any agreement entered into between Operator and LADWP related to the PV System shall be subordinate to this Agreement.

3.5. License and/or Right of Entry. LAWA agrees to grant to Operator a license or right of entry (as the case may be) to install the PV System and equipment on, over and/or under the Site Location (as defined below) as is reasonably necessary for the Permitted Use (as defined in Section 4.1) (the "License"); *provided, however*, that the License shall be in substantially the form attached hereto as Exhibit J and any undefined terms in such form, including the nature and location of such equipment, shall be mutually agreed upon by the parties prior to the Site Location Delivery Date and installation of the PV System on the Site Location by Operator. The agreed upon License for the PV System shall be promptly executed by the parties and attached as Exhibit J-1 without any further action of the Board. If the License has not been executed by the parties on or before the second (2<sup>nd</sup>) anniversary of the Effective Date, then this Agreement shall terminate upon the written election of either party and LAWA and Operator shall thereafter be released and discharged from all obligations hereunder. In addition, Operator may terminate this Agreement within one hundred eighty (180) days of the Effective Date in the event that Operator determines in its reasonable discretion that the Site Location is not suitable for the construction and/or operation of the PV System, which shall include if the Operator is unable to secure a binding written commitment for financing (whether via debt, equity investment, or otherwise) of the PV System despite its best efforts, by providing ten (10) days prior written notice to LAWA and, upon any such termination, Operator shall immediately remove all of Operator's equipment from the Site Location, repair any damage caused by Operator in accordance with the terms hereof, surrender the Site Location in a condition substantially similar to the condition of the Site Location on the date the Site Location Delivery Date and LAWA and Operator shall thereafter be released and discharged from all obligations hereunder (except for obligations which survive the termination of the Agreement).

#### **Section 4. PV System Site Location.**

4.1. Site Location. The PV System shall be installed and operated at the Site Location set forth in Exhibit A. This Operating Agreement does not provide authorization or approval for construction of the PV System prior to compliance with CEQA, NEPA and all other applicable laws. LAWA will serve as lead agency under the CEQA environmental review process and the lead coordinating sponsor with the Federal Aviation Administration on the NEPA environmental review process, as applicable. LAWA expressly reserves the right to exercise complete unfettered discretion and to consider all mitigation measures with respect to CEQA, NEPA and all other applicable laws for any proposed development, all alternatives, including the "no project" alternative for any proposed development, and the ability to adopt a Statement of Overriding Considerations pursuant to CEQA and NEPA. The parties agree that the installation of the PV System at the Site Location has independent utility and is not dependent upon the construction of any other PV solar power system at any of the potential site locations listed under Table 1 of the

RFP. Operator shall be required to enter into operating agreements with LAWA for the additional site locations listed under Table 1 of the RFP when presented by LAWA to Operator.

4.1.1. No Ownership Interest. Operator acknowledges that, except for the License expressly granted herein, no possessory interest in any part of the Site Location is conveyed or accrues under this Agreement. Ownership of the Site Location, including the real property, buildings, facilities, fixtures, equipment and other property constituting the Site Location shall remain with LAWA. Accordingly, LAWA and Operator agree that nothing in this Agreement shall entitle Operator to file any claim, lien, or notice against any real property owned by LAWA.

4.1.2. Acceptance and Surrender. Operator acknowledges and accepts the Site Location “AS IS”, “WHERE IS”, with all faults and limitations, provided that nothing herein shall be construed to negate any provision of this Agreement. LAWA makes no warranty or representation as to the condition of the Site Location, the compliance of the Site Location with codes or applicable law, or that the Site Location are suitable for Operator’s use, it being assumed Operator has satisfied itself thereof and assumed all risk associated therewith. LAWA is under no obligation to perform any work or provide any materials to prepare the Site Location for Operator. Operator agrees that upon the expiration or earlier termination of this Agreement or the SOPPA, Operator shall immediately remove all Operator’s equipment from the Site Location, repair any damage caused by installation and/or removal of the PV System and surrender the Site Location in a condition substantially similar to the condition of such Site Location on the date the License commenced, ordinary wear and tear excepted.

4.2. Site Location Modification. LAWA shall have the right to modify Exhibit A to correct any inaccuracies as to the location of the License after installation without any need for Operator’s prior approval, but LAWA shall promptly provide a copy of any such modifications to Operator. If this Agreement is to be terminated for any reason as provided in this Agreement, LAWA’s Chief Executive Officer or his/her designee (collectively referred to as “CEO” or “Chief Executive Officer”), in his or her sole discretion, may make substitute site location(s) available to the Operator. If such substitute site is offered to Operator, Operator and CEO shall enter into discussions to review substitute site(s). If a substitute site is identified and acceptable to both Operator and LAWA, that site will be made available on the same terms and conditions as set forth in this Agreement. The parties acknowledge that any change to the Site Location or any substitute site as contemplated herein may be subject to environmental review pursuant to CEQA and approval by the BOAC. If a substitute site is unacceptable to the parties, then Operator shall have no right to such substitute site and LAWA shall be free to offer such substitute site to other parties on such terms and conditions the LAWA CEO deems appropriate.

4.2.1. LAWA’s Request for Temporary or Permanent Removal. Notwithstanding any other provision of this Agreement, but subject to Article 1, Section 7 (including, without limitation, Article 1, Sections 7.2 and 7.3), if, at any time during the Term of this Agreement, the CEO determines in his or her sole discretion that Operator must temporarily or permanently remove any part of the PV System from or to temporarily or permanently cease operations of any

part of the PV System due to LAWA Operations (as defined below), as necessary for Airport security, construction or operational purposes, including without limitation, for runway extension, taxiway extension, RSAs, RPZs, or OFAs, or pursuant to an order from the FAA, Operator shall promptly remove the PV System. "LAWA Operations" shall include but is not limited to any and all repair, maintenance, and improvements related to rooftops; any and all work, preparation and plans related to LAWA capital improvement projects; responsibilities, tasks and obligations as mandated by the Los Angeles City Charter, LAWA's existing contracts/leases, grant assurances or as otherwise required by local, state or Federal Law, including but not limited to Federal Aviation Administration (FAA) and/or the Department of Transportation (DOT) statutes or regulations; state or federal intervention; and/or Force Majeure events as set forth in Article 1, Section 6.4 of this Agreement.

4.2.1.1 Temporary Removal. Notwithstanding any other provision of this Agreement, but subject to Article 1, Section 7 (including, without limitation, Article 1, Section 7.2), during the Term of this Agreement, LAWA shall be expressly limited to four (4) requests, in the aggregate, of Operator to temporarily remove all or any part of the PV System under this Agreement ("LAWA Removal Limitation"), provided that in all cases, (i) LAWA shall avoid temporary removal of the PV System if a reasonable alternative is available that would not require such removal and such alternative would not materially affect LAWA, and (ii) in the case of a temporary removal, LAWA shall limit the scope of such temporary removal to the greatest extent possible. LAWA shall pay to Operator, solely in the form of a rent credit (except to the extent such payment exceeds the balance of rent payable hereunder, in which case LAWA shall pay such excess amount to Operator within thirty (30) days following the expiration or termination of this Agreement), the compensation specified in Article 7, Section 7.2 in the case of any temporary removal.

4.2.1.2 Permanent Removal. Permanent removal of a PV System shall be subject to Article 1, Section 7.3. LAWA shall have no restriction on the number of requests to permanently remove all or any part of the PV System, provided that in all cases, LAWA shall pay the compensation specified in Article 1, Section 7.3 and further avoid permanent removal of a PV System if a reasonable alternative is available that would not require such removal and such alternative would not materially affect LAWA.

4.3. Work on Site Location with LAWA Tenants. Operator acknowledges the Site Location may be used by LAWA's tenants and/or subtenants. Operator shall conduct all development, construction, installation, operation, management and maintenance work on sites occupied with LAWA's tenants or subtenants in accordance with the provisions set forth herein.

4.3.1. Coordination. Operator shall use reasonable and good faith efforts to coordinate all development, construction, installation, operation, management and maintenance work with LAWA and any of LAWA's tenants or subtenants operating at the Site Location prior to any commencement of work under this Agreement to minimize disruption to LAWA, VNY, and tenant operations, as applicable. Operator shall notify LAWA of any known site impacts to

tenants or subtenants on the PV System site that cannot be mitigated and provide LAWA with proposed solutions to those impacts.

4.3.1.1 No Interference. Neither Operator nor its agents, employees or subcontractors shall unreasonably interfere with any work being done by LAWA or any of its tenants or subtenants at the Site Location. All work shall be performed so that there is no unreasonable disruption to LAWA, VNY, or any of LAWA's tenants' or occupants' (as applicable) access to or use of leased or licensed space.

4.3.1.2 Compliance. Operator shall comply with all applicable present and/or future rules, regulations, restrictions, ordinances, statutes, laws, policies and/or orders of any federal, state, and/or local government authority ("Applicable Laws"). Operator shall be solely responsible for fully complying with any and all applicable present and/or future orders, directives, or conditions issued, given or imposed by the Chief Executive Officer which are now in force or which may be hereafter adopted by the Board of Airport Commissioners and/or the Chief Executive Officer with respect to the operation of LAWA property.

4.3.1.3 Performance of Work. All work shall be performed by labor with the proper jurisdictional qualifications. Operator's work shall be performed in accordance with the approved plans and in compliance with all applicable law.

4.3.1.4 Work Site. All parties performing all work as set forth in this Agreement shall park off site and shall not park in tenant's parking areas. Any lay down area used by the Operator for the purposes of this Agreement shall be coordinated with LAWA and tenants prior to the start of construction and be kept in a safe and secure condition at all times, and shall be free from waste materials, rubbish, debris, and other garbage, including liquid and non-liquid materials whether spilled, dropped, discharged, blown out or leaked.

#### 4.4. Improvements and Use.

4.4.1. Permitted Use. Operator shall use the Site Location solely for the purpose of the installation, development, construction, operation, management, interconnection, inspection, maintenance, repair, improvement, enhancement, alteration, replacement, and removal of the PV System and uses incidental thereto and for no other use or purpose (collectively, the "Permitted Use") and in accordance with this Agreement. Operator shall not change or alter the electrical output of the PV System, except for expected degradation and weather fluctuations, without the prior written approval of the LAWA.

4.4.2. Disclaimer. LAWA specifically disclaims any representation or warranty that there will be sufficient solar access for the PV System due to actions occurring on the Site Location leased by third parties or that are otherwise beyond LAWA's control (collectively, "Third Party Actions"), provided, however, that LAWA shall cooperate with Operator and use reasonable efforts to mitigate or eliminate any reduction of solar access due to Third Party Actions.



4.4.3. Non-Interference; Other Uses. LAWA, and, where applicable, any tenant of the Site Location pursuant to such tenant's lease, reserves the right to use the Site Location, and the remainder of a roof of a building in the case of a rooftop PV System for any purpose, or grant easements or sublicenses in favor of third persons, for any purpose other than the Permitted Use, including, but not limited to, the installation or operation of telecommunications equipment, satellite dishes, antennae, building service equipment or other improvements (collectively, "Other Uses"), provided that such Other Uses do not cast shadows, block or restrict access to direct sunlight, or otherwise unreasonably interfere with Operator's Permitted Use or rights under this Agreement. Any Other Use or sublicense or easement entered into after the Effective Date of this Agreement therefor shall expressly provide that they are subject and subordinate in all respects to this Agreement and to the rights of Operator to the Site Location as set forth hereunder. Subject to the foregoing, Operator shall not unreasonably disturb any existing Other Uses on the Site Location.

4.4.3.1 Operator has no rights under this Agreement to install or use any antennae or telecommunications equipment on the roof or exterior of any building or structure on the Site Location or directly on any the Site Location, unless such installation or use is directly related to the conduct of Operator's business or the Permitted Use and in full compliance with LAWA's permit process and telecommunications policies, as may be modified from time to time at the sole discretion of the Chief Executive Officer. Operator may not license or sublicense to others the right to install or use antennae or other telecommunications equipment on the Site Location, unless such agreement has been approved by the Chief Executive Officer to use the Site Location for the Permitted Use, and such installation and use of antennae or telecommunications equipment is directly related to the conduct of such licensee or sublicense and is in full compliance with LAWA's permit process and telecommunications policies.

4.4.3.2 Operator, by accepting this Agreement, agrees for itself and its successors and assigns that it shall not make use of the Site Location in any manner which may interfere with the landing and taking off of aircraft from Airport or otherwise constitute a hazard to such operations; provided that the installation of the PV System in accordance with the requirements of this Agreement and provided all necessary clearances and approvals are obtained by Operator, in and of itself, shall not constitute an interference or hazard for purposes of the this Section 4.4.3.2. In the event that Operator interferes with any air traffic as described above, LAWA's CEO reserves the right, in his or her reasonable discretion, following Operator's failure to abate such interference within ten (10) days following written notice, to enter upon the Site Location under this Agreement and cause the abatement of such interference at the expense of Operator.

4.4.3.3 Operator is prohibited from installing or using any wireless workstations, access control equipment, wireless internet servers, application or system software

such as transceivers, modems, or other interface units that access frequencies from 2.0 Gigahertz to 6.0 Gigahertz, inclusive, without first obtaining approval from the LAWA Chief Executive Officer.

4.4.4. Excavations. If excavation is required, Operator or its contractor shall: (i) initiate the call to the applicable regional notification center at least two (2) business days prior to excavating to allow operators (namely, utilities) of subsurface installations (including but not limited to pipelines, conduit, duct, wire, or other structures) to field mark or locate their lines; (ii) contact owners of existing subsurface installations that may interfere with excavation work; (iii) determine and field mark locations of subsurface installations and structures not marked by owners, including those owned by LAWA, which is not a member of a regional notification center, does not participate in their activities, nor field marks its subsurface installations but will make its substructures records, including unpressurized drains (storms drains and sewers), available to the Operator or its contractor with prior notification; (iv) be responsible for field marking and location all subsurface installations prior to performing any excavation or underground work; (v) be responsible for exposing and protecting from damage all existing surface and subsurface installations; (vi) protect any structures or foliage from damage and replace all structures, landscaping, lawn and paving to the condition prior to the work performed by Operator; and (vii) refrain from preventing or impeding access to the Site Location due to any excavation work.

4.4.5. Damage to LAWA Property. Operator shall be responsible for the repair of any damage to the Site Location, tenant or subtenant property, and/or any other LAWA-owned property caused by Operator or its agents, employees, contractors, subcontractors, and/or invitees during the development, construction, installation, operation, management, and maintenance of the PV System.

4.4.6. Return of Site Location. Upon termination of this Agreement, Operator shall take all actions necessary to return the Site Location where the PV System is installed to the condition required in Article 1, Section 4.1.2, except in the case that LAWA exercises its Purchase Right as provided in Section 3.3.

4.4.6.1 Corrective Action. In the event of fire, destruction or damage caused by the PV System or by Operator and/or its employees, subcontractors, invitees, vendors, or independent contractors, Operator shall take all corrective actions to clean up, remove, repair or otherwise expiate any resulting harm to the Site Location, tenant or subtenant property, and/or any other LAWA-owned property.

4.5. Operator's Improvements. Except for the construction and installation of the PV System and its related components (which shall be governed by Article 1, Section 5 hereof), any improvements to the Site Location constructed by the Operator for the purposes of this Agreement shall be approved by LAWA prior to the start of construction. Upon the Expiration Date or termination as set forth in Article 1, Section 8, of this Agreement, all improvements (subject to the Purchase Right in Article 1, Section 3.3) shall be removed at Operator's sole cost and expense, and



the Site Location shall be surrendered in the condition required in Article 1, Section 4.1.2.

4.6. Rooftops.

4.6.1. Preparation of Rooftops for PV System Construction/Installation. The PV System shall be designed consistent with Section 5 hereof and the existing building roof structural capacities and warranty, and shall not require structural modifications to any building or the rooftop (unless approved in a prior written consent by LAWA, to be performed at Operator's sole cost and expense). Subject to LAWA's express obligations under Section 6.3, Operator shall accept the parking lot and rooftops at the Site Location in as-is condition. If roofing repairs and/or replacement is required to accommodate the construction and installation of the PV System, then Operator may, at its election, either (i) terminate this Agreement and LAWA and Operator shall thereafter be released and discharged from all obligations hereunder, or (ii) if Operator and LAWA mutually agree, perform, at Operator's sole cost and expense, such repairs or replacement, in compliance with all applicable laws, Section 5 hereof, and consistent with any applicable tenant rights on the Site Location.

4.6.2. Operator Responsibility of Rooftop and Parking Lot. Operator shall be responsible for the repair of all damage, destruction, or harm to the rooftops and/or parking lot caused by the development, construction, installation, operation, management and maintenance of the PV System by Operator, its invitees, employees, contractors, and its agents. Operator shall also be responsible for any structural retrofit required to install the PV System. The aforementioned work shall be performed in accordance with Article 1, Section 4.3 herein.

4.7. Site Location Conditions. Operator has accepted the Site Location as set forth in Article 1, Section 4.1.2 herein.

4.7.1. Baseline Conditions – Operator's Baseline Report. Operator may elect, at its sole cost and expense, to prepare a baseline report depicting the baseline condition of the Site Location ("Operator's Baseline Condition"), which upon completion must be approved by LAWA, in its sole but reasonable discretion, ("Operator's Baseline Report"). If prepared by Operator and approved by LAWA, the Operator's Baseline Report shall be attached hereto as Exhibit I and the Operator's Baseline Report shall establish the condition of the Site Location as of the PV System Delivery Date. Operator shall be responsible only for contamination above the Operator's Baseline Condition levels for those contaminants covered in the Operator's Baseline Report.

4.7.2. Remediation. Operator shall remediate or cause the remediation of any spill, discharge or any other contamination that occurs on the Site Location during the Term of this Agreement, to the extent caused by Operator or its agents, employees, contractors, subcontractors, and/or invitees, that contaminates or threatens to contaminate the rooftop, any interior portion of the Site Location, or soil, sediment, groundwater or air of the Site Location or of adjacent premises (including the soil, sediment, groundwater or air of those adjacent premises).

4.7.3. Operator Responsibility; Indemnity. Operator bears sole responsibility for full compliance with any and all applicable laws regarding the use, storage, handling, distribution, processing, and/or disposal of environmental or hazardous material by Operator or its agents, employees, contractors, subcontractors, and/or invitees. Operator agrees that any claims, damages, fines or other penalties asserted against or levied on LAWA and/or Operator as a result of noncompliance with any environmental laws by Operator or its agents, employees, contractors, subcontractors, and/or invitees shall be the sole responsibility of Operator and that Operator shall indemnify and hold LAWA harmless from any and all such claims, damages, fines and penalties, as well as any costs expended to defend against such claims, damages, fines and penalties, including attorneys' and experts' fees and costs that result from any Contamination (as defined below) or Operator's non-compliance during the Term regarding the use, storage, handling, distribution, processing and/or disposal of environmental or hazardous material. LAWA shall provide Operator with sixty (60) days' notice to comply with any claims, damages, fines and penalties, or if Operator has not complied with such claims, damages, fines and penalties, or if Operator has not requested a meet and confer to discuss compliance within such sixty (60) days, then LAWA, at its sole option, may pay such claims, damages, fines and penalties resulting from Operator's noncompliance with any environmental laws, and Operator shall indemnify and reimburse LAWA for any such payments.

4.7.3.1 Operator Environmental Reports. Operator shall provide to LAWA a full written environmental fact sheet associated with the PV modules installed upon the Commercial Operation Date for the PV System. Operator shall also provide to LAWA a written report for any PV modules broken during installation or removal of the PV System.

4.7.4. Rebuttable Presumption When Baseline Report Prepared. Operator acknowledges and agrees that a presumption shall exist that any contamination not specifically depicted and analyzed in the Operator's Baseline Report, constitutes contamination for which, as between LAWA and Operator, Operator is solely responsible. LAWA shall provide written notice of the existence of any such contamination to Operator. Operator may rebut such presumption by providing to LAWA, within ninety (90) days of LAWA's written notice, conclusive evidence demonstrating that such contamination did not occur during the Term of this Agreement or was otherwise not caused by Operator or its agents, employees, subcontractors, and/or invitees. Otherwise, such presumption shall be deemed confirmed making Operator solely responsible for such contamination. Whether any information submitted by Operator rebuts the aforementioned presumption shall be within LAWA's sole and absolute discretion, exercised reasonably and in good faith. This provision shall survive the expiration or earlier termination of this Agreement.

4.7.5. Operator Obligations In the Event of Contamination During the Term of the Agreement.

4.7.5.1 Duty to Remediate. Upon discovery of any contamination caused by Operator or its agents, employees, contractors, subcontractors, and/or invitees (a "Contamination"), Operator shall, at its sole cost, remediate the contamination in accordance with

the provisions set forth in this Agreement.

4.7.5.2 Compliance with Government Agency Orders. Operator shall report any Contamination to the respective government agencies as required by law and thereafter, if such government agency asserts jurisdiction over such Contamination, Operator shall, at its sole cost and expense as between LAWA and Operator, manage the Contamination and all associated issues consistent with environmental laws or the governmental agencies with jurisdiction, if any. If a schedule for such management of the Contamination is not prescribed by environmental laws, or by the governmental agencies with jurisdiction if any, LAWA shall reasonably prescribe such schedule in consultation with Operator.

4.7.5.3 Site Characterization. Whether a governmental agency asserts jurisdiction over the Contamination or not, Operator shall characterize (including sampling and analysis) and remediate all Contamination in conformity with environmental laws, and in compliance with LAWA standards and policies and to LAWA's reasonable satisfaction, to the extent LAWA standards and policies do not conflict with protocols established by any other governmental agency asserting jurisdiction over the Contamination.

4.7.5.4 Copies to LAWA. Operator shall provide copies to LAWA of all communications between Operator (and any third-parties acting for or on its behalf), and any governmental agency with jurisdiction regarding all contamination and remediation.

4.7.6. LAWA's Rights to Remediate. If Operator fails to wholly or partially fulfill any obligation set forth in Article 1, Section 4.7.5., LAWA may (but shall not be required to) take all steps it deems necessary to fulfill such obligation. Any action taken by LAWA shall be at Operator's sole cost and expense and Operator shall indemnify and pay for and/or reimburse LAWA for any and all costs (including any administrative costs) LAWA incurs as a result of any such action it takes.

4.7.7. Environmentally Regulated Material on Site Location. Operator shall not cause or permit any environmental material to be generated, brought onto, handled, used, stored, transported from, received or disposed of (hereinafter sometimes collectively referred to as "handle" or "handled") in or about the Site Location, except for: (i) limited quantities of standard office and janitorial supplies containing chemicals categorized as environmentally regulated material listed in the APP process (as defined in Article 1, Section 5.1) and the material safety data sheet which includes but is not limited to any and all hazardous materials and chemicals ("Material Safety Data Sheet") for the parts and equipment of the PV System; (ii) environmentally regulated material which are necessary for Operator to undertake the Permitted Uses; and (iii) environmentally regulated material handled in accordance with all state and federal rules, regulations, and environmental laws. Operator shall handle all such environmental material in strict compliance with environmental laws in effect during the term of this Agreement.

#### 4.7.8. Environmental Compliance.

4.7.8.1 Generally; Notice. In its use and occupancy of the Site Location, Operator shall comply (and shall immediately halt and remedy any incident of non-compliance) with: (a) environmental laws; and (b) all applicable environmental policies, rules and directives of LAWA. Operator shall immediately upon receipt provide LAWA with copies of any notices or orders or similar notifications received from any governmental agency regarding compliance with any environmental laws.

4.7.9. Waste Disposal. Operator shall dispose of any waste, equipment, or parts related to the PV System during the Term or at the Expiration Date of this Agreement in accordance with all state and federal rules, regulations and environmental laws. If Operator disposes of any waste, equipment, or parts related to the PV System contaminated with environmentally regulated material, within thirty (30) days of Operator's receipt of original documents, Operator shall provide LAWA copies of all records, including a copy of each uniform hazardous waste manifest indicating the quantity and type of material being disposed of, the method of transportation of the material to the disposal site and the location of the disposal site. The name of the City of Los Angeles, VNY, the Department of Airports or LAWA shall not appear on any manifest document as a generator of such material.

4.7.10. Laboratory Testing. In discharging its obligations under this Section, Operator shall perform any tests using a State of California Department of Health Services certified testing laboratory or other similar laboratory of which LAWA shall approve in writing. By signing this Agreement, Operator hereby irrevocably directs any such laboratory to provide LAWA, upon written request from LAWA, copies of all of its reports, test results, and data gathered.

4.7.11. Survival of Obligations. Except as otherwise provided in this Article 1, Section 4.7, this Section 4.7 and the obligations herein shall survive the expiration or earlier termination of this Agreement.

### **Section 5. Design, Construction and Installation of the PV System.**

5.1. Design. Operator shall design the PV System in accordance with the requirements described herein.

#### 5.1.1. Requirements.

5.1.1.1 Operator shall investigate the Site Location where the PV System shall be constructed and installed, including suitability of structures, location of utilities, and point of Interconnection for the proposed PV System and determine the construction and installation methods required, including the preparation and submittal for approval by LAWA of structural calculations for the acceptable staging of equipment or materials on rooftops to avoid their overstressing.



5.1.1.2 Operator shall submit a plan to LAWA to develop, own, operate, and maintain complete the PV System at the Site Location, including financing, engineering, permitting, procurement, installation (including utilities), security, operation and maintenance, all transportation, labor, and materials, and any temporary or interim facilities required to maintain essential existing functions in operation throughout the operational period at the Site Location.

5.1.1.3 The PV System shall be designed consistent with the existing building roof structural capacities and warranty, and shall not require structural modifications (unless approved in a prior written consent by LAWA, to be performed at Operator's sole cost and expense). Any canopy or carport PV solar system on the parking lot areas shall be designed to ensure it meets minimum height requirements for vehicles and buses, which such height requirements shall be at minimum 15 feet from ground surface to the bottom of the canopy or carport.

5.1.1.4 Operator, at its sole cost and expense, shall undertake and complete all necessary design plans for the PV System at the Site Location and secure all necessary approvals for design of the PV System, in compliance with Section 5.3 herein. It is the responsibility of Operator to research the Site Location prior to design to confirm design and permitting requirements. LAWA maintains the right to request copies of design documents from Operator and add reasonable requirements related to compatibility of the PV System with existing power infrastructure and other Site Location-specific conditions.

5.1.1.5 Operator shall prepare all PV System plans, specifications, and estimates using engineers appropriately licensed in the State of California for the type of work to be performed.

5.1.1.6 Operator's submitted plans, specifications, and estimates shall comply with all applicable federal, state and local codes, rules and regulations.

5.1.2. Operator shall complete the Tenant Improvement Approval Process ("TIAP") for the PV System and obtain the necessary environmental clearance as specified in Article 1, Section 5.2.3.

5.1.2.1 Operator shall not start construction unless and until completion of the TIAP for the PV System.

5.1.2.2 LAWA maintains the right to approve all design documents and add reasonable requirements on compatibility with existing power infrastructure and other newly added infrastructure, and requirements related to Site Location-specific conditions.

5.1.2.3 Operator shall prepare and file Interconnection applications for the PV System and diligently pursue and obtain an Interconnection Agreement with LADWP at the Site Location. LAWA will be the signatory on applications, permits, and utility agreements only where necessary and subject to the determination and discretion of LAWA.

5.1.2.4 Operator shall provide weekly status reports throughout the design phase, as well as any additional briefing requested by LAWA.

5.1.2.5 Operator shall submit final as-built engineering plans (in both AutoCAD and PDF formats), specifications (in PDF format), and estimates (in PDF format), including construction cost and as-built value for the PV System to LAWA no later than ninety (90) days after the Commercial Operation Date.

5.2 Construction and Installation. Operator shall construct and install the PV System in accordance with this Agreement.

5.2.1. Requirements.

5.2.1.1 Operator shall supply all equipment, materials, and labor necessary to: (1) install the PV System and (2) integrate the PV System at the point of interconnection.

5.2.1.2 Operator must ensure that throughout the project, LAWA controlled assets (i.e. roofing, etc.) will be protected. Operator is responsible for any damage to such assets caused by the acts, omissions, or negligence of Operator or its agents, employees, contractors, subcontractors, and/or invitees and sustained during the installation process and throughout the contract period. Operator will engage a California Licensed Structural Engineer to ensure that live and dead loads added by the PV System will not exceed the permissible loads for the respective building. Operator shall supply equipment weights and sizes to LAWA.

5.2.1.3 Operator will maintain a safe environment consistent with industry standards during the construction of the project. Operator will be responsible for its contractors, subcontractors and their employee's safety.

5.2.1.4 Operator will be responsible to mitigate any landscape, hardscape or building damage caused by Operator or its agents, employees, contractors, subcontractors, and/or invitees as part of the construction.

5.2.2. Status Reports. Operator shall provide weekly status reports during construction and installation and through commissioning of the PV System. Operator shall provide any additional briefing reasonably requested by LAWA.



5.2.2.1 Pre-Construction Meeting. Prior to the commencement of construction of the PV System, Operator shall contact LAWA to schedule preconstruction orientation meetings with Operator and with the general contractor to discuss the schedule of performance and proposed installation activities.

5.2.3. Environmental Regulations Compliance During Construction.

5.2.3.1 Compliance with CEQA. Compliance with CEQA, Pub. Res. Code, § 21000 *et seq.*, is a condition precedent to LAWA's obligations with respect to the construction and installation of the PV System under this Agreement. Operator shall not have any right to install the PV System until LAWA has fully complied with CEQA as it relates to the PV System, issued a statement to Operator attesting to the fact that LAWA has fully complied with CEQA as it relates to the PV System included in the Agreement ("CEQA Certification"), and issued a notice to proceed ("City NTP") to Operator.

5.2.3.2 If LAWA, in its reasonable discretion, determines that a negative declaration (ND), mitigated negative declaration ("MND") or environmental impact report ("EIR") is required to comply with CEQA, then LAWA shall promptly provide Operator with a written statement detailing the reasons that LAWA understands that an ND, MND or EIR is required to comply with CEQA and the estimated cost to comply with CEQA for the PV System. Unless Operator issues LAWA a written statement signed by an authorized representative of Operator agreeing to pay for all of the estimated costs to comply with CEQA within thirty (30) days of receipt of LAWA's written statement, then the Agreement shall terminate, and neither Operator nor LAWA shall have any liability to the other (other than any such liabilities that have accrued prior to such termination). If the LAWA proceeds to complete such environmental assessments, then BOAC (Board of Airport Commissioners) and perhaps City Council consideration and action (including the potential for selection of the "no project" alternative) would be required to adopt the ND, MND, or certify the EIR as required by law prior to commitment to the PV System.

5.3. Governmental Approvals. Operator understands and agrees that the ability of Operator to use the Site Location for the PV System is expressly contingent upon Operator, at its sole cost and expense, obtaining all certificates, permits, or other approvals (collectively the "Governmental Approvals") that may be required by any local, state or federal agencies, including but not limited to the Board of Airport Commissioners, City of Los Angeles Planning Department, City of Los Angeles Department of Building & Safety, and LADWP, California Public Utilities Commission, California Energy Commission, Federal Energy Regulatory Commission, and any local zoning authority (collectively referred to as "Governmental Authority"). Operator shall diligently pursue all applications necessary to obtain Governmental Approvals from the requisite Governmental Authorities.

5.3.1. Cooperation. LAWA will (i) cooperate with Operator's effort to obtain and maintain the Governmental Approvals and perform the development and construction of the PV

System and (ii) take no action which would likely have a material adverse effect upon Operator's ability to obtain and maintain Governmental Approvals. In connection with such cooperation, LAWA shall not be required at its expense to engage, pay or retain any third parties or to incur any out of pocket expenses in connection with any Governmental Approvals or the development and construction, and shall be reimbursed by Operator for any monies reasonably expended in connection therewith; provided that LAWA give Operator advance notice of such out-of-pocket expenditures.

#### 5.4. Milestones.

5.4.1. Generally. Operator shall meet all milestones as set forth in the master schedule detailed in Exhibit F ("Milestones"). Both LAWA and Operator agree that time is of the essence in connection with the completion of the PV System, and that Milestones for the development, financing, construction and Commissioning of the PV System must be achieved in a timely fashion.

5.5 PV System Inspection. Operator shall notify LAWA in writing of the contemplated Commercial Operation Date and Commissioning (as defined below) of the PV System. At discretion of LAWA, Operator will schedule and arrange for LAWA to conduct an inspection of the PV System. The inspection shall be scheduled for a date, mutually agreeable to Operator and LAWA, which is within ten (10) business days of Operator's notification of the contemplated Commercial Operation Date of the PV System. Based on the inspection, LAWA may, within ten (10) business days of the inspection, prepare and provide to Operator a punch list of any observed defects or deficiencies in the construction work or discrepancies between installed equipment and workmanship and the requirements of this Agreement. Operator shall be responsible for completion, correction, or otherwise addressing issues identified by LAWA, and shall provide a written response to document actions taken in response to the punch list items. If requested by LAWA, Operator shall schedule and arrange a follow-up inspection for LAWA after all punch list items are resolved. All punch list items shall be resolved prior to the Commercial Operation Date of the PV System except those items specifically excepted by mutual agreement between LAWA and Operator.

5.6 Commissioning. Operator shall comply with all applicable requirements for Commissioning of the PV System. No later than fourteen (14) days prior to Commissioning, Operator shall notify LAWA of the date on which it intends to perform Commissioning. Within seven (7) days of the successful Commissioning, Operator shall provide to LAWA written notification of the Commercial Operation Date for the PV System. For the purposes of this Agreement, "Commissioning" shall mean the inspection and testing of each component in the PV System to assure that they have been completely, properly, and safely installed before the PV System is turned on and that they are operating properly and within expected parameters after the PV System is turned on. The as-built condition of the PV System shall be documented during Commissioning. The PV System's performance will be benchmarked during Commissioning so it can be compared with future performance.

5.7 Mechanics Liens. Operator shall promptly pay for Operator's work contemplated hereunder in full when due and shall not permit any lien to attach to the Site Location or other property in which Operator has been granted the right to conduct the Permitted Uses. Operator will promptly discharge any such lien. LAWA shall have the right to post notices of non-responsibility.

## **Section 6. Operation and Maintenance (O&M).**

6.1. Operator's Operation Obligations. Operator shall operate the PV System in accordance with this Agreement and in accordance with all city, state and federal rules and regulations.

6.2. Monitoring System. Operator shall install, own and maintain, at its sole cost and expense, a monitoring system and services necessary to monitor, diagnose and track energy output during the Term of this Agreement and allow for remote reading of the PV System's performance and environmental benefits in real time through a secure website. Operator shall, at no cost to LAWA, provide LAWA complete performance data during the Term of this Agreement. LAWA shall, at its cost and expense, have the option to incorporate the PV System's data feeds into LAWA websites that will showcase the alternative energy systems within LAWA. The data must be accessible for reporting purposes.

6.3. Maintenance Obligations. Operator shall maintain or cause to be maintained the PV System consistent with the terms and conditions set forth in this Agreement. Operator shall maintain, at its sole cost and expense, the PV System, and any and all related equipment. The PV System shall be maintained in good condition and state of repair in conformance with this Agreement, all applicable laws and commonly accepted industry standards. Following the Commercial Operation Date of the PV System, LAWA shall maintain or cause to be maintained, at its sole cost and expense, in good condition and repair, the buildings located at the Site Location for the PV System, including, without limitation, the structural elements, foundations, exterior walls, and roof (other than as expressly provided otherwise in this Agreement) of such buildings. Prior to the Commercial Operation Date of the PV System, LAWA shall not be obligated to repair or replace any structural or non-structural element of such buildings as a condition for Operator to enter into this Agreement or construct the PV System on any such buildings, except as otherwise agreed to in writing by LAWA. In the event of any casualty, not caused by or due to the negligence of Operator, its members, Affiliates, agents, subcontractors, invitees, vendors, and independent contractors, with respect to a Site Location that impacts the construction, development or operation of the PV System, Operator shall have the right to terminate the Agreement in accordance with Section 4.6.1 (i.e., in connection with roofing repairs and/or replacement).

6.4. Emergency Repairs. Operator shall notify LAWA within twenty-four (24) hours of actual knowledge of the occurrence of an emergency related to the PV System. In the event of such emergency affecting the Site Location, Operator shall make the repairs as required herein as

quickly as possible without regard to the month of the year, but not later than five (5) business days' after notice thereof, subject to Force Majeure and to the extent such repairs can be practicably made in such period. For the purposes of this Agreement, "Force Majeure" shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, wildland fire or firestorm, storm or flood, or any order, regulation, or restriction imposed by governmental, military, or lawfully established civilian authorities (i) which prevents Operator or LAWA (as applicable) from performing any of its obligations under this Agreement; (ii) which could not reasonably be anticipated as of the date of this Agreement; (iii) which is not within the reasonable control of, or the result of negligence, or failure to maintain a PV System, willful misconduct, breach of contract, intentional act, omission, or wrongdoing on the part of the Operator or LAWA (as applicable); and (iv) which despite the exercise of reasonable efforts Operator or LAWA (as applicable) is unable to overcome or avoid or cause to be avoided.

6.5 O&M Costs. Operator shall be responsible for all operation and management costs.

6.6 Reporting. Operator shall submit Monthly Energy Production and Operational Status Reports no later than 30 days after the end of each calendar month throughout the term of the contract. The Monthly Energy Production and Operational Status Report shall include the following information:

- i. Time period covered by the report.
- ii. Operational status of project components (modules, inverters, transformers).
- iii. Description of any unusual operational events that occurred during the month.
- iv. Description of any unusual weather events that occurred during the month if they impact production.
- v. Description of improvements, expansion or repair to the system during the month.
- vi. List of needed and/or planned improvements, expansions or repairs
- vii. Energy production for the month in kWh, plane-of-array solar irradiance for the month in kWh/m<sup>2</sup>/day, and cumulative energy production to-date in kWh.
- viii. Description of any ownership, management, energy sales, or REC changes during the month.
- ix. Name and contact information for the individual responsible for preparing and submitting the report.
- x. Copies of any engineering reports or independent evaluations of any project completed during the month.
- xi. Maintain reasonable remote site security, including upkeep of proposed video or other measures. Interface with insurance company in event of trespassing, vandalism, natural act, or other cause for claim.

LAWA also may, at its discretion and with reasonable notice to Operator, require Operator within ten (10) days after the end of each calendar month, to report to LAWA certain operating statistical and financial data applicable to LAWA airports covering the previous calendar month in such form



and content as shall reasonably be specified by the Chief Executive Officer.

## **Section 7. Compensation.**

7.1. Commencing on the PV System Commencement Date for the PV System at the Site Location (the "Payment Commencement Date"), Operator shall pay to LAWA a monthly payment (a "Monthly Payment") which shall be the greater of: 1) a "Site Location Fee" per month (as provided in Exhibit B), to be adjusted periodically as provided herein, and, 2) the Operating Payment, calculated as the amount equal to the product of (x) the megawatt hours (kW-Hr) of energy purchased by LADWP pursuant to the SOPPA during such calendar month, and (y) the amount of dollars per kW- Hr for the Site Location, as provided in Table A below and attached as Exhibit B, for each such kW-Hr so purchased (the product of (x) and (y) above for any month being the "Operating Payment" for such month), provided that for the first calendar year, or portion thereof, of operations following the Payment Commencement Date, Operator shall pay the Operating Payment for each calendar month within ten (10) days following Operator's receipt from LADWP of the payment under the SOPPA for energy purchased by LADWP during such month. The Site Location Fee shall be increased by two percent (2%) on the 5 year, 10 year, and 15 year, and if applicable 20 year anniversaries of the Payment Commencement Date, in accordance with City Charter 607.b requirements. In addition to the Monthly Payment, Operator shall also pay to LAWA an Interconnection Location Fee for the use of land for Interconnection for the Site Location, as indicated in Exhibit B.

Within ninety (90) days following the end of each calendar year hereunder, LAWA shall give to Operator a statement (the "Statement") which shall indicate the total annual amount due under the Site Location Fee formula and the total annual amount due under the Operating Payment, as provided above, and the annual amount paid by Operator relating thereto for the prior calendar year. If the amount paid by Operator is less than the amount due (the greater of the annual Site Location Fee due and the annual Operating Payment due, or portion thereof), Operator agrees to pay such deficiency to LAWA within thirty (30) days after receipt of the Statement. If the amount paid by Operator is more than the amount due (the greater of the annual Site Location Fee due and the annual Operating Payment due, or portion thereof), LAWA agrees to return to Operator such overpayment in the form of a rent credit (except to the extent such overpayment exceeds the balance of rent payable hereunder, in which case LAWA shall pay such excess amount to Operator within thirty (30) days following the expiration or termination of this Agreement).

If applicable, the amount of the Site Location Fee payable during any partial month during the Term shall be one-twelfth (1/12) of the Site Location Fee multiplied by the ratio of the number of days active divided by the total number of days in partial month. The amount of the Operating Payment payable during any partial month during the Term, if applicable, shall be based on the amount of kW-Hrs generated and purchased by LADWP during such partial month. If at the expiration of this Agreement, Operator has not paid LAWA its Operating Payment, if applicable, for any period occurring prior to or at the expiration of this Agreement because the corresponding payment from LADWP to Operator for such period has not been made, Operator's obligation to

make such Operating Payments shall survive the expiration of this Agreement.

7.1.1 Guaranteed Rate. If Operator is to pay LAWA based on the Operating Payment, as defined in Section 7.1, LAWA shall be entitled to aggregate payments from Operator at not less than the rate indicated in Table A, below (“Guaranteed Rate”), as provided. If for any Year, the aggregate monthly Operating Payments are calculated at less than the Guaranteed Rate, then within thirty (30) days following receipt by Operator from LADWP of the last payment for such Year, Operator shall pay to LAWA the deficiency, if any, in the aggregate monthly Operating Payments for such Year. The first “Year” shall commence on the PV System Commercial Operation Date and end on the last day of the calendar month in which the first anniversary of the PV System Commercial Operation Date occurs, unless the PV System Commercial Operation Date occurs on the first day of a calendar month, in which case the first Year shall end on the day preceding the first anniversary of the PV System Commercial Operation Date. Each subsequent Year shall be the twelve (12)-month period commencing on the first day following the end of the preceding Year, except the final Year shall end on the expiration date of this Agreement.

TABLE A – Guaranteed Rate			
Site No.	Site Location/Address	Guaranteed Rate (\$/kWh)	Estimated Annual Revenue to LAWA
5	16461 Sherman Way	See Exh. B	See Exh. B

7.1.2. Additional Investment Tax Credit.

For purposes of this Agreement, Operator has assumed it would receive an Investment Tax Credit (“ITC”) of thirty percent (30%). In the event that Operator does not attain or receive a 30% ITC, and Operator is to pay LAWA based on the Operating Payment, Operator shall still pay and LAWA shall still receive Monthly Payments based on the Guaranteed Rate as described in Section 7.1.1 and Table A. In the event the PV System qualifies for any additional ITC adders and the ITC attained or received by Operator is increased by an amount equal to or greater than ten percent (10%) above the initial thirty percent (30%) ITC due to additional qualifiers, the Guaranteed Rate payable by the Operator to LAWA shall be increased based on the schedule provided in Exhibit B. LAWA’s Guaranteed Rate for the Site Location shall be increased, based on the rates for the Site Location provided in Exhibit B and Table B below, upon Operator’s receipt of a 40% ITC, and again upon Operator’s receipt of a 50% ITC, if applicable. Operator shall provide to LAWA documentation indicating the final ITC attained by the PV System and received by the Operator.



TABLE B – Guaranteed Rate for Additional ITC			
Site No.	Site Location/Address	Guaranteed Rate at 40% ITC (\$/kWh)	Guaranteed Rate at 50% ITC (\$/kWh)
5	16461 Sherman Way	See Exh. B	See Exh. B

7.1.3. Delivery of Monthly Payments. The Monthly Payment required in Section 7.1 shall be paid by Operator to LAWA as described in Section 7.1. In the event the Payment Commencement Date falls on any date other than the first day of the calendar month, the applicable payment for that month shall be calculated pro rata according to the number of days during which the Site Location, or any part of same, was used by Operator during said month. All payments shall include the contract number, which is stamped on the first page of this Agreement, on each payment check and the remittance advice attached to the invoice, if any, delivered to Operator by LAWA. Upon written approval by the Chief Executive Officer, Operator may be approved to make electronic payments to LAWA.

7.1.4. Unless electronic payments are to be made as provided in Section 7.1.3, all payments shall be mailed to the following address:

City of Los Angeles  
Los Angeles World Airports  
P.O. Box 54078  
Los Angeles, CA 90054-0078

7.1.5. LAWA may, from time to time, designate another address to which Monthly Payments shall be made and will provide at least thirty (30) days advance written notice of such address change. Invoices may be sent by LAWA to Operator as a customer courtesy, and receipt of such invoice shall not be a condition prior to its Monthly Payment.

7.1.6. Operator waives the provisions of California Civil Code Section 1950.7 and all other provisions of law, now or hereafter in effect, that provide that LAWA may claim from the security deposit only those sums reasonably necessary to remedy defaults in the payment of rent, to repair damage caused by Operator, or to clean the Premises.

Any use of the term “rent” in this Agreement shall mean any and all amounts due and payable by Operator to LAWA pursuant to the terms of this Agreement.

7.1.7. Liquidated Damages for Delinquent Payment.

7.1.7.1. Operator’s payment of the Monthly Payment and any other charges due hereunder shall be delinquent if not received by LAWA within ten (10) days following the due date. Without waiving any rights available under this Operating Agreement or by law, in the

event of delinquent payments, Operator recognizes that LAWA will incur certain expenses, the amount of which is difficult to ascertain. Therefore, in addition to payment(s) owing, Operator agrees to pay the liquidated damages set forth below to compensate LAWA for all expenses and/or damages and loss resulting from said delinquent payments by Operator.

7.1.7.2. The liquidated damages for delinquent payments shall be assessed each month at a rate of 1 percent interest (i.e., equivalent to twelve percent (12%) per annum compounded monthly) on the Average Daily Balance (as hereinafter defined) of the unpaid amount. "Average Daily Balance" shall mean the sum of Operator's unpaid balance on each day of the monthly billing cycle divided by the number of days in the monthly billing cycle. LAWA may draw such delinquent payments from the FPG, as defined below, required pursuant to Article 2, Section 28 herein. FPG draw shall apply first to unpaid liquidated damages, then to remaining delinquent balances. Delinquent balance remaining after FPG draw shall continue to be assessed liquidated damages pursuant to this Section 7.1.7.2.

## 7.2 Temporary Removal Adjustment.

7.2.1 Rooftop PV System Temporary Removal. In accordance with, and subject to the terms of, Article 1, Section 4.2.1.1, for any part of the PV System that is mounted on the rooftop of a LAWA building, LAWA shall be entitled to have such part of the PV System removed for the purpose of roof replacement, major roof repair, or other temporary, reasonable activity related to the roof or PV System. Compensation to Operator for such removal will be payable solely in the form of a rent credit (except to the extent such payment exceeds the balance of rent payable hereunder, in which case LAWA shall pay such excess amount to Operator within thirty (30) days following the expiration or termination of this Agreement), and calculated as described in Section 7.2.3 below. In addition, the Monthly Payment shall be proportionally reduced based on the reduction in size of the PV System (in the case of the Operating Payment) and/or Site Location (in the case of the Site Location Fee) due to such temporary removal, during the period of such temporary removal. LAWA will notify Operator in writing of the need to temporarily remove the PV System in whole or in part with no less than sixty (60) days prior written notice including specification of the required date (which shall be no less than sixty (60) days from such notice) the PV System removal must be completed. Operator will complete the removal on or before the date specified in the notice. Removal will include all Operator equipment (PV modules, inverters, and panels as well as racking system and wiring and conduit, and associated apparatus) that would need to be removed in order to effect a roof repair or replacement. Operator is responsible for removal and replacement of the PV System. LAWA, at its sole discretion, may provide a covered and secure location where the removed PV System and Operator equipment may be stored during removal. If LAWA does not provide a location as described in the preceding sentence, Operator shall be responsible to find such secured location to store the removed PV System and Operator equipment. Operator shall obtain LAWA's approval as to the location and cost of the proposed storage (not to be unreasonably withheld, conditioned or delayed) and, if approved, LAWA shall reimburse Operator's reasonable expenses with the temporary storage of the removed PV System and Operator equipment at the approved location. Should Operator not

complete removal as scheduled (except in the event that the actions or omissions of LAWA or its agents are the cause of such failure to timely complete removal), LAWA shall be entitled to waive compensation for lost electrical production for the number of days that the removal is delayed beyond LAWA's specified date of removal completion.

**7.2.2 Other PV System Temporary Removal.** In accordance with Article 1, Section 4.2.1.1, for all PV System installations (ground or carport) other than those specified in Section 7.2.1, LAWA is entitled to a temporary removal for the purpose of major construction or required access to utilities and/or pipelines provided, as applicable, (i) the Monthly Payment Fee shall be proportionally reduced based on the reduction in size of the PV System (in the case of the Operating Payment) and/or Site Location (in the case of the Site Location Fee) due to such temporary removal, during the period of such temporary removal and (ii) LAWA shall pay the compensation as described in Article 1, Section 7.2.3 below. LAWA will notify Operator in writing of the need to temporarily remove the PV System in whole or in part with no less than sixty (60) days prior written notice including specification of the required date the PV System removal be completed. Removal will include all Operator equipment including but not limited to PV modules, panels, racking, wiring conduit, and associated apparatus, that would need to be removed in order to access utilities, pipelines, and/or complete any major construction required. Should Operator not complete removal as scheduled (except in the event that the gross negligence or willful misconduct of LAWA or its agents are the cause of such failure to timely complete removal), LAWA shall be entitled to waive compensation for lost electrical production for the number of days that Operator delays removal beyond LAWA's specified date of removal completion.

**7.2.3 Temporary Removal Adjustment Calculation.** Compensation from LAWA to Operator for the temporary removal of the PV System will be payable and calculated as follows:

**7.2.3.1** For either temporary removal situation, the time and date when the PV System stops and resumes delivering power to LADWP for compensation shall be documented and agreed upon by both Operator and LAWA in writing. Operator shall provide LAWA written notice of PV System stoppage and resumption, as described in the preceding sentence, on or before the dates of the respective action. Compensation for temporary removal of PV modules from a PV System will be calculated using electrical production data/revenue from the PV System operating nearest in distance ("PV Comparison Site") as installed by the Operator under the RFP. Nearest distance will be calculated based upon the shortest direct distance without consideration for roads, topography, water, or other real property improvements. Beginning on the day of disconnection of the complete or partial removal of the PV System, Operator will keep records of the PV Comparison Site's energy production for each day the PV System has been removed by recording the total power produced each day as well as the revenue the PV Comparison Site generates based upon that individual day's LADWP electricity purchase rates.

**7.2.3.2 Revenue in Dollars per PV Panel per Day Calculation.** Operator will determine the total number of days including the number of PV modules removed within each calendar month. The amount of compensation from LAWA to Operator shall be determined by

the following formula:

$$\frac{\# \text{ PV MODULES REMOVED} \times \# \text{ DAYS REMOVED}}{\left( \frac{\text{TOTAL PRODUCTION REVENUE IN\$ OF PV COMPARISON SITE MODULES}}{\# \text{ OF PV MODULES IN COMPARISON SITE}} \right)} = \text{TOTAL MONTHLY REIMBURSEMENT AMOUNT}$$

In the instance that the specification of PV modules at the PV Comparison Site are different from the removed PV System and there is not a PV module of the same original as installed efficiency specification to compare with, Operator will make adjustments to production revenue calculation based upon efficiency rating of each different PV module type as follows:

$$\frac{\text{PV MODULE REMOVED EFFICIENCY}}{\text{PV COMPARISON SITE MODULE EFFICIENCY}} = \text{ADJUSTMENT FACTOR}$$

$$\frac{\# \text{ PV MODULES REMOVED} \times \# \text{ DAYS REMOVED}}{\left( \frac{\text{TOTAL PRODUCTION REVENUE IN\$ OF PV COMPARISON SITE MODULES}}{\# \text{ OF PV MODULES IN COMPARISON SITE}} \right)} \times \text{ADJUSTMENT FACTOR} = \text{TOTAL MONTHLY REIMBURSEMENT AMOUNT}$$

In the instance that no PV Comparison Site is available, the parties shall use the average of the electrical production/revenue data from the PV System from the equivalent month(s) of all prior years or the electrical production/revenue data from the equivalent month of the immediately prior year (if only one year of the Term has passed), as applicable, determine an appropriate calculation in accordance with the contemplated compensation provisions provided herein.

**7.2.3.3 Submission of Request for Compensation.** As soon as data from the comparison site is available, Operator shall provide written notice to LAWA requesting compensation based on the formula provided above and including the data supporting the compensation amount. LAWA shall review the request for compensation notice, and if in agreement with Operator's request shall thereafter pay to Operator such amounts specified therein within forty-five (45) days of receipt of such form. LAWA reserves the right to audit Operator's revenue calculations as described in Article 1, Section 7 to assure accuracy of Operator's calculation of reimbursement due.

**7.2.4 Temporary Removal Adjustment Limitation.** In no event during any temporary removal period will the compensation (in the form of a rent credit (except to the extent such compensation exceeds the balance of rent payable hereunder, in which case LAWA shall pay



such excess amount to Operator within thirty (30) days following the expiration or termination of this Agreement) to Operator from the removal of all or part of the PV System exceed the Agreement compensation to be paid to LAWA attributable to the PV System over the previous twelve (12) month period unless temporary removal exceeds twelve (12) months (in which case no such cap shall apply). In the event a temporary removal exceeds twelve (12) months, then Operator may, at its option, elect to treat such temporary removal as a permanent removal and the provisions of Article 1, Section 4.2.1 and Article 1, Section 7.3 shall apply (including payment of the compensation specified therein).

7.3. Permanent Removal of the PV System. Compensation from LAWA to Operator for the permanent removal of the PV System as set forth in Article 1, Section 4.2.1 will be based on the amount payable and calculated in accordance with the following provisions (the "Fair Market Value"). LAWA shall pay to Operator the compensation required in this Section 7.3 within sixty (60) days following the determination of such amount and approval of the Board, in each case in accordance with this Section 7.3. Upon LAWA's payment in full to Operator of such compensation, this Agreement shall terminate automatically.

7.3.1. LAWA and Operator will each hire an appraiser at their own expense who is experienced in the appraisal of machinery and equipment, with experience appraising PV solar power systems. The appraiser will value the PV System based upon its remaining expected cash flows from the expected shut down date to the end of the Term, which shall be the amount of compensation payable to Operator in connection with a permanent removal of the PV System (subject to the processes specified below for determining such amount). The following methodology will be used:

(i) Discounted Cash Flow Analysis taking into account the trends in rates paid by LADWP and any expected decreases in the efficiency of the PV System as demonstrated by previous years' electricity production declines, if any. The appraiser will consider the Agreement revenue that would have been due LAWA should the PV System never been removed as an expense to the Operator against their net revenue. Discounting of the cash flow will be based upon verified documentation of the Operator's cost of capital at the time of disconnection. Cash flows will also consider any salvage values for the PV modules being removed at the time of disconnection based upon their estimated useful remaining life as an expense to Operator, as if the reversion of the PV System would not have occurred until the end of the term of the Agreement. Should the removal of the PV System occur within the first seven (7) years of the Commercial Operation Date, the appraiser will consider the loss of tax credits or any other tax benefits related to the PV System (collectively referred to as "Tax Incentives") the Operator incurred as a result of the early removal, and the value of such Tax Incentives shall be included as compensation payable to Operator as part of the Fair Market Value. Operator shall provide all such documentation and information attesting said loss of Tax Incentives to the appraiser to validate the value of the Tax Incentive loss. Operator will provide to LAWA with copies of any data or documentation provided to the appraiser for the calculation of any Tax Incentive loss derivation. The appraiser must be able to verify such Tax Incentive loss for it to be considered as part of the Discounted Cash Flow

Analysis.

(ii) The following process will be followed:

(a) Parties May Negotiate in Good Faith. LAWA and Operator may (but are not required to), in good faith, negotiate the PV System reimbursement valuation applicable to the PV System within thirty (30) days following the applicable request for permanent removal. Such good faith negotiations, initiated by either party, may include the involvement of a third party reviewer to review and make nonbinding recommendations regarding each party's rate adjustment proposal, discussions regarding external and internal factors that may be unique to the land and/or improvements so that the reviewer(s) can take them into consideration when making the recommendations in substantially the same manner as corroborated by the parties and applicable to the PV System. The parties shall have continuing opportunities to negotiate in good faith in an attempt to reach agreement on the PV System reimbursement valuation notwithstanding each party's obligation to perform its duties as described under Section (b) below. If the parties are able to reach an agreement on the PV System reimbursement valuation, then, as of such agreement, said PV System reimbursement valuation shall be presented to the Board as a recommendation for approval and shall be payable by LAWA to Operator within sixty (60) days of the Board's approval of such PV System reimbursement valuation (as provided in the opening paragraph of this Section 7.3). However, if the parties are unable to reach final agreement during negotiation within the thirty (30) days specified above, the parties may continue to negotiate in good faith to attempt to reach agreement until arbitration commences pursuant to Section (f) below.

(b) Appraisal Process. If the parties cannot reach agreement on the PV System reimbursement valuation for the solar system(s) within the time period specified above or the Board does not approve the agreed upon PV System reimbursement valuation as described in Section (a) above, then the parties shall determine the purchase price by the procedures described in Article 1, Sections 5.11.4 7.3.1(c) through (f) below (the "Fair Market Value").

(c) Step 1: Independent Appraisals. LAWA and Operator shall each select an independent, third party appraiser, who is a member of the Appraisal Institute American Society of Appraisers (or their successor organization) and meets the Minimum Qualifications as defined within this Operating Agreement (a "Qualified Appraiser"). Either Operator or LAWA shall, when notified in writing by the other to do so, deliver to the other party the name and address of such appraiser (each, selected Qualified Appraiser, a "Main Appraiser"). The parties shall mutually agree as to the time and place for a conference between the two parties and the Main Appraisers no later than fifteen (15) days from the date of the exchange of names and addresses of the Main Appraisers. At such meeting, both Operator and LAWA may have discussions with the Main Appraisers as to any externalities that may affect the derivation of the PV System reimbursement valuation and determine the appraisal scope. The Appraisal Instructions to be given to the Main Appraisers are as defined within this Agreement. LAWA and Operator shall each pay the fees and expenses of their respective Main Appraisers. The narrative appraisals must be completed according to the Uniform Standards of Professional Appraisal Practice (USPAP) for the



year in which the appraisal is completed. No later than sixty (60) calendar days after the date of the appraiser meeting, a copy of the completed, final USPAP-compliant appraisal report procured by both LAWA and Operator will be made available for review by the other party on the same day. If either LAWA or Operator will be unable to deliver its appraisal report by the appraisal report delivery deadline, the late party will inform the other party in writing of the reason for the delay and the expected date on which appraisal reports will be exchanged. If either party's appraisal report cannot be delivered within ninety (90) days of the appraiser meeting, the complying party shall then have its appraisal report presented to the Board for approval. Upon exchange of the two appraisal reports, in the event that the determination of the compensation value in the two appraisal reports differs by fifteen percent (15%) or less, the recommended PV System reimbursement valuation that is the average of the determinations in the two appraisal reports shall be the compensation payable to Operator under this Section 7.3 and presented to the Board as a recommendation for approval within ninety (90) days of determination. If the PV System reimbursement valuations in the two appraisal reports differ by more than fifteen percent (15%), the parties shall proceed to Section (e) below.

(d) Step 2: Arbitration Appraiser Selection. The Main Appraisers selected by each party shall be instructed to agree upon and select an Arbitration Appraiser (as defined below) no later than four (4) weeks after the appraiser meeting described in Section (c). The Arbitration Appraiser shall be a Qualified Appraiser that is not (and has not been in the year preceding the date of selection) under contract with LAWA for appraisal services. If the Arbitration Appraiser selected is not available to perform the task pursuant to the instructions set forth in Section (f) below or is unwilling to execute a LAWA contract for the performance of appraisal services, then LAWA and Operator shall inform the Main Appraisers and require them to repeat the selection process again until an available Arbitration Appraiser is selected. If the Main Appraisers cannot come to agreement on the selection of an Arbitration Appraiser within four (4) weeks from the date of the appraiser meeting, the CEO shall select an Arbitration Appraiser, provided the same shall be a Qualified Appraiser that is not (and has not been in the year preceding the date of selection) under contract with LAWA for appraisal services and otherwise meets the requirements of an Arbitration Appraiser as specified herein.

(e) Appraisal Review Period. The parties shall have two (2) weeks to review each other's appraisal reports from the date of the appraisal exchange as described in (c) above. The parties may continue to negotiate the PV System reimbursement valuation during this period. Within fifteen (15) calendar days of the appraisal report exchange in Section (c) above, the parties shall mutually fix a time and place for a negotiation meeting between the parties to be held no later than three (3) weeks from the date of the appraisal report exchange. At such meeting, the parties shall attempt to reach a final agreement on the PV System reimbursement valuation. Either party may include its Main Appraiser in the meeting, if desired. If Operator and LAWA reach agreement on the PV System reimbursement valuation, such agreed amount shall be the compensation payable to Operator under this Section 7.3 and, as of such agreement, will be presented to the Board as a recommendation for approval. If Operator and LAWA are unable to reach agreement on the PV System reimbursement valuation by the date that is fourteen (14)

calendar Days from the date of the negotiation meeting, then the parties shall proceed to Section (f) below.

(f) Step 3: Appraiser Arbitration. LAWA and Operator shall each pay one-half of the fees and expenses of the Arbitration Appraiser. The arbitration appraiser (the "Arbitration Appraiser") selected by the two Main Appraisers or the parties, as the case may be, in Section (d) shall receive copies of both Operator and LAWA's final appraisal reports that were procured in Section (c). The Arbitration Appraiser shall be allowed twenty-one (21) days to review both appraisal reports. After review of the two appraisal reports, the Arbitration Appraiser will determine which of the PV System reimbursement valuations from the two appraisal reports are the most reasonable, considering comparable data selection, market information and applicable valuation methodology. The Arbitration Appraiser will communicate its decision in writing to both Operator and LAWA twenty-one (21) days after engagement. The Arbitration Appraiser's determination shall be the compensation payable to Operator under this Section 7.3 and shall be presented to the Board as a recommendation for approval within ninety (90) days of determination.

(g) Appraisal Criteria. The following appraisal criteria shall apply to Sections (c) through (f) (the "Minimum Qualifications"):

(i) Appraiser Minimum Qualifications. The Main Appraiser must possess, at a minimum, an MAI or SRPA designation and must be licensed in the State of California. The Main Appraiser must perform all of the calculations and technical portions of the appraisal report as well as derive the final value conclusions within the appraisal report. The Main Appraiser must have knowledge of PV solar power systems.

(ii) Main Appraisers must be in good standing with the California Bureau of Real Estate Appraisers (CBREA) or its successor organization and have no more than one complaint filed against him or her for any reason and no complaints that have resulted in any disciplinary actions. The Main Appraisers must certify in the appraisal report that he or she has never received any disciplinary actions from the CBREA. The Main Appraisers must be able to provide documentation of the sources of comparable PV System fee rate and sales data to the reasonable satisfaction of LAWA and Operator.

(iii) Appraisal Instructions. The Main Appraiser shall consider the following in completing the appraisal report:

(A) City of Los Angeles Administrative requirements that are in force upon Operator within this Agreement at the date of value.

(B) City regulations that may affect value.

(C) Any public or private easements, such as utilities or rights of way or water rights.

(h) LAWA and Operator shall have the right to modify any conditions of the appraisal process upon mutual written agreement of the parties.

(i) In the event that a matter is required to be presented to the Board for approval as provided herein (a "Board Matter"), then such Board Matter shall be considered by the Board within ninety (90) days following the agreement of the parties as to the reimbursement valuation or following the date the Arbitration Appraiser makes a determination regarding the reimbursement valuation.

#### 7.4. Recordkeeping and Audit Rights.

7.4.1. Operator shall keep and maintain full, complete and accurate books of accounts and records of the services performed under this Agreement in accordance with generally accepted accounting principles consistently applied, which books and records shall be readily accessible to and open for inspection and copying at Operator's southern California offices (as provided in Section 33.12.1 [Notices], below) by LAWA, its auditors or other authorized representatives. Such books and records shall be maintained by Operator for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved.

7.4.2 During the term of this Agreement, LAWA may audit, review and copy any and all writings (as that term is defined in Section 250 of the California Evidence Code) of Operator and subcontractors arising from or related to this Agreement or performance of the scope of work contemplated hereby, whether such writings are (a) in final form or not, and (b) prepared by Operator, subcontractors or any individual or entity acting for or on behalf of Operator or a subcontractor. Operator shall be responsible for obtaining access to and providing writings of subcontractors. Operator shall provide LAWA at Operator's sole cost and expense a copy of all such writings within twenty-one (21) days of a written request by LAWA. LAWA's right shall also include inspection at reasonable times of the Operator's office or facilities which are engaged in the performance of the scope of work contemplated hereby.

### **Section 8. Termination.**

8.1. Termination by LAWA. Any of the following shall constitute a "Default Event" by Operator under this Agreement and LAWA shall thereafter have the remedies specified in Section 8.2 hereof:

8.1.1 Operator's failure to pay LAWA under Article 1, Section 7 of this Agreement if the failure continues for thirty (30) days after written notice of the failure from LAWA to Operator; provided that, in no event shall any failure of LADWP to pay LAWA be deemed a failure of Operator under this Section 8.1.1.

8.1.2 Operator's breach of any term, provision or covenant of this Agreement and if (A) such breach can be cured within thirty (30) days after LAWA's notice of such breach and Operator fails to so cure, or (B) Operator fails to commence and take reasonable steps to cure within such thirty (30) day period if a longer cure period is needed.

8.1.3 To the extent permitted by law:

8.1.3.1 A general assignment by Operator or any guarantor of the Agreement, or any rights granted to Operator hereunder, to, and for the benefit of the creditors, without written consent of LAWA;

8.1.3.2 The filing by or against Operator, or any guarantor, of any proceeding under an insolvency or bankruptcy law, unless (in the case of an involuntary proceeding) the proceeding is dismissed within sixty (60) days;

8.1.3.3 The appointment of a trustee or receiver to take possession of all or substantially all the assets of Operator or any guarantor, unless possession is unconditionally restored to Operator or that guarantor within thirty (30) days and the trusteeship or receivership is dissolved; and/or

8.1.3.4 Any execution or other judicially authorized seizure of all or substantially all the assets of Operator located on the premises, or of Operator's interest in this Agreement, unless that seizure is discharged within thirty (30) days; and

8.1.3.5 Termination of Operator's SOPPA with LADWP.

8.1.4. Cross Default. A material breach of the terms of any other lease, license, permit, or contract held by Operator with LAWA shall constitute a Default of the terms of this Agreement and shall give LAWA the right to terminate this Agreement for cause in accordance with the procedures set forth in this Section 8.1.

8.2 LAWA's Remedies on Operator's Default. Subject to Section 9.2.2, on the occurrence of Default Event, in addition to any other rights or remedies now or later available to LAWA at law or in equity, LAWA shall have the right to pursue any one or more of the following remedies. These remedies are not exclusive but are instead cumulative.

8.2.1. Terminate this Agreement and all rights of Operator under this Agreement, by giving Operator thirty (30) days written notice that this Agreement is terminated, in which case, LAWA may recover from Operator the aggregate sum of:

8.2.1.1. The worth at the time of award of any unpaid Monthly Payment, charges, fees or monies that had been earned at the time of termination;

8.2.1.2. The worth at the time of award of the amount by which (A) the unpaid Monthly Payment, fees, charges, or monies that would have been earned after termination until the time of award exceeds (B) the amount of monetary loss, if any, that Operator affirmatively proves could be reasonably avoided;

8.2.1.3. The worth at the time of award of the amount by which (A) the unpaid Monthly Payment, fees, charges, or monies for the balance of the term after the time of award exceeds (B) the amount of monetary loss, if any, that Operator affirmatively proves could be reasonably avoided;

8.2.1.4. Any other amount necessary to compensate LAWA for all the detriment caused by Operator's failure to perform Operator's obligations, including any such amounts ascertained or determined at any time after the Default Event; and

8.2.1.5. All other amounts in addition to or in lieu of those previously set out as may be permitted from time to time by applicable California law.

8.2.1.6. As used in Article 1, Sections 8.2.1.1. and 8.2.1.2., the "worth at the time of award" is computed by adding interest at the rate of ten percent (10%) per annum. As used in Article 1, Section 8.2.1.3, the "worth at the time of award" is computed by discounting that amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award plus one percent (1%).

8.2.2. Continue this Agreement, and from time to time, without terminating this Agreement, either

8.2.2.1. Recover all Monthly Payments and other amounts payable as they become due or,

8.2.2.2. Subject to Section 3.2, relet the Site Location or any part on behalf of Operator on terms and at the Monthly Payment that LAWA, in LAWA's discretion, may deem advisable, and apply the proceeds of reletting to the Monthly Payment and other amounts payable by Operator. To the extent that the Monthly Payment and other amounts payable by Operator under this Agreement exceed the amount of the proceeds from reletting, LAWA may recover the excess from Operator as and when due.



8.2.3. Upon the occurrence of a Default Event, but provided that the Financing Party (as defined below) is not then pursuing a cure of such Default Event in accordance with the terms of Article 1, Section 9.2.2 hereof, LAWA shall also have the right, with or without terminating this Agreement, to re-enter the Site Location and remove all property from the Site Location. LAWA may store the property removed from the Site Location at the expense and for the account of Operator.

8.2.4. None of the following remedial actions, alone or in combination, shall be construed as an election by LAWA to terminate this Agreement unless LAWA has in fact given Operator written notice that this Agreement is terminated or unless a court of competent jurisdiction decrees termination of this Agreement: (a) any act by LAWA to maintain or preserve the Site Location; (b) any efforts by LAWA to relet the Site Location; and/or (c) any re-entry, repossession, or reletting of the Site Location by LAWA pursuant to this Section. If LAWA takes any of the previous remedial actions without terminating this Agreement, LAWA may nevertheless at any later time terminate this Agreement by written notice to Operator, provided that no Financing Party is then pursuing a cure of such Default Event.

8.2.5. If LAWA relets the Site Location, LAWA shall apply the revenue from the reletting as follows: first, to the payment of any indebtedness other than Monthly Payment due from Operator to LAWA; second, to the payment of any cost of reletting; third, to the payment of the cost of any maintenance and repairs to the Site Location; and fourth, to the payment of Monthly Payment and other amounts due and unpaid under this Agreement. LAWA shall hold and apply the residue, if any, to payment of future amounts payable under this Agreement as the same may become due, and shall be entitled to retain the eventual balance with no liability to Operator. If the revenue from reletting during any month, after application pursuant to the previous provisions, is less than the sum of (i) LAWA's expenditures for the Site Location during that month and (ii) the amounts due from Operator during that month, Operator shall pay the deficiency to LAWA immediately upon demand.

8.2.6. After the occurrence of a Default Event, LAWA, in addition to or in lieu of exercising other remedies, may, but without any obligation to do so, cure the breach underlying the Default Event for the account and at the expense of Operator. However, LAWA must, by prior written notice to Operator (and any Financing Parties, if applicable) first allow Operator a reasonable opportunity to cure, except in cases of emergency, where LAWA may proceed without prior notice to Operator. Operator shall, upon demand, immediately reimburse LAWA for all costs, including costs of settlements, defense, court costs, and attorney fees, that LAWA may incur in the course of any cure.

8.2.7. No security or guaranty for the performance of Operator's obligations that LAWA may now or later hold shall in any way constitute a bar or defense to any action initiated by LAWA or unlawful detainer or for the recovery of the Site Location, for enforcement of any obligation of Operator, or for the recovery of damages caused by a breach of this Agreement by Operator or by a Default Event, provided however that any recovery by LAWA under any such



security or guaranty shall be applied to offset the damages incurred by LAWA and satisfy any amounts owed by Operator (i.e., LAWA shall not be entitled to double recovery).

8.2.8. Except where this is inconsistent with or contrary to any provisions of this Agreement, no right or remedy conferred upon or reserved to either party is intended to be exclusive of any other right or remedy, or any right or remedy given now or later existing at law or in equity or by statute. Except to the extent that either party may have otherwise agreed in writing, no waiver by a party of any violation or nonperformance by the other party of any obligations, agreements, or covenants under this Agreement shall be deemed to be a waiver of any subsequent violation or nonperformance of the same or any other covenant, agreement, or obligation, nor shall any forbearance by either party to exercise a remedy for any violation or nonperformance by the other party be deemed a waiver by that party of the rights or remedies with respect to that violation or nonperformance.

8.3 Termination by Operator. The following shall be considered a default of LAWA. Operator shall have the right to pursue remedies at law or in equity and all the rights and remedies and Operator may terminate the Agreement in accordance with the terms and conditions set forth in this Agreement:

8.3.1 LAWA's breach of any term, provision or covenant of this Agreement and if (A) such breach can be cured within thirty (30) days after Operator's notice of such breach and LAWA fails to so cure, or (B) LAWA fails to commence and pursue said cure within such thirty (30) day period if a longer cure period is needed.

8.4. Limitation of Liabilities.

8.4.1 Except as otherwise specifically and expressly provided in this Agreement, neither LAWA nor Operator shall be liable to the other party under this Agreement for any indirect, special or consequential damages, including loss of use, loss of revenues, loss of profit, interest charges, cost of capital or claims of its buyers or members to which service is made.

8.4.2 Under no circumstances shall LAWA be required to make a termination payment or any other payment to Operator if Operator is then in default beyond any applicable notice and cure periods (except for payments due under this Agreement for performance prior to termination).

8.5. Survival of Obligations. In addition to any other provisions stated to survive expiration or earlier termination of this Agreement, including Article 1, Section 4.4.6.1, Section 4.7, and Section 4.7.5.1 shall survive the expiration or earlier termination of this Agreement.

## **Section 9. Assignments, Transfers, and Delegations; Financing.**

9.1. Assignments; Transfers. Operator shall not, in any manner, assign or transfer this Agreement, or any portion thereof or any interest herein ("Assignment"; for avoidance of doubt, a sublease or termination thereof shall not constitute an Assignment), without the prior written consent of the Board, nor sublet or sublease the whole or any part of the Site Location, nor license or permit the use of the same, in whole or in part, without the prior written consent of the CEO, except as permitted under the Los Angeles World Airports Leasing Policy, as may be modified or amended from time to time. Any attempts to transfer, assign, or sublease without the consent required by this Section shall be void and shall transfer no rights to the Site Location. Consent to one Assignment, subletting, or use, or occupation shall not be deemed to be a consent to any subsequent Assignment, subletting, occupation, or use. This Agreement shall not nor shall any interest therein, be assignable as to the interest of Operator by operation of law without the prior written consent of Board. For purposes of this Agreement, an Assignment shall include any change in the majority ownership of or the power to vote, directly or indirectly, the majority of outstanding capital stock, membership interest or other ownership interests of Operator; provided, moreover, for purposes of this Section 9.1, a serial or cumulative transfer of more than fifty percent (50%) of the ownership interests of Operator within any consecutive twelve (12) month period shall also constitute an Assignment for purposes of this Agreement; provided, however, that a serial or cumulative transfer of fifty percent (50%) or less of the ownership interests of Operator shall not constitute an Assignment for purposes of this Agreement. Notwithstanding the foregoing, LAWA hereby approves the Assignment and/or sublease by Operator to Aviation Plaza FIT, LLC, a California limited liability company ("Aviation Plaza FIT").

9.1.1 LAWA shall not unreasonably withhold its consent to the Assignment of this Agreement or the subletting of the Site Location or any portion thereon provided, however, that the use of said premises by any such assignee or sublessee must be consistent with the use authorized herein and the prospective subtenant and/or assignee must agree to execute LAWA's Consent to Sublease and/or Assignment Agreement. A request by Operator for consent to an Assignment (as required herein) shall be submitted to LAWA in writing at least ninety (90) days before LAWA's requested consent, along with a fully executed copy of the proposed assignment agreement, as well as a copy of all contracts or writings which set forth payments from assignee(s) to Operator and/or which describe the acts or services to be performed by or for the assignee(s) in connection with the use of the Site Location covered by this Agreement. A request by Operator for a Consent to Sublease (as required herein) shall be submitted to LAWA in writing at least thirty (30) days before LAWA's requested consent, along with a fully executed copy of the sub-Operating Agreement. Operator shall promptly advise LAWA of early termination of Assignments.

9.1.2 In the case of an Assignment, Operator, at LAWA's discretion, shall pay to LAWA a fee ("Assignment Fee") based on the following formulas:

9.1.2.1 If there are ten (10) years or more remaining on the Term of this Agreement when the Assignment occurs, Operator shall pay to LAWA an amount equal to twenty percent (20%) of the Net Transaction Value. For purposes of calculating the Assignment Fee, the "Net Transaction Value" shall be defined as the difference between the following: (1) the gross transaction value attributed to the Operating Agreement (including improvements thereon owned by Operator) and inuring to the benefit of Operator and/or its Affiliates (as defined below), such value as reasonably determined by LAWA and (2) the depreciated value of the Qualified Investments that Operator has made to the Site Location at the time of the Assignment.

9.1.2.2 If there are less than ten (10) years but more than five (5) years remaining on the term of this Agreement when the Assignment occurs, Operator shall pay to LAWA an amount equal to fifteen percent (15%) of the Net Transaction Value.

9.1.2.3 If there are five (5) years or less remaining on the term of the Agreement when the Assignment occurs, Operator shall pay to LAWA an amount equal to ten (10%) of the Net Transaction Value.

9.1.2.4 Notwithstanding the foregoing, no Assignment Fee shall be charged in the event of an assignment to Aviation Plaza FIT (including, without limitation, the assignment contemplated by Section 9.1) or any Affiliate of Operator, or an assignment, sublease or transfer of the Agreement to a Financing Party or otherwise in connection with Operator's financing under this Agreement, whether or not Operator receives any compensation for any such assignment or transfer, provided however, in the case of a transfer to an Affiliate of Operator, LAWA shall receive a reasonable administrative fee for costs reasonably incurred in connection with the processing of the consent to assignment and reimbursement of its attorneys' fees in connection with the review, preparation and processing of the consent to the assignment of the Agreement to the Affiliate. For purposes of this Agreement, "Affiliate" shall mean (i) any entity not less than fifty percent (50%) of whose outstanding ownership interest shall, at the time, be owned directly or indirectly by Operator or (ii) any entity which, directly or indirectly, controls or is controlled by or is under common control with Operator. For this purpose, control shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such entity, whether through the ownership of voting securities or by contract or otherwise.

## 9.2 Financing.

9.2.1 Financing Parties. As used herein, (a) "Financing Party" or "Financing Parties" shall mean any party (i) providing direct or indirect senior or subordinated construction, interim or long-term debt or equity financing or refinancing (including any Tax Equity Financing (as defined below) and tax credit sale financing) to Operator, to any permitted assignee of all or

any portion of this Agreement, or to any Affiliates of Operator for or in connection with the development, construction, purchase, installation, ownership, or operation and maintenance of the PV System, whether that financing or refinancing takes the form of private debt, public debt or any other form (including debt financing or refinancing), including any equity investor directly or indirectly providing financing or refinancing for the PV System or purchasing equity ownership interests of Operator in connection with any such financing or refinancing (including, without limitation, as a participant in a Tax Equity Financing), and any trustee or agent acting on their behalf, (ii) providing direct or indirect interest rate protection agreements to hedge any of the foregoing obligations, and/or (iii) participating directly or indirectly in a lease financing, including any sale leaseback or leveraged leasing structure, with respect to the PV System, and of which Operator has provided LAWA with written notice; and (b) "Tax Equity Financing" shall mean with respect to Operator or its Affiliates or the PV System, any transaction or series of transactions resulting in a party (or successor in interest or assignee of such party) providing financing or refinancing for the PV System to Operator or its Affiliates and whose return is substantially derived from tax credits, and includes any leasing transaction (including a sale-leaseback, inverted lease or the like) that has the result of the foregoing.

9.2.2 Rights of Financing Parties. Notwithstanding anything in this Agreement to the contrary, Operator shall have the right to assign all or any portion of Operator's interest in this Agreement, mortgage, encumber, pledge or hypothecate all or any portion of Operator's interest in the PV System or this Agreement, or transfer title to the PV System and the other improvements constructed on the Site Location by Operator, in each case to or in favor of a Financing Party, with the prior written consent of the Chief Executive Officer, which consent shall not be unreasonably withheld, approved as to form by the City Attorney ("PV System Financing"). In such event, upon Operator's written request to the Chief Executive Officer, LAWA shall execute an estoppel certificate in form and substance satisfactory to LAWA and the Financing Party. Any PV System Financing attempted without the prior written consent of the Chief Executive Officer shall be null and void and shall be a Default Event (as herein defined). In connection with Operator's request for consent to any such PV System Financing, Operator shall submit for the Chief Executive Officer's prior review and written approval any and all instruments and documents to be executed by, or binding upon, Operator in connection therewith (the "PV System Financing Documents"). In the event such PV System Financing is approved in writing by the Chief Executive Officer and the Agreement is so assigned, Operator's interest in the PV System is so encumbered, or title to the improvements is so transferred, except as provided for herein, LAWA shall not be bound, nor shall the terms, conditions, and covenants of the Agreement nor the rights and remedies of LAWA hereunder be in any manner limited, restricted, modified, or affected by reason of the PV System Financing Documents. The following provisions shall apply with respect to each of the approved Financing Parties: (a) provided that all monetary Default events provided in this Agreement have been cured any approved Financing Parties shall be permitted to foreclose on their respective interests in this Agreement, the PV System, Operator or its Affiliates (including any such foreclosure that results in a change in control), and to make sales or assignments of the PV System, Operator or its Affiliates after or in lieu of foreclosure, all with prior written notice to LAWA, (b) such Financing Party shall have the



right, but not the obligation, to perform any act required to be performed by Operator under this Agreement, to prevent or cure a default by Operator, provided Financing Party provides written notice to LAWA, such act performed by such Financing Party shall be as effective to prevent or cure a default as if done by Operator, (c) each Financing Party shall have the same periods as are given Operator for remedying a Default Event or causing it to be remedied, plus, in each case, provided that the Financing Party shall pay all unpaid Monthly Payments owed under this Agreement and, to the extent susceptible of cure by the Financing Party, shall promptly commence and diligently pursue to completion any cure with respect to any other acts required to be performed by Operator under this Agreement, an additional period of thirty (30) days after the expiration thereof or after LAWA has served a notice or a copy of a notice of such Default Event upon the Financing Party, whichever is later, (d) LAWA shall be required to send each Financing Party a copy of any and all written notices of Default Events or notice to cure Default Events under the Agreement delivered to Operator related to this Agreement only if Operator has given LAWA written notice of such Financing Party pursuant to the terms of this Agreement, (e) within thirty (30) business days of the receipt of a written reasonable request from Operator or any Financing Party, LAWA shall execute or arrange for the delivery of documents reasonably requested by Operator or such Financing Party to confirm the status of this Agreement, provided Operator provides a form of such document with the request and such document is acceptable to the LAWA CEO and approved as to form by City Attorney, (f) LAWA agrees that no Financing Party shall be obligated to perform any obligation or be deemed to incur any liability or obligation provided in this Agreement on the part of Operator or shall have any obligation or liability to LAWA with respect to this Agreement except to the extent any Financing Party has expressly assumed the obligations of Operator hereunder and delivered written notice of same to LAWA; provided, that LAWA shall nevertheless be entitled to exercise all of its rights hereunder in the event that Operator or its Financing Parties fail to perform Operator's obligations under this Agreement within the cure periods specified in this Agreement, (g) LAWA will not exercise any right to terminate or suspend this Agreement unless it shall have given each Financing Party prior written notice of its intent to terminate or suspend this Agreement, and LAWA shall accept a cure performed by any Financing Party so long as the cure is accomplished within the applicable cure period provided above or otherwise agreed by LAWA and any Financing Party, and (h) LAWA agrees and acknowledges that the Financing Parties are third-party beneficiaries of the provisions of this Section 9.2.2.

9.2.3 An approved Financing Party may transfer the interest in the Agreement to a third-party successor ("Successor"), subject to the Board's prior written consent, which should not be unreasonably denied, conditioned, or delayed. This is on the condition that, (i) the Successor and/or its principal or management company demonstrates adequate financial capability to fulfill the remaining obligations under this Agreement as they become due, and (ii) the proposed Successor is not on a list of businesses or entities with whom the City is prohibited from conducting business or entering into a contract. Upon such a succession or assumption of the interest, the Successor shall comply with all terms, conditions, and covenants of this Agreement and continue operations on the Site Location strictly for the purposes outlined in this Agreement, or for any purpose that the Chief Executive Officer may authorize in writing at that time. Furthermore, no succession by a Successor will relieve Operator from its responsibilities pursuant to this

Agreement.

9.2.4 Once a Financing Party and the PV System Financing Documents are approved, two (2) copies of any and all PV System Financing Documents shall be filed with LAWA at least two (2) weeks prior to the effective date thereof, and Operator shall obtain Chief Executive Officer's prior written consent of any changes or amendments thereto. Upon and immediately after the recording of any approved PV System Financing Documents, Operator shall cause to be recorded in the Office of the County Recorder for the County of Los Angeles a request for a copy of any notice of Default Event and of any notice of sale, as provided in Section 2924b of the Civil Code of the State of California, duly executed and acknowledged by LAWA and specifying that said notice be mailed to LAWA at the address set forth in Section 33.12.

9.2.5 Consent by the Chief Executive Officer to one PV System Financing or one Financing Party shall not be a waiver of LAWA's rights under this Section as to any subsequent PV System Financing or assignment or other transfer by such Financing Party, and any such subsequent PV System Financing or successor Financing Party shall be subject to LAWA's review and approval in accordance with the terms and conditions of the Agreement. This prohibition against the transfer of any Financing Party's interest includes any transfer which would otherwise occur by operation of law.

## **ARTICLE 2: STANDARD TERMS AND PROVISIONS**

### **Section 10. Nondiscrimination and Equal Employment Practices/ Affirmative Action Program.**

#### **10.1. Federal Non-Discrimination Provisions.**

10.1.1. The Operator assures that it will comply with pertinent statutes, Executive Orders, and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This Section 10.1.1 obligates the Operator or its transferee for the period during which Federal assistance is extended to the airport program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases, this Section 10.1.1 obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property. This Section 10.1.1 binds Operator from the bid solicitation period through the completion of the Agreement. All sub-agreements awarded under or pursuant to this Agreement shall contain this provision.



## 10.2. Municipal Non-Discrimination Provisions.

10.2.1. Non-Discrimination In Use Of Airport. There shall be no discrimination against or segregation of any person, or group of persons, on account of race, religion, national origin, ancestry, sex, sexual orientation, age, physical handicap, marital status, domestic partner status, or medical condition in the Agreement, transfer, use, occupancy, tenure, or enjoyment of the Airport or any operations or activities conducted on the Airport. Nor shall Operator or any person claiming under or through Operator establish or contract any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of Operators, sub-Operators, or vendees of the Airport. Any assignment or transfer, which may be permitted under this Agreement, shall also be subject to all non-discrimination clauses contained in Section 10.2.

10.2.2. Non-Discrimination In Employment. During the term of this Agreement, Operator agrees and obligates itself in the performance of this Agreement not to discriminate against any employee or applicant for employment because of the employee's or applicant's race, religion, national origin, ancestry, sex, sexual orientation, age, physical handicap, marital status, domestic partner status, or medical condition. Operator shall take affirmative action to insure that applicants for employment are treated, during the term of this Agreement, without regard to the aforementioned factors and shall comply with the affirmative action requirements of the Los Angeles Administrative Code, Sections 10.8, et seq., or any successor ordinances or law concerned with discrimination.

10.2.3. Equal Employment Practices. Throughout the term of this Agreement, Operator agrees to comply with Section 10.8.3 of the Los Angeles Administrative Code ("Equal Employment Practices"), including any future amendments thereto, which is incorporated herein by this reference. A copy of Section 10.8.3 has been attached to this Agreement for the convenience of the parties as Exhibit K. By way of specification but not limitation, pursuant to Sections 10.8.3.E and 10.8.3.F of the Los Angeles Administrative Code, the failure of Operator to comply with the Equal Employment Practices provisions of this Agreement may be deemed to be a material breach of this Agreement. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard have been given to Operator. Upon a finding duly made that Operator has failed to comply with the Equal Employment Practices provisions of this Agreement, this Agreement may be forthwith terminated, cancelled, or suspended.

10.2.4. Affirmative Action Program. Throughout the term of this Agreement, Operator agrees to comply with Section 10.8.4 of the Los Angeles Administrative Code ("Affirmative Action Program"), including any future amendments thereto, which is incorporated herein by this reference. A copy of Section 10.8.4 has been attached to this Agreement for the convenience of the parties as Exhibit L. By way of specification but not limitation, pursuant to Sections 10.8.4.E and 10.8.4.F of the Los Angeles Administrative Code, the failure of Operator to comply with the Affirmative Action Program provisions of this Agreement may be deemed to be

a material breach of this Agreement. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard have been given to Operator. Upon a finding duly made that Operator has failed to comply with the Affirmative Action Program provisions of this Agreement, this Agreement may be forthwith terminated, cancelled, or suspended.

10.3. All sub-agreements awarded under or pursuant to this Agreement shall contain similar provisions, and Operator shall require each of its sub-Operators to complete a certification and submit to Operator an Affirmative Action Plan acceptable to LAWA.

#### **Section 11. Insurance.**

11.1. Operator shall procure at its expense, and keep in effect at all times during the term of this Agreement, the types and amounts of insurance specified on Insurance, Exhibit M, attached hereto and incorporated by reference herein. The specified insurance shall also, either by provisions in the policies, by LAWA's own endorsement form or by other endorsement attached to such policies, include and insure LAWA, its Department of Airports, its Board and all of LAWA's officers, employees, and agents, their successors and assigns, as additional insureds, against the areas of risk described on Insurance, Exhibit M, hereof with respect to Operator's acts or omissions in its operations, use, and occupancy of the Airport or other related functions performed by or on behalf of Operator under this Agreement.

11.2. Each specified insurance policy (other than Workers' Compensation and Employers' Liability and fire and extended coverages) shall contain a Severability of Interest (Cross Liability) clause which states, "It is agreed that the insurance afforded by this policy shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company's liability," and a Contractual Endorsement which shall state, "Such insurance as is afforded by this policy shall also apply to liability assumed by the insured under this Agreement with the City of Los Angeles."

11.3. All such insurance shall be primary and noncontributing with any other insurance held by City's Department of Airports where liability arises out of or results from the acts or omissions of Operator, its agents, employees, officers, assigns, or any person or entity acting for or on behalf of Operator. Such policies may provide for reasonable deductibles and/or retentions acceptable to the CEO based upon the nature of Operator's operations and the type of insurance involved.

11.4. LAWA shall have no liability for any premiums charged for such coverage(s). The inclusion of LAWA, its Department of Airports, Board and all of City's officers, employees, and agents, their successors and assigns, as insureds is not intended to, and shall not, make them, or any of them, a partner or joint venturer with Operator in Operator's operations at Airport. In the event Operator fails to furnish LAWA evidence of insurance and maintain the insurance as required, LAWA, upon ten (10) days prior written notice to comply, may (but shall not be required

to) procure such insurance at the cost and expense of Operator, and Operator agrees to promptly reimburse LAWA for the cost thereof plus fifteen percent (15%) for administrative overhead. Payment shall be made within thirty (30) days of invoice date.

11.5. At least ten (10) days prior to the expiration date of the above policies, documentation showing that the insurance coverage has been renewed or extended shall be filed with LAWA. If such coverage is canceled or reduced, Operator shall, within fifteen (15) days of such cancellation of coverage, file with LAWA evidence that the required insurance has been reinstated or provided through another insurance company or companies.

11.6. Operator shall provide proof of all specified insurance and related requirements to LAWA either by production of the actual insurance policy(ies), by use of LAWA's own endorsement form(s), by broker's letter acceptable to the CEO in both form and content in the case of foreign insurance syndicates, or by other written evidence of insurance acceptable to the CEO. The documents evidencing all specified coverages shall be filed with LAWA in duplicate and shall be procured and approved in strict accordance with the provisions in Sections 11.47 through 11.56 of City's Administrative Code prior to Operator occupying the Airport. The documents shall contain the applicable policy number, the inclusive dates of policy coverages, and the insurance carrier's name, shall bear an original signature of an authorized representative of said carrier, and shall provide that such insurance shall not be subject to cancellation, reduction in coverage, or nonrenewal except after written notice by certified mail, return receipt requested, to the City Attorney of the City of Los Angeles at least thirty (30) days prior to the effective date thereof. LAWA reserves the right to have submitted to it, upon request, all pertinent information about the agent and carrier providing such insurance.

11.7. LAWA and Operator agree that the insurance policy limits specified herein shall be reviewed for adequacy annually throughout the term of this Agreement by the CEO who may, thereafter, require Operator, on thirty (30) days prior, written notice, to adjust the amounts of insurance coverage to whatever reasonable amount the CEO deems to be adequate.

11.8. Submission of insurance from a non-California admitted carrier is subject to the provisions of California Insurance Code Section 1760 through 1780, and any other regulations and/or directives from the State Department of Insurance or other regulatory board or agency. Operator agrees, except where exempted, to provide LAWA proof of said insurance by and through a surplus line broker licensed by the State of California.

## **Section 12. Child Support Orders.**

12.1 This Agreement is subject to Section 10.10, Article I, Chapter 1, Division 10 of the Los Angeles Administrative Code related to Child Support Assignment Orders, which is incorporated herein by this reference. A copy of Section 10.10 has been attached hereto for the convenience of the parties as Exhibit R. Pursuant to this Section, Operator (and any sub-Operator of Operator providing services to LAWA under this Agreement) shall (1) fully comply with all

State and Federal employment reporting requirements for Operator's or Operator's sub-Operator's employees applicable to Child Support Assignment Orders; (2) certify that the principal owner(s) of Operator and applicable sub-Operators are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (3) fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with California Family Code Section 5230, et seq.; and (4) maintain such compliance throughout the term of this Agreement. Pursuant to Section 10.10(b) of the Los Angeles Administrative Code, failure of Operator or an applicable sub-Operator to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders and Notices of Assignment or the failure of any principal owner(s) of Operator or applicable sub-Operators to comply with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally shall constitute a default of this Agreement subjecting this Agreement to termination where such failure shall continue for more than ninety (90) days after notice of such failure to Operator by LAWA (in lieu of any time for cure provided elsewhere in this Agreement).

### **Section 13. Equal Benefits Ordinance.**

13.1. Unless otherwise exempt, Operator shall comply with the applicable provisions of the Equal Benefits Ordinance ("EBO"), Section 10.8.2.1 of the Los Angeles Administrative Code throughout the term of this Agreement. Operator shall not, in any of its operations within the City of Los Angeles or in other locations owned by the City of Los Angeles, including the Airport, discriminate in the provision of Non-ERISA Benefits (as defined below) between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration. As used above, the term "Non-ERISA Benefits" shall mean any and all benefits payable through benefit arrangements generally available to Operator's employees which are neither "employee welfare benefit plans" nor "employee pension plans", as those terms are defined in Sections 3(1) and 3(2) of ERISA. Non-ERISA Benefits shall include, but not be limited to, all benefits offered currently or in the future, by Operator to its employees, the spouses of its employees or the domestic partners of its employees, that are not defined as "employee welfare benefit plans" or "employee pension benefit plans", and, which include any bereavement leave, family and medical leave, and travel discounts provided by Operator to its employees, their spouses and the domestic partners of employees.

13.2. Operator agrees to post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

"During the term of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles' Equal Benefits Ordinance may be obtained from the Department of Public Works, Bureau of Contract Administration,



Office of Contract Compliance at (213) 847-6480.”

13.3. The failure of Operator to comply with the EBO will be deemed to be a material breach of the Agreement by LAWA. If Operator fails to comply with the EBO, LAWA may cancel or terminate the Agreement, in whole or in part, and all monies due or to become due under the Agreement may be retained by LAWA. LAWA may also pursue any and all other remedies at law or in equity for any breach. Failure to comply with the EBO may be used as evidence against Operator in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40, et seq., Contractor Responsibility Ordinance. If the LAWA determines that Operator has set up or used its contracting entity for the purpose of evading the intent of the EBO, LAWA may terminate the Agreement.

**Section 14. Environmentally Favorable Operations.**

If applicable to this Agreement, Operator acknowledges for Operator and any sub-Operators that Operator’s and its sub-Operators’ activities under this Agreement will be subject to all LAWA policies, guidelines and requirements regarding environmentally favorable construction, use and/or operations practices (hereinafter collectively referred to as “LAWA Policies”) provided in writing to Operator prior to the Effective Date as such LAWA Policies may be promulgated, revised and amended from time-to-time (provided LAWA shall provide Operator with at least thirty (30) days advance written notice of any such LAWA Policies promulgated, revised or amended after the Effective Date).

**Section 15. Business Tax Registration.**

Operator represents that it has registered its business with the Office of Finance of the City of Los Angeles and has obtained and presently holds from that Office a Business Tax Registration Certificate, or a Business Tax Exemption Number, required by City’s Business Tax Ordinance (Article 1, Chapter 2, Sections 21.00 and following, of City’s Municipal Code). Operator shall maintain, or obtain as necessary, all such Certificates required of it under said Ordinance and shall not allow any such Certificate to be revoked or suspended during the term hereof.

**Section 16. Living Wage Ordinance and Service Contractor Worker Retention Ordinances.**

**16.1. Living Wage Ordinance.**

16.1.1. General Provisions: Living Wage Policy. This Agreement is subject to the Living Wage Ordinance (“LWO”) (Section 10.37, et seq., of the Los Angeles Administrative Code) which is incorporated herein by this reference. A copy of Section 10.37 has been attached hereto for the convenience of the parties as Exhibit O. The LWO requires that, unless specific exemptions apply, any employees of Operator or Operators on City property who render services on the leased premises or licensed premises are covered by the LWO if any of the following

applies: (1) the services are rendered on premises at least a portion of which are visited by substantial numbers of the public on a frequent basis, (2) any of the services could feasibly be performed by City of Los Angeles employees if the awarding authority had the requisite financial and staffing resources, or (3) the designated administrative agency of the City of Los Angeles has determined in writing that coverage would further the proprietary interests of the City of Los Angeles. Employees covered by the LWO are required to be paid not less than a minimum initial wage rate, as adjusted each year. The LWO also requires that employees be provided with at least twelve (12) compensated days off per year for sick leave, vacation, or personal necessity at the employee's request, and at least ten (10) additional days per year of uncompensated time pursuant to Section 10.37.2(b). The LWO requires employers to inform employees making less than twelve dollars (\$12) per hour of their possible right to the federal Earned Income Tax Credit ("EITC") and to make available the forms required to secure advance EITC payments from the employer pursuant to Section 10.37.4. Operator shall permit access to work sites for authorized City representatives to review the operation, payroll, and related documents, and to provide certified copies of the relevant records upon request by the City. Whether or not subject to the LWO, Operator shall not retaliate against any employee claiming non-compliance with the provisions of the LWO, and, in addition, pursuant to Section 10.37.6(c), Operator agrees to comply with federal law prohibiting retaliation for union organizing.

16.1.2. Living Wage Coverage Determination. An initial determination has been made that this is an Agreement under the LWO, and, that it is not exempt from coverage by the LWO. Determinations as to whether this Agreement is covered by the LWO, or whether an employer or employee are exempt from coverage under the LWO are not final, but are subject to review and revision as additional facts are examined and/or other interpretations of the law are considered. In some circumstances, applications for exemption must be reviewed periodically. LAWA shall notify Operator in writing about any redetermination by LAWA of coverage or exemption status. To the extent Operator claims non-coverage or exemption from the provisions of the LWO, the burden shall be on Operator to prove such non-coverage or exemption.

16.1.3. Compliance; Termination Provisions And Other Remedies: Living Wage Policy. If Operator is not initially exempt from the LWO, Operator shall comply with all of the provisions of the LWO, including payment to employees at the minimum wage rates, effective on the execution date of this Agreement. If Operator is initially exempt from the LWO, but later no longer qualifies for any exemption, Operator shall, at such time as Operator is no longer exempt, comply with the provisions of the LWO and execute the then currently used Declaration of Compliance Form, or such form as the LWO requires. Under the provisions of Section 10.37.6(c) of the Los Angeles Administrative Code, violation of the LWO shall constitute a material breach of this Agreement and LAWA shall be entitled to terminate this Agreement and otherwise pursue legal remedies that may be available, including those set forth in the LWO, if LAWA determines that Operator violated the provisions of the LWO. The procedures and time periods provided in the LWO are in lieu of the procedures and time periods provided elsewhere in this Agreement. Nothing in this Agreement shall be construed to extend the time periods or limit the remedies provided in the LWO.



16.1.4. Subcontractor Compliance. Operator agrees to include, in every subcontract or subagreement covering LAWA property entered into between Operator and any subcontractor, a provision pursuant to which such subcontractor (A) agrees to comply with the Living Wage Ordinance and the Service Contractor Worker Retention Ordinance with respect to LAWA's property; (B) agrees not to retaliate against any employee lawfully asserting noncompliance on the part of the subcontractor with the provisions of either the Living Wage Ordinance or the Service Contractor Worker Retention Ordinance; and (C) agrees and acknowledges that LAWA, as the intended third-party beneficiary of this provision may (i) enforce the Living Wage Ordinance and Service Contractor Worker Retention Ordinance directly against the subcontractor with respect to LAWA property, and (ii) invoke, directly against the subcontractor with respect to LAWA property, all the rights and remedies available to LAWA under Section 10.37.5 of the Living Wage Ordinance and Section 10.36.3 of the Service Contractor Worker Retention Ordinance, as same may be amended from time to time.

16.2. Worker Retention Ordinance. This Agreement may be subject to the Worker Retention Ordinance ("WRO") (Section 10.36, et seq, of the Los Angeles Administrative Code), which is incorporated herein by this reference. A copy of Section 10.36 has been attached hereto for the convenience of the parties as Exhibit P. If applicable, Operator must also comply with the WRO which requires that, unless specific exemptions apply, all employers under contracts that are primarily for the furnishing of services to or for the City of Los Angeles and that involve an expenditure or receipt in excess of \$25,000 and a contract term of at least three (3) months shall provide retention by a successor contractor for a ninety-day (90-day) transition period of the employees who have been employed for the preceding twelve (12) months or more by the terminated contractor or subcontractor, if any, as provided for in the WRO. Under the provisions of Section 10.36.3(c) of the Los Angeles Administrative Code, LAWA has the authority, under appropriate circumstances, to terminate this Agreement and otherwise pursue legal remedies that may be available if LAWA determines that the subject contractor violated the provisions of the WRO.

## **Section 17. City Held Harmless.**

17.1. In addition to the requirements of Article 2, Section 11, Insurance, herein, Operator shall, to the fullest extent permitted by law, defend (with counsel satisfactory to LAWA), indemnify and hold harmless City and any and all of its boards, commissioners, LAWA, officers, directors, agents, employees, assigns and successors in interest (collectively "City Defendants") from and against any and all allegations, suits, claims, causes of action, liability, losses, damages, demands or expenses (including, but not limited to, attorney's fees and costs of litigation) (collectively "Claims"), prosecuted by anyone (including Operator and/or Operator's agents, former and current employees, or competitors) by any reason of, arising out of, related to, connected with or pertaining to: (1) the acts or omissions of Operator, its agents, servants, employees or invitees; (2) Operator's breach of this Agreement; or (3) Operator or its agents, servants, employees or invitees occupancy of the Site Location, except in each case to the extent

caused by LAWA's or any City Defendants' gross negligence or willful misconduct.

17.2. In Operator's defense of LAWA under Article 2, Section 17.1, including but not limited to the negotiation, compromise, and settlement of any action, LAWA shall retain discretion in and control of the litigation, negotiation, compromise, settlement, and appeals there from, as required by the Los Angeles City Charter, particularly Article II, Sections 271, 272 and 273 thereof.

17.3. Survival of Indemnities. The provisions under this Article 2, Section 17 shall survive the termination of this Operating Agreement. Rights and remedies available to LAWA hereinabove shall survive the termination of this Operating Agreement. Further, the rights and remedies are cumulative of those provided for elsewhere in this Operating Agreement and those allowed under the laws of the United States, the State of California, and the City of Los Angeles.

#### **Section 18. Campaign Contributions.**

18.1. Operator, its suboperators and subcontractors, and their respective principals (hereinafter, "Principals") are obligated to fully comply with City of Los Angeles Charter Section 470(c)(12) and related ordinances, regarding limitations on campaign contributions and fundraising for certain elected City officials or candidates for elected City office if the contract or lease is valued at \$100,000 or more and requires approval of a City elected official. Additionally, Operator is required to provide and update certain information to the City as specified by law. Operator and any suboperator subject to Charter Section 470(c)(12) shall include the following notice in any contract or lease with a suboperator expected to receive at least \$100,000 for performance under this contract:

"Notice Regarding Los Angeles Campaign Contribution and Fundraising Restrictions" As provided in Charter Section 470(c)(12) and related ordinances, you are suboperator on City of Los Angeles contract #\_\_. Pursuant to City Charter Section 470(c)(12), suboperator and its principals are prohibited from making campaign contributions and fundraising for certain elected City officials or candidates for elected City office for 12 months after the City contract is signed. The suboperator is required to provide to Operator names and addresses of the suboperator's principals and contact information and shall update that information if it changes during the 12 month time period. Suboperator's information included must be provided to Operator within 5 business days. Failure to comply may result in termination of contract or any other available legal remedies including fines. Information about the restrictions may be found at the City Ethics Commission's website at <http://ethics.lacity.org/> or by calling 213/978-1960.

18.2. Operator, its suboperators, and their Principals shall comply with these requirements and limitations. Violation of this provision shall entitle LAWA to terminate this Agreement and pursue any and all legal remedies that may be available.

**Section 19. Small/Very Small Business Enterprise Program and Local Business Preference Program.**

19.1. Pursuant to the provisions of Resolution No. 24820 of the Board of Airport Commissioners, LAWA's Small Business Enterprise (SBE) Program was created to provide additional opportunities for small businesses to participate in construction, non-professional, professional, and personal services projects valued over \$150,000. It is the policy of LAWA to provide Small Business Enterprises (SBE), Very Small Business Enterprises (VSBE) and Minority-Owned, Women-Owned, Disabled Veteran Business Enterprises and all Other Business Enterprises (MBE/WBE/DVBE/OBE) an equal opportunity to participate in the performance of all City contracts in all areas where such contracts afford such participation opportunities. Operator shall assist LAWA in implementing this policy and shall use its best efforts to afford the opportunity for SBEs, VSBEs, MBEs, WBEs, DVBEs, and OBEs to achieve participation in subcontracts where such participation opportunities present themselves and attempt to ensure that all available business enterprises, including SBEs, VSBEs, MBEs, WBEs, DVBEs, and OBEs, have equal participation opportunity which might be presented under this Agreement. See Exhibit N.

19.2. Based on the work to be performed, the mandatory SBE participation level for this PV System project has been set at 7% SBE.

19.3. Pursuant to the provisions of Resolution No. 24781 (for Bids) and Resolution No. 25919 (for Proposals) of the Board of Airport Commissioners, Los Angeles World Airports (LAWA) adopted a Local Business Preference Program (LBPP) for procurement of goods, equipment, and non-professional services, including design and construction to encourage businesses to compete for LAWA contracting opportunities, to locate operations and create jobs in the City and to encourage existing local business to refrain from relocating. Accordingly, it is also the policy of the LAWA to support an increase in local and regional jobs. LAWA's LBPP aims to benefit the Southern California region by increasing jobs and expenditures within the local and regional private sector. Operator shall assist the LAWA in implementing this policy and shall participate in the program to afford the opportunity for Local Business Enterprises to achieve participation in subcontracts where such participation opportunities present themselves.

NOTE: Prior to being awarded a contract with the LAWA, Operator and all subcontractors must be registered on the City's Contracts Management and Opportunities Database, Los Angeles Business Assistance Virtual Network (LABAVN), at <http://www.labavn.org>.

**Section 20. Conflict of Interest.**

20.1. It is hereby understood and agreed that the parties to this Agreement have read and are aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the California Government Code relating to conflict of interest of public officers and employees, as well as the

Los Angeles Municipal Code (LAMC) Municipal Ethics and Conflict of Interest provisions of Section 49.5.1 et seq. and the Conflict of Interest Codes of the City and the LAWA. All parties hereto agree that they are unaware of any financial or economic interest of any public officer or employee of LAWA relating to this Agreement. Notwithstanding any other provision of this Agreement, it is further understood and agreed that if such financial interest does exist at the inception of this Agreement, LAWA may immediately terminate this Agreement by giving written notice thereof.

**Section 21. Prevailing Wage.**

21.1. Work performed on LAWA property may require payment of prevailing wages. Operator is obligated to make that determination, and will be bound by and comply with the applicable provisions of the California Labor Code and Federal, State, and local laws related to the prevailing wage and labor. Operator will indemnify and pay or reimburse the LAWA for any damages, penalties or fines (including but not limited to, attorney's fees and costs of litigation) that the LAWA incurs, or pays, as a result of noncompliance with applicable prevailing wage laws in connection with the work performed under the contract.

21.2. The "General Prevailing Wage Rates" will be those rates as determined by the Director of the Department of Industrial Relations of the State of California. The general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in this locality for each craft, classification, predetermined increases, if applicable, or type of workman needed to execute this contract are from the State of California Director of the Department of Industrial Relations, and may be obtained by going to the website. Copies of these rates are also on file in the Office of Contract Compliance, Bureau of Contract Administration,

telephone (213) 847-1922 (the contact information is provided for convenience only, but it is the Operator's responsibility to obtain the current applicable phone numbers and websites in the event that those provided are no longer correct).

**Section 22. Improvement Bond and Performance Bond.**

22.1. After award of the contract, but before any work is performed under the contract, Operator will be required to file a Payment Bond with LAWA to be approved by LAWA. Operator shall provide the Payment Bond on a form provided by LAWA. The Payment Bond shall be for not less than 100 percent of the amount of the work of improvement proposed by Operator to satisfy claims of material suppliers, mechanics, laborers, and subcontractors employed by it on the work. The Payment Bond shall be issued by a surety who is authorized to issue bonds in California.

22.2. After award of the contract, but before any work is performed under the contract, Operator will be required to file a Performance Bond with LAWA to be approved by the LAWA. Operator shall provide the Performance Bond on a form provided by LAWA. The Performance



Bond shall be for 100 percent of the amount of the work of improvement proposed by the contractor to guaranty faithful performance of all work. The Performance Bond shall be issued by a surety who is authorized to issue bonds in California.

**Section 23. Wage and Earnings Assignment Orders/Notices of Assignments.**

23.1. Operator and/or any subcontractor are obligated to fully comply with all applicable state and federal employment reporting requirements for Operator and/or subcontractor's employees.

23.2. Operator and/or subcontractor shall certify that the principal owner(s) are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignments applicable to them personally. Operator and/or subcontractor will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments in accordance with Cal. Family Code Sections 5230 et seq. Operator or subcontractor will maintain such compliance throughout the term of this Agreement.

**Section 24. Recitals Incorporated.** The Recitals set forth above and the Exhibits attached to this Agreement are each incorporated into the body of this Agreement as if set forth in full.

**Section 25. Assignment of Anti-Trust Claims.**

Operator may be subject to California Government Code Sections 4550 – 4554. If applicable, Operator offers and agrees that, it will assign to LAWA all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act or under the Cartwright Act, arising from purchases of goods, services, or materials by the Operator. Such assignment is made and becomes effective at the time LAWA tenders final payment to the Operator.

**Section 26. Title 14, Part 77; Solar Glare Hazard Analysis.**

26.1 Operator shall comply with Federal regulation, Title 14 Part 77 (14 CFR Part 77), for the Site Location. Operator shall be required to provide a Solar Glare Hazard Analysis for FAA review and approval for the Site Location. Once the Solar Glare Hazard Analysis for the Site Location is approved by FAA, Operator shall provide two (2) copies of the Solar Glare Hazard Analysis to LAWA prior to the Commercial Operation Date.

26.2. Operator specifically agrees that LAWA shall not be liable or responsible to Operator for any damage, injury, economic loss or deprivation which may develop or arise by reason of any denial or conditions placed upon Operator at the Site Location by FAA in its review of the Solar Glare Hazard Analysis or review of Operator's compliance with any other regulation. Operator agrees not to institute any legal action or make any claims with regard to any such FAA regulations or requirements.

**Section 27. Contractor Responsibility Program.**

Operator shall comply with the provisions of the Contractor Responsibility Program adopted by the Board. The Executive Directives setting forth the rules, regulations, requirements and penalties of the Contractor Responsibility Program and the Pledge of Compliance Form is attached hereto as Exhibit Q and incorporated herein by reference.

**Section 28. Faithful Performance Guarantee.**

28.1. Operator shall furnish to LAWA immediately upon LAWA's delivery to Operator of a Notice to Proceed to commence construction of the PV System the Site Location, and maintain throughout the term of this Operating Agreement and for sixty (60) days following expiration or earlier termination of this Agreement, a Faithful Performance Guarantee ("FPG") to secure the faithful performance by Operator of all the terms, provisions, and covenants contained herein including, but not limited to, the payment of the Monthly Payment and any other specified compensation or reimbursement for the planned improvements or maintenance not made by Operator. Such FPG shall be separate from any other guarantee(s) to LAWA by Operator. The initial amount of said FPG for the PV System at its the Site Location shall be as provided in Exhibit B and the total amount of the FPG shall be six (6) times the estimated Operating Payment. Any adjustments to the Monthly Payment, pursuant to Section 7 herein and or adjustment to Exhibit A, shall also result in a commensurate adjustment to the FPG, pursuant to Subsections 28.2 and 28.3 below but in no event shall the FPG be greater than six (6) times the amount of the total Monthly Payment. If all or any part of the FPG is used to pay delinquent account as set forth in Section 7.1.4.2, Liquidated Damages, for Delinquent Payment herein, Operator shall within sixty (60) days after draw down, replenish said FPG so that the FPG equals the amount stated in Exhibit B.

28.2. If Operator has previously provided such FPG to LAWA and if, for any reason, Operator's monthly monetary obligation to LAWA for use of the Site Location under this Operating Agreement is thereafter increased in excess of ten percent (10%), then the amount of the FPG shall, within sixty (60) days after receiving written notice from LAWA, be correspondingly increased to a sum equal to six (6) times the new Monthly Payment amount prescribed under this Operating Agreement.

28.3. If Operator has previously provided such FPG to LAWA and if, for any reason, Operator's monthly monetary obligation to LAWA for use of the Site Location under this Operating Agreement is thereafter decreased in excess of ten percent (10%), then the amount of the FPG shall, within sixty (60) days following written notice to LAWA by Operator, be correspondingly decreased to a sum equal to three (3) time of the new Monthly Payment amount prescribed under this Operating Agreement.

28.4. FPGs of Twenty Five Thousand Dollars (\$25,000) or less shall be in the form of a Cashier's Check, Company Check, Money Order, Certificate of Deposit or Irrevocable Letter of Credit. FPGs in excess of Twenty Five Thousand Dollars (\$25,000) shall be in the form of an Irrevocable Letter of Credit. Letters of Credit shall be self-renewing from year-to-year and shall



remain in full force and effect for a minimum period of ninety (90) days following termination or cancellation of the Operating Agreement. However, the Irrevocable Letter of Credit may be subject to termination upon sixty (60) days written notice (subject to Subsection 28.5), provided that, Operator shall first give LAWA notice in writing of its intent to terminate the Letter of Credit and provide a replacement Irrevocable Letter of Credit to LAWA so that there is no lapse in coverage. All FPGs must be approved as to form by the City Attorney.

28.5. Operator shall furnish the FPG upon issuance of the Notice to Proceed or within sixty (60) days following notice of adjustment of the Monthly Payment as provided above. If, for any reason, said FPG is not provided by Operator and/or is not thereafter maintained in sufficient amount throughout the term hereof, or replenished within sixty (60) days of drawdown and notice thereof to Operator, LAWA, may, upon giving Operator (and any Financing Parties, if applicable) a thirty (30) day advance written notice, and subject to Article 1, Section 9.2.2, pursue the remedies specified in Article 1, Section 8.2 following the occurrence of a Default Event. Within sixty (60) days of the expiration or earlier termination of this Operating Agreement, LAWA shall relinquish to Operator said FPG (or the balance remaining). The FPG shall be submitted to:

Los Angeles World Airports  
Attn: Accounting/Revenue FPG Administrator  
PO Box 92216  
Los Angeles CA 90009-2216

28.6. On the date that the LAWA consents to a new guarantor pursuant to Section 32, if any, but no later than one hundred eighty (180) days from the Site Delivery Date, and provided Operator is not otherwise in Default, the FPG shall be reduced to an amount equal to three (3) times the amount of the total Monthly Payment and LAWA shall return the difference to Operator no later than ten (10) Business Days following the date that LAWA provides written notice to Current Energy that it consents to the replacement guarantor.

## **Section 29. Audits.**

LAWA may, at its sole discretion and with reasonable notice to Operator, require Operator to provide access to all records and other information necessary to perform an audit of Monthly Payments, fees, other charges paid and payable to LAWA, and any required information for payments by LAWA to Operator, including but not limited to invoices and proof of payments related to reimbursement for Operator improvements and other Operator- required investments. LAWA shall have the right to access such records and information for five (5) years past the end of the fiscal year in which they were generated and up to five (5) years past the expiration or early termination of this Agreement. Operator shall retain all records and other information necessary to perform an audit as described above for a minimum of five (5) years.

**Section 30. Taxes, Permits and Licenses.**

30.1. Operator shall pay any and all taxes of whatever character that may be levied or charged upon Operator's improvements, fixtures, equipment, or other property thereon or upon Operator's use thereof. Operator shall also pay all license or permit fees necessary or required by law or regulation for the conduct of Operator's business or use of the Site Location.

30.2. If a claim is made against LAWA for any of the above charges, LAWA shall promptly notify Operator in writing; provided, however, that failure by LAWA to give such notice shall not constitute a waiver of Operator's obligation to pay such taxes, license and/or permit fees.

**Section 31. Attorney's Fees.**

If LAWA shall, without any fault, be made a party to any litigation commenced by or against Operator arising out of Operator's use or occupancy of the Site Location, then Operator shall pay all costs, expenses, and reasonable attorney's fees incurred by or imposed upon LAWA in connection with such litigation. Each party shall give prompt notice to the other of any claim or suit instituted against it that may affect the other party.

**Section 32. Guaranty Requirement.**

Upon execution of this Agreement, Operator shall furnish to LAWA and maintain throughout the Term and for sixty (60) days following expiration or earlier termination of this Agreement, a Guaranty ("Guaranty") from Current Energy, LLC (the "Guarantor"), in the form of Exhibit S attached hereto. This Guaranty shall become effective upon execution of this Lease. Notwithstanding the above, at such time as Current Energy enters into an agreement with a finance partner for the Site Location described in this Agreement, Current Energy may submit a written request to the LAWA CEO to replace the Guarantor with Current Energy's financing partner, subject to LAWA's review and approval. This Guaranty is intended to be a present obligation of a future contingent commitment.

**Section 33. Miscellaneous Provisions.**

33.1. Fair Meaning. The language of this Agreement shall be construed according to its fair meaning, and not strictly for or against either LAWA or Operator.

33.2. Section Headings. The Section headings appearing herein are for the convenience of LAWA and Operator, and shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of this Agreement.

33.3. Void Provisions. If any provision of this Agreement is determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision

of this Agreement, and all such other provisions shall remain in full force and effect. In the event that any of the provisions, or portions or applications thereof, of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, LAWA and Operator shall endeavor to negotiate an adjustment in the provisions of this Agreement with a view toward effecting the purpose of this Agreement, and the validity and enforceability of the remaining provisions, portions or applications thereof shall not be affected thereby.

33.4. Two Constructions. It is the intention of the parties hereto that if any provision of this Agreement is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

33.5. Laws of California. This Agreement, and every question arising hereunder, shall be construed, determined and enforced in accordance with the laws of the State of California. Venue shall lie in the appropriate U.S. Federal Court or California Superior Court located in Los Angeles County.

33.6. Gender. The use of any gender herein shall include all genders, and the use of any number shall be construed as the singular or the plural, all as the context may require.

33.7. Ordinance and Los Angeles Administrative Code (hereinafter referred to as "Code") Language Governs. Ordinance and Code Exhibits are provided as a convenience to the parties only. In the event of a discrepancy between the Exhibits and the applicable ordinance or code language, or amendments thereto, the language of the ordinance or code shall govern.

33.8. Waiver. The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of any other term, covenant, or condition, or of any subsequent breach of the same term, covenant, or condition. The subsequent acceptance of any monies hereunder by LAWA shall not be deemed to be a waiver of any preceding breach by Operator of any term, covenant, or condition of this Agreement other than the failure of Operator to pay the particular monies so accepted, regardless of LAWA's knowledge of such preceding breach at the time of acceptance of such monies.

33.9. Entire Agreement. This Agreement, including its Exhibits, contains the entire agreement between the parties hereto and supersedes any and all prior written or oral agreements between them concerning the subject matter contained herein. There are no representations, agreements or understandings, oral or written, between and among the parties relating to the subject matter contained in this Agreement which are not fully set forth herein. This is an integrated Agreement.

33.10. Amendments to Ordinances and Codes. The obligation to comply with any Ordinances and Codes that have been incorporated into this Agreement by reference shall extend to any amendments which may be made to those Ordinances and Codes during the term of this

Agreement.

33.11. Force Majeure. Notwithstanding any other provision hereof, neither the Operator nor the LAWA shall be held responsible or liable for failure to meet their respective obligations under this Agreement, if such failure shall be due to Force Majeure or other causes beyond the Operator's or LAWA's control. Such causes include but are not limited to: strikes, fire, flood, civil disorder, acts of God or the public enemy, acts of the Federal Government or any unit of state or local government in either sovereign or contractual capacity, insurrection, epidemics, freight embargos or delay in transportation, and changes in federal, state or local laws.

33.12 Notices. Written notices to LAWA hereunder shall be sent to the Chief Executive Officer with a copy sent to the City Attorney of the City of Los Angeles and addressed to said parties at:

Deputy Executive Director  
Commercial Development Group  
Department of Airports  
1 World Way  
Post Office Box 92216  
Los Angeles, CA 90009-2216

Chief Executive Officer  
Department of Airports  
1 World Way  
Post Office Box 92216  
Los Angeles, CA 90009-2216

With a copy to:

City Attorney  
Department of Airports  
1 World Way  
Post Office Box 92216  
Los Angeles, CA 90009-2216

or to such other address as LAWA may designate by written notice to Operator. Copies of all notices shall also be e-mailed to [CDG-Tenant-Notices@lawa.org](mailto:CDG-Tenant-Notices@lawa.org).

33.13 Written notices to Operator hereunder shall be given by registered or certified mail, postage prepaid, and addressed to:

Current Energy LLC  
Attn: Legal Department  
230 Park Avenue, Suite 845  
New York, NY 10169

25876 The Old Road #418  
Stevenson Ranch, CA 91381

or to such other address as Operator may designate by written notice to LAWA.

33.13.1. The execution of any such notice by the Chief Executive Officer shall be as effective as to Operator as if it were executed by Board or by Resolution or Order of said Board, and Operator shall not question the authority of the Chief Executive Officer to execute any such notice.

33.13.2. All such notices, except as otherwise provided herein, may either be delivered personally to the Chief Executive Officer or to the Office of the City Attorney, Airport Division, in the one case, or to Operator in the other case, or may be deposited in the United States mail, properly addressed as aforesaid with postage fully prepaid by certified or registered mail, return receipt requested, and shall be effective five (5) days after deposit in the mail, or may be delivered by a nationally recognized overnight commercial courier service that requires the recipient's signature for delivery, and shall be effective one (1) business day after delivery to such courier.

33.14 Counterparts and Electronic Signatures. This Agreement and any other document necessary for the consummation of the transaction contemplated by this Agreement may be executed in counterparts, including counterparts that are manually executed and counterparts that are in the form of electronic records and are electronically executed. An electronic signature means a signature that is executed by symbol attached to or logically associate with a record and adopted by a party with the intent to sign such record, including facsimile or e-mail signatures. All executed counterparts shall constitute one agreement, and each counterpart shall be deemed an original. The parties hereby acknowledge and agree that electronic records and electronic signatures, as well as facsimile signatures, may be used in connection with the execution of this Agreement and electronic signatures, facsimile signatures or signatures transmitted by electronic mail in so-called PDF format shall be legal and binding and shall have the same full force and effect as if a paper original of this Agreement had been delivered that had been signed using a handwritten signature. All parties to this Agreement (i) agree that an electronic signature, whether digital or encrypted, of a party to this Agreement is intended to authenticate this writing and to have the same force and effect as a manual signature; (ii) intended to be bound by the signatures (whether original, faxed, or electronic) on any document sent or delivered by facsimile or electronic mail or other electronic means; (iii) are aware that the other party(ies) will rely on such signatures; and, (iv) hereby waive any defenses to the enforcement of the terms of this Agreement based on the foregoing forms of signature. If this Agreement has been executed by electronic signature, all parties executing this document are expressly consenting, under the United States Federal Electronic Signatures in Global and National Commerce Act of 2000 ("E-SIGN") and the California Uniform Electronic Transactions Act ("UETA") (California Civil Code

§1633.1 et seq.), that a signature by fax, e-mail, or other electronic means shall constitute an Electronic Signature to an Electronic Record under both E-SIGN and UETA with respect to this specific transaction.

[SIGNATURES ON FOLLOWING PAGE]



IN WITNESS WHEREOF, LAWA has caused this Agreement to be executed on its behalf by Chief Executive Officer and Operator has caused the same to be executed by its duly authorized officers, all as of the day and year first hereinabove written.

**APPROVED AS TO FORM:**

**CITY OF LOS ANGELES**

By signing below, the signatory attests that they have no personal, financial, beneficial, or familial interest in this Contract.

\_\_\_\_\_  
City Attorney

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Deputy/Assistant City Attorney

By \_\_\_\_\_  
Chief Executive Officer  
Department of Airports

**ATTEST:**

By                       
Secretary (Signature)

CHRISTOPHER CHOI  
Print Name

[SEAL]

**CURRENT ENERGY LLC**

By                       
Signature

PATRICK DELOPP  
Print Name

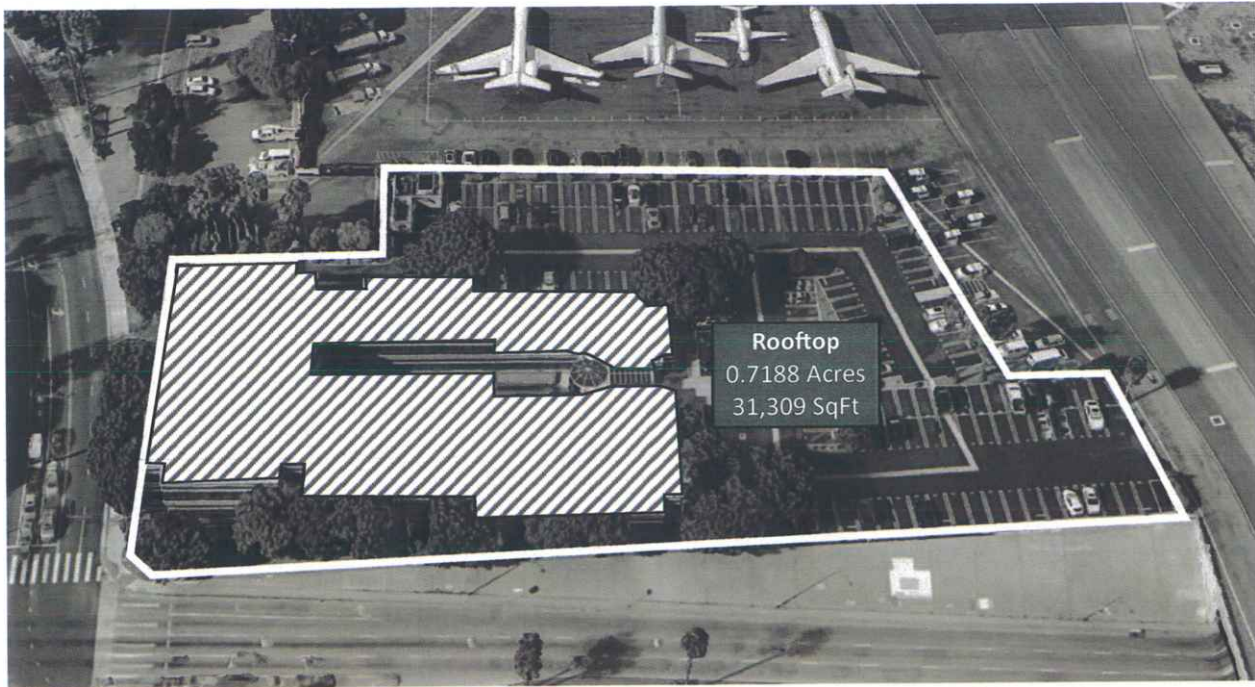
MANAGING PARTNER  
Print Title

**EXHIBIT A**  
**SITE LOCATION**

-----

**Exhibit A**  
**Site Location No. 5**

**Site Location #5: 16461 Sherman Way**



**EXHIBIT B**  
**PAYMENT SCHEDULE**

**Exhibit B**  
**Payment Schedule**  
**Current Energy LLC**  
**Site Location No. 5**  
**16461 Sherman Way**

**PAYMENTS**

Fees and other charges will commence on the Commercial Operation Date. Operator shall pay to LAWA as a monthly payment the greater of Site Location Fee and Operating Payment.

**Payment Schedule From Commercial Operation Date**

	<b><u>Monthly</u></b>
<b><u>Site Location Fee:</u></b>	<b><u>Payment</u></b>
[Rooftop #1: 0.7188 Acres @ \$7,020.45 Per Acre Per Year/12] <sup>1</sup>	<b>\$420.52</b>
<b><u>Operating Payment:</u></b>	
[\$0.0297 per kWh of energy purchased by DWP <sup>2, 3</sup> ] (estimated monthly average) <sup>4</sup>	<b>\$765.67</b>
<b><u>Interconnection Fee:</u></b>	
[Interconnection Site 100 SqFt @ \$1.36 Per Square Feet Per Year/12] <sup>1</sup>	<b>\$11.33</b>
<b><u>System Size</u></b>	
0.19056 MW or 190.56 kW	
Operator shall pay to LAWA as a monthly payment the greater of Site Location Fee and Operating Payment	
<b>Total Site Location Fee at Commercial Operation Date:</b>	<b>\$420.52</b>
<b>Total Estimated Operating Payment at Commercial Operation Date:</b> <sup>5, 6</sup>	<b>\$765.67</b>
<b>Interconnection Fee:</b>	<b>\$11.33</b>
<b>Initial Amount of the FPG ( Section 28.1):</b> <sup>7</sup>	<b>\$2,591.15</b>
<b>FPG due upon Notice to Proceed to construct PV System:</b> <sup>5</sup>	<b>\$2,297.00</b>

**Investment Tax Credit:**

Operator assumes a 30% Investment Tax Credit (ITC), as outlined in Section 7.1.2.

If Operator's ITC is 30%, its guaranteed rate will be 0.0297/kWh.

If Operator's ITC exceeds 30%, its guaranteed rate will increase by an additional \$0.0113/kWh.

If Operator's ITC exceeds 40%, its guaranteed rate will increase by an additional \$0.0230/kWh.

For example, should the PV System qualify for 40% ITC, the total monthly payment to LAWA will be based on a guaranteed rate of \$0.041/kWh (0.0297+0.0113) and at 50% ITC, the total monthly payment to LAWA will be based on a guaranteed rate of \$0.064/kWh (0.041+0.0230).

<sup>1</sup> Subject to fixed 2% adjustment every 5 years per Section 10.1.

<sup>2</sup> Guaranteed Rate of \$0.0297 per kilowatt hour as outlined in the Operating Agreement.

<sup>3</sup> PV System 0.19056 MW (or 190.56 kW) as outlined in the Operating Agreement.

<sup>4</sup> Operating Payment is a projected figure in conjunction with a 0.19056 MW system (or 190.56 kW). The final determination of Operating Payment will be contingent upon the provisions outlined in the Operating Agreement.

<sup>5</sup> Based on Operating Payment & Interconnection Fee <sup>4</sup> a projected figure calculated using estimates. Subject to change based on final PV System size.

<sup>6</sup> Monthly Operating Payment will fluctuate based on seasonal changes.

<sup>7</sup> Subject to Operating Agreement Section 28.6.

**EXHIBIT C  
PV SYSTEM  
ACTIVATION FORM**



## EXHIBIT C

### PV System Activation Form

RE: Van Nuys Airport (VNY) - Site Location 5

Between: THE CITY OF LOS ANGELES, DEPARTMENT OF AIRPORTS (LAWA) and  
Operator \_\_\_\_\_, a \_\_\_\_\_.

Operating Agreement Commencement Date (Section 1.1): \_\_\_\_\_, 2023

Operating Agreement Expiration Date (Section 1.1): \_\_\_\_\_, 20\_\_

Site Location Delivery Date (Section 1.1.4): \_\_\_\_\_, 202\_\_

Commercial Operation Date (Section 1.1.3): \_\_\_\_\_, 202\_\_

PV System Commencement Date (Section 1.1.1): \_\_\_\_\_, 202\_\_

PV System Term (Section 1.1.1): \_\_\_\_\_, 202\_\_ (“PV System Commencement  
Date”) to \_\_\_\_\_, 20\_\_ (“PV System Expiration Date”)

Extension Right (Section 1.2): NONE

In the event of a conflict between the Operating Agreement and this PV System Activation  
Form, the Operating Agreement will prevail.

**EXHIBIT D**  
**SITE LOCATION**  
**DELIVERY DATES**

**Exhibit D**  
**Site Location Delivery Dates**

<b>Site location</b>	<b>Site Location Delivery Dates</b>
Site Location #5: 16461 Sherman Way	

**EXHIBIT E**  
**POWER PURCHASE AGREEMENT**  
**[SOPPA]**  
**[to be attached after the PV System**  
**PV System Commencement Date]**

## EXHIBIT F MILESTONE OBJECTIVES

# EXHIBIT F

## MILESTONE OBJECTIVES

PROJECT 16461 SHERMAN WAY

SITE NO 5				Q3-2024			Q4-2024			Q1-2025			Q2-2025			Q3-2025			Q4-2025			Q1-2026			Q2-2026			Q3-2026		
	ITEM	DESCRIPTION	NOTES	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
ADMINISTRATIVE AND DESIGN PHASE	1	SITE CONTROL DOCUMENT SIGNED FIT APPLICATION SUBMITTED	*URGENT																											
	2	FULL DESIGN AND ENGINEERING PACKAGE TO LAWA AND AHJ																												
	3	OBTAIN LADWP FINAL DESIGN PACKAGE / P DRAWING	*URGENT																											
	4	START FABRICATION OF LONG LEAD TIME ITEMS	*URGENT																											
	5	OBTAIN ALL PERMITS AND NTP FROM LAWA																												
	6	OBTAIN SOPPA AND IA SIGNATURE FROM LADWP	*URGENT																											
CONSTRUCTION PHASE	7	FULL SITE SURVEY AND VERIFICATION OF ALL EXISTING CONDITIONS																												
	8	UNDERGROUND AND CIVIL WORK																												
	9	INSTALL SWITCHGEAR																												
	10	INSTALL PV MODULES AND INVERTERS																												
	11	MAKE ALL FINAL CONNECTIONS																												
	12	INTERCONNECT SYSTEM, CONNECT TO GRID																												
CLOSE OUT	13	TEST AND COMMISSION, TROUBLESHOOT AND VERIFY MONITORING																												
	14	PTO ISSUANCE																												
	15	PUNCHLIST ITEMS																												
	16	FINAL CLOSE OUT PACKAGE, AS BUILT ISSUANCE																												

\* NOTE: LADWP LEAD TIMES ARE SUBJECT TO CHANGE AND THEY CAN AND DO IMPACT PROJECT SCHEDULE / TIMELINES



**EXHIBIT G**  
**FORM OF INTERCONNECTION**  
**AGREEMENT AND EXECUTED**  
**INTERCONNECTION AGREEMENT**

STANDARD OFFER  
FOR FEED-IN TARIFF CUSTOMER GENERATION  
INTERCONNECTION AGREEMENT

BETWEEN

\_\_\_\_\_  
(INTERCONNECTION CUSTOMER)

AND

CITY OF LOS ANGELES  
ACTING BY AND THROUGH THE  
DEPARTMENT OF WATER AND POWER

Project Location \_\_\_\_\_

\_\_\_\_\_  
LADWP NO. \_\_\_\_\_

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This Agreement is made and entered into by and between CITY OF LOS ANGELES ACTING BY AND THROUGH THE DEPARTMENT OF WATER AND POWER (LADWP) and \_\_\_\_\_, an LADWP customer (Customer), sometimes referred to singularly as "Party" and collectively as "Parties", who agree as follows:

1. **RECITALS:** This Agreement is made with reference to the following facts, among others:

1.1 Customer is currently purchasing retail Electric Service from LADWP at the Customer's Site Location:

\_\_\_\_\_  
\_\_\_\_\_

Electric Service at this location is being provided pursuant to the terms and conditions of the applicable Rate Ordinance(s) or rate contract(s).

1.2 Customer currently has, or intends to design, construct, own, operate, and maintain, at its sole risk and expense, a Generation Facility to operate in parallel with LADWP's electric system. The Generation Facility has or will have an installed nameplate rating of \_\_\_\_\_ kilowatts (kW). The Generation Facility is more fully described in Exhibit A of this Agreement.

1.3 If it is deemed necessary by LADWP to do so after evaluating the Generation Facility specifications, LADWP will design, construct, own, operate, and maintain an LADWP Facility and make any necessary modifications to LADWP's electric system for the intended safe operation of the Generation Facility in parallel with LADWP's electric system. Customer agrees to reimburse LADWP for all actual costs (direct and indirect) incurred in performing such work. If the LADWP Facility is constructed, a description of the LADWP Facility will be attached as Exhibit B of this Agreement after such construction.

2. **DEFINITIONS:** The definitions, terms, conditions, and requirements provided in the applicable Rate Ordinance(s) or rate contract(s), the Electric Service Requirements, the Standard Offer Power Purchase Agreement, and the Rules are incorporated in and made a part of this Agreement by reference. The following additional terms, when initially capitalized, whether in the singular or plural tense, shall mean:

2.1 **Agreement:** This Standard Offer for LADWP Feed-in-Tariff Customer Generation Interconnection Agreement.

- 2.2 Authorized Representative: The representative or designated alternate of a Party appointed in accordance with Section 13 of this Agreement.
- 2.3 Capacity: The total nominal nameplate alternating current rating; however, for a Customer Generation Facility utilizing solar photovoltaic (PV) technologies, Capacity shall mean the CEC-AC system rating.
- 2.4 CEC-AC: The solar PV system alternating current rating based upon the product of the Photovoltaics for Utility Scale Applications (PVUSA) Test Conditions rating of the module, module quantity, and the inverter efficiency.
- 2.5 Customer: The LADWP customer or Feed-In Tariff applicant required to establish a customer account for the project at the Customer Site Location.
- 2.6 Customer Generation Facility: All of Customer's electrical and mechanical equipment associated with the generation of electricity at the Customer's location.
- 2.7 Customer's Site Location: As described in Subsection 1.1 of this Agreement.
- 2.8 Effective Date: As defined in Section 26 of this Agreement.
- 2.9 Electric Service: As defined in the Rules.
- 2.10 Electric Service Requirements: Requirements prescribed in writing by LADWP in effect at the time this Agreement is executed, and all revisions thereto or replacements thereof, which are necessary and proper for the regulation of any electric service installed, operated, and maintained within the City of Los Angeles. The Electric Service Requirements shall be in conformance with the Charter of the City of Los Angeles and the Rules.
- 2.11 Emergency Condition: A condition or situation: (1) that in the good faith judgment of the Party making the claim is imminently likely to endanger life or property; or (2) that, in the case of LADWP, is imminently likely (as determined in the sole judgment of LADWP) to cause a material adverse effect on the security of, or damage to, the LADWP interconnection facilities or the electric systems of LADWP or others to which the electric system of



LADWP is directly connected; or (3) that, in the case of the Customer, is imminently likely (as determined in a non-discriminatory manner in good faith) to cause a material adverse effect on the security of, or damage to, Customer's Generation Facility or Customer's interconnection facilities. System restoration and LADWP's black start shall be considered Emergency Conditions. Customer is not obligated by this Agreement to possess black start capability.

- 2.12 Generation Facility: All of Customer's electrical and mechanical equipment basically described in Exhibit A that is associated with the generation of electricity at Customer's Site Location. A single-line diagram of the Generation Facility shall be attached as part of Exhibit A of this Agreement.
- 2.13 In-Service Date: The date of initial interconnection of the Generation Facility to LADWP's electric system.
- 2.14 Interconnection Costs: All reasonable costs, as determined by LADWP in accordance with Prudent Utility Practices, including, but not limited to, planning, engineering, design, supervision, material procurement, construction, quality assurance and inspection, testing, metering, maintenance, negotiation, contract administration, protection, expediting, accounting, budgeting, and other activities reasonably necessary for the interconnection and intended safe parallel operation of the Generation Facility to LADWP's electric system.
- 2.15 LADWP Facility: Electrical and mechanical equipment required and installed, owned, operated, and maintained by LADWP for the intended safe parallel operation of the Generation Facility. This equipment, further described in Exhibit B and Exhibit E of this Agreement, is deemed by LADWP to be appurtenant and/or incidental to the Generation Facility and will be located at the site of the Generation Facility.
- 2.16 Laws: All applicable statutes, ordinances, rules, orders, regulations and codes of the City of Los Angeles, the State of California, and/or Federal governmental authorities having jurisdiction, including, but not limited to, the Charter of the City of Los Angeles as amended.
- 2.17 Prudent Utility Practices: Those practices, methods, and equipment, as changed from time to time, that are commonly used in prudent engineering and operations to design and operate electric equipment lawfully and with safety, dependability, efficiency, and economy.

- 2.18 Rate Ordinance: An ordinance, in accordance with City of Los Angeles Charter Subsection 676(a) or any amendments to or replacements of that subsection, approving the rates fixed by the Board of Water and Power Commissioners of the City of Los Angeles (Board) for electric energy or surplus energy.
- 2.19 Rules: The Rules Governing Water and Electric Service in the City of Los Angeles adopted by the Board under Resolution No. 56, dated September 8, 1983, and all amendments, revisions, and replacements thereof.
- 2.20 Standard Offer Power Purchase Agreement (SOPPA): The Standard Offer Power Purchase Agreement between the LADWP and Customer, relating to the feed-in tariff project at the Project Location, as may be amended, supplemented or otherwise modified from time to time.
- 2.21 Service Point: The point of interconnection between Customer's Site Location and the LADWP electric system. If, as of the date when Customer executes this Agreement, LADWP is already using any meter(s) for Customer's account at the Customer's Site Location, such meter(s) are described in Exhibit C.
3. **AGREEMENT**: In consideration of the terms and conditions contained herein and the mutual benefit to be derived by this Agreement, the Parties further agree as follows:
- 3.1 Customer shall purchase electric service at the Customer's Site Location, as needed, solely from LADWP according to the terms and conditions of the applicable Rate Ordinance(s) or rate contract(s).
- 3.2 Customer shall pay LADWP for all costs associated with the interconnection and intended safe parallel operation of the Generation Facility in accordance with the terms and conditions contained herein.

- 3.3 LADWP may, without any liability therefor, and without prior notice, interrupt Electric Service to the Customer's Site Location in the event of an Emergency Condition. In such a case, LADWP may apportion its available supply of electricity among all customers and in a manner that appears to it most equitable under the prevailing circumstances and conditions. The restoration of interrupted Electrical Service to the Customer's Site Location, in such a case, will be performed by LADWP as rapidly as practicable and in the manner which, in the opinion of LADWP, will result in the greatest overall public benefit.
- 3.4 LADWP and Customer shall comply with the applicable Interconnected Operating Procedures set forth in Exhibit D.
- 3.5 Customer agrees to accept electric service and supply from LADWP subject to the conditions of supply as is provided by LADWP at the Customer's Site Location. LADWP will exercise reasonable diligence and care to furnish and deliver a continuous and sufficient supply of Electric Service to the Customer's Site Location, and to avoid any shortage or interruption of delivery. LADWP cannot, and does not, however, guarantee a continuous or sufficient supply of electrical current, or freedom from fluctuations of voltage, interruption of service, or shortage or insufficiency of supply.
- 3.6 Customer agrees to fully and completely hold harmless and release the City of Los Angeles, LADWP, their boards, officers, agents, employees, assigns, successors-in-interest, contractors, and sub-contractors from any equitable, tort, or statutory causes of action arising from the supply of electric service to Customer's Site Location, including, but not limited to, those due to electric voltage, fluctuations of voltage, interruptions of service for any reason or duration, shortage or insufficiency of supply, and negligence. Neither LADWP nor Customer shall be liable under any legal theory, including indemnity, warranty, contract, strict liability, or any other theory of liability, for any consequential, special, indirect or incidental damages, including, but not limited to, loss of profit, loss of use, cost of capital, or replacement power. LADWP will not be liable to Customer for interruption, shortage, or insufficiency of supply to the Customer's Site Location caused by LADWP's ordinary negligence, the negligence of others, or any cause beyond LADWP's control, or the ordinary negligence of LADWP's employees, servants, or agents. Furthermore, to the extent of liabilities expressly assumed by Customer hereunder, Customer shall provide a complete waiver of subrogation rights in favor of LADWP from all insurance carriers providing coverage to Customer.

**4. RESPONSIBILITIES OF THE CUSTOMER:**

- 4.1 Customer shall own, at its sole risk and expense, the Generation Facility in compliance with all applicable codes, Laws, Electric Service Requirements, Rules, and Prudent Utility Practices. A person or entity acting on Customer's behalf may operate and maintain the Generation Facility in compliance with all applicable codes, Laws, Electric Service Requirements, Rules Prudent Utility Practices, and this Agreement. Meeting this requirement shall not relieve Customer of its obligations pursuant to the terms and conditions of this Agreement.
- 4.2 When Customer has executed the Agreement and submits it to LADWP for LADWP's execution, Customer shall also submit the following information:
  - 4.2.1 Electrical plans including load schedules and single-line diagrams; and
  - 4.2.2 Plot and site development plans showing generator, disconnect, and metering equipment locations and LADWP access to generator, disconnect, and metering equipment locations; and
  - 4.2.3 Energy Source Information:
    - (1) Maximum kilowatt rating
    - (2) Nominal voltage output
    - (3) Voltage regulation
    - (4) Maximum fault current contribution; and
  - 4.2.4 Protective system information:
    - (1) Protective system plan
    - (2) Manufacturer's data sheets and maintenance requirements for protective equipment; and
  - 4.2.5 Any additional information required by LADWP.
- 4.3 If the LADWP Facility is modified or constructed, a written description of the LADWP Facility will be attached as Exhibit E of this Agreement after construction.
- 4.4 Review by LADWP of Customer's original specifications or of any changes or modifications to those specifications shall not be construed as confirming

or endorsing the design or as implying any warranty of safety or durability of the Generation Facility.

- 4.5 LADWP shall not, by reason of review or failure to review, be responsible for strength, details of design, adequacy or capacity of the Generation Facility or its constituent equipment, nor shall LADWP's acceptance be deemed to be an LADWP approval or endorsement of the Generation Facility.
- 4.6 Within thirty (30) calendar days following the In-Service Date or at a date mutually agreed to between the Authorized Representatives, Customer shall submit in writing to LADWP's Authorized Representative that the Generation Facility meets the standards set forth in the applicable Electric Service Requirements.
- 4.7 Customer shall operate and maintain the Generation Facility in accordance with the applicable Electric Service Requirements, Prudent Utility Practices, and this Agreement.
- 4.8 Customer shall not energize, at any time, a de-energized portion of LADWP's electric system without express written permission from LADWP's Authorized Representative.
- 4.9 The Parties recognize that, from time to time, certain improvements, additions, or other changes in the interconnection and protection equipment at the Generation Facility or elsewhere at Customer's Site Location may be required for the intended safe parallel operation of the Generation Facility with LADWP's electric system. Such improvements, additions, or other changes shall be in accordance with applicable Laws, Rate Ordinance(s), rate contract(s), Electric Service Requirements, Rules, and Prudent Utility Practices. LADWP shall have the right to require Customer to make those changes upon reasonable advance written notice from LADWP's Authorized Representative.
- 4.10 Failure of Customer to comply with Subsection 4.9 within a reasonable period of time after receipt of such written notice as provided in Subsection 4.9 may result in the Generation Facility being disconnected from LADWP's electric system pursuant to Section 7.

**5. RESPONSIBILITIES OF LADWP:**

- 5.1 LADWP shall be the sole provider of electric service required by Customer at Customer's Site Location. Electric Service provided by LADWP shall be provided in compliance with all applicable Laws, Rate Ordinance(s), rate contract(s), Electric Service Requirements, Rules, and Prudent Utility Practices.
- 5.2 If it is deemed necessary by LADWP to do so after evaluating any improvements, additions, or other changes to the Generation Facility's plans, LADWP will design, construct, own, operate, and maintain an LADWP Facility and make any necessary modifications to LADWP's electric system for the intended safe operation of the Generation Facility in parallel with LADWP's electric system, consistent with applicable Laws, Rate Ordinance(s), rate contract(s), Electric Service Requirements, Rules, and Prudent Utility Practices.
- 5.3 LADWP reserves the right to make measurements or other tests on the Generation Facility, from time to time, as specified in the Electric Service Requirements, subject to Section 11. If the measurements or tests determine that the Generation Facility does not meet the specifications of the Electric Service Requirements, LADWP will require Customer to disconnect the Generation Facility from LADWP's electric system pursuant to Section 7. Customer shall make, or cause to be made, the appropriate changes to the Generation Facility before reconnection to LADWP's electric system.
- 5.4 The Parties recognize that, from time to time, certain improvements, additions, or other changes in LADWP's electric system may be required for the intended safe parallel operation of the Generation Facility. Such improvements, additions, or other changes will be in accordance with Prudent Utility Practices. LADWP shall have the right to make those changes upon reasonable advance written notice from LADWP's Authorized Representative to Customer. LADWP shall bill Customer for such improvements, additions, or other changes in accordance with Section 8 of this Agreement.
- 5.5 LADWP shall bill Customer for the actual costs to perform work incurred in the implementation of this Agreement pursuant to Subsections 1.3, 3.2, 5.2, 5.4, 8.2, 8.4, and 8.5 of this Agreement.



## **6. METERING:**

- 6.1 LADWP shall install, at Customer's sole expense, metering equipment and recorders at the Service Point and at the output point of the Generation Facility to measure electric energy and other electric parameters, as deemed appropriate by LADWP. Such metering equipment and recorders shall be independent from and not connected to the Generation Facility's control system. Customer shall provide and maintain a dedicated analog telephone service line solely for the purpose of delivering data from metering equipment, if required, as determined by LADWP.
- 6.2 For Generation Facilities with nameplate ratings of at least 1,000 kW, Customer shall provide LADWP with the capability to remotely monitor the Generation Facility. LADWP shall install, at Customer's sole expense, telemetering equipment at the Service Point and at the output point of the Generation Facility to monitor the electrical generation at LADWP's Energy Control Center.
- 6.3 LADWP meters shall be sealed with LADWP seals only. The seals shall not be broken except when the meters are inspected, tested, or adjusted by LADWP. LADWP shall test the meters, at its own expense, in accordance with its routine practice and the Rules.
- 6.4 Customer may request testing of meters prior to their normally scheduled test dates, and LADWP shall test the meters upon request within a reasonable time. Customer shall be given reasonable notice to have a representative present at the time of meter testing. Customer shall pay for the cost of the requested meter testing if the meters are found to be within the tolerances specified within the Rules.
- 6.5 Disputes concerning alleged meter discrepancies shall be resolved in accordance with applicable Laws, Rate Ordinance(s), rate contract(s), and the Rules.

## **7. DISCONNECTION OF THE GENERATION FACILITY:**

- 7.1 LADWP shall require Customer to disconnect the Generation Facility from LADWP's electric system if Customer does not comply with the covenants of this Agreement and applicable Laws, Rate Ordinance(s), rate contract(s),

Electric Service Requirements, or Rules. Unless Subsection 7.2 applies, LADWP's Authorized Representative shall provide Customer with thirty (30) calendar days' written notice of such intent and identify the issue(s) of non-compliance before LADWP may disconnect the Generation Facility. If Customer determines that any such issue(s) cannot be cured within thirty (30) days, Customer shall so notify LADWP with written notice within thirty (30) days of receiving LADWP's written notice. Customer's written notice shall contain a statement of the reasons why the issue(s) cannot be cured or complied with within thirty (30) days, and Customer will provide an estimated schedule for curing the non-compliance. Upon receipt of such written notification from Customer, LADWP's Authorized Representative, at his or her sole discretion, may establish, after consultation with Customer, a new date to achieve compliance. If Customer cures the non-compliance issue(s) by the established date to achieve compliance, then LADWP will take no further action regarding that issue of non-compliance.

- 7.2 In accordance with procedures established in the Electric Service Requirements, LADWP shall require Customer to disconnect the Generation Facility immediately from LADWP's electric system (i) upon the occurrence of an Emergency Condition involving the Generation Facility or (ii) to allow LADWP to repair, replace, or maintain any equipment associated with LADWP's electric system.
- 7.3 Each Party shall endeavor to correct the condition on its respective electric system or equipment that resulted in the separation and shall coordinate reconnection of the Generation Facility for parallel operation.
- 7.4 LADWP shall provide for reconnection of the Generation Facility to LADWP's electric system when reasonable to do so in accordance with applicable Laws, Rate Ordinance(s), rate contract(s), Electric Service Requirements, Rules, and Prudent Utility Practices.
- 7.5 LADWP shall not be liable to Customer or any person or entity acting on Customer's behalf, including, but not limited to, any agent, designee, contractor, or lessee, for damages (of any type or nature whatsoever) resulting from the connection or disconnection of the Generation Facility from LADWP's electric system.

## **8. INTERCONNECTION BILLING DETERMINANTS:**

This Section 8 shall apply (i) if, after initial review of the Generation Facility plans and specifications or after review of any proposed improvements, additions, or other changes to the Generation Facility plans and specifications, LADWP determines that an LADWP Facility must be constructed or modifications must be made to LADWP's electric system for the intended safe operation of the Generation Facility in parallel with LADWP's electric system, or (ii) LADWP otherwise determines that modifications must be made to LADWP's electric system for the intended safe operation of the Generation Facility in parallel with LADWP's electric system.

- 8.1 For each detailed cost estimate and detailed design for the LADWP Facility and modifications to LADWP's electric system, LADWP shall bill Customer a nonrefundable amount equal to ten percent (10%) of the preliminary estimate of the Interconnection Costs. The estimate made shall be based on Generation Facility specifications, pursuant to Subsection 4.2. Upon receipt of the nonrefundable amount, LADWP shall prepare a detailed cost estimate and a detailed design in a timely manner.
- 8.2 LADWP shall bill Customer for the amount of the Interconnection Costs based on the detailed cost estimate, less the ten percent (10%) previously advanced pursuant to Subsections 1.3 and 8.1.
- 8.3 Upon receipt of the necessary funds, LADWP shall proceed with the LADWP Facility and any necessary modifications to the electric system for the intended safe parallel operation of the Generation Facility.
- 8.4 If it is determined, at the completion of the LADWP Facility, that Customer has advanced funds which are greater or less than the actual Interconnection Costs, LADWP's Authorized Representative shall make the appropriate adjustment within ninety (90) calendar days after the in-service date of the new or modified LADWP Facility. Payment shall be made within thirty (30) calendar days thereafter.
- 8.5 If it is determined, pursuant to Subsection 5.2 or 5.4 of this Agreement, that LADWP must make improvements, additions, or other changes to either the LADWP Facility or to LADWP's electric system, LADWP shall bill Customer for all costs incurred for such improvements, additions, or other changes.

**9. ELECTRIC SERVICE BILLING DETERMINATIONS:**

LADWP shall bill Customer for Electric Service after the end of each billing period. The bill shall be calculated using the applicable rate(s) in the appropriate rate schedule(s) in the applicable Rate Ordinance(s) or rate contract(s) and recorded billing data that shall consist of metered values deemed required by LADWP. The recorded billing data shall be obtained from LADWP revenue meters and recorders. Customer shall send the payment to the address specified in Subsection 10.2.

**10. BILLINGS AND PAYMENTS:**

10.1 Billings and payments pursuant to Section 8, Interconnection Billing Determinants, shall be transmitted to the following addresses:

10.1.1 If to LADWP:

Department of Water and Power of the City of Los Angeles  
PO Box 30870, Room 434  
Los Angeles, California 90030-0870  
Attention: General Accounting

10.1.2 If to Customer:

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10.2 Billings and payments pursuant to Section 6, Metering, Section 9, Electric Service Billing Determinations, and Section 13, Administration, shall be transmitted to the following addresses:

10.2.1 If to LADWP:

Department of Water and Power of the City of Los Angeles  
PO Box 51111

Los Angeles, CA 90051-5700  
Attention: Accounts Receivable

10.2.2 If to Customer:

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- 10.3 Either Party may change, by written notice to the other Party, the name or address of the person to receive invoices or payments pursuant to this Agreement.
- 10.4 All bills for Electric Service, except as provided otherwise in this Agreement, are due and payable by Customer upon presentation. Payment shall be made in accordance with the Rules.
- 10.5 If the correctness of any bill for Electric Service, or any part thereof, or if the correctness of other charges or practices of LADWP is disputed by Customer, LADWP shall conduct an investigation in accordance with the Rules.

**11. INGRESS AND EGRESS:**

- 11.1 LADWP shall have, at all times, the right of ingress to and egress from Customer's premises for the following reasons:
- 11.1.1 Any purpose related to furnishing or receiving electric energy, including, but not limited to, inspection and maintenance; or
- 11.1.2 In order to exercise any and all rights secured to LADWP by law, this Agreement, or the Rules.
- 11.2 While on Customer's premises, LADWP shall abide by Customer's safety rules and regulations.

## **12. INDEMNIFICATION:**

- 12.1 Customer shall indemnify, defend, and hold harmless the City of Los Angeles, the Board, LADWP, and their officers, agents, and employees from and against any and all liability, costs, losses, claims, demands, judgments, actions, and causes of action for personal injury, including, but not limited to, bodily injury, or for any property destruction or damage, to third parties or to either Party to this Agreement, attributable to, in whole or in part, or resulting from, the errors, acts, or omissions of Customer or any person or entity acting on Customer's behalf, including, but not limited to, any agent, designee, contractor of any tier, or lessee, in any manner arising from or in connection with this Agreement.
- 12.2 LADWP shall not be indemnified under this Section 12 for liability or loss resulting from its sole negligence or willful misconduct.

## **13. ADMINISTRATION:**

- 13.1 Within thirty (30) calendar days after the effective date of this Agreement, Customer and LADWP's Director of Resource Planning, Development, and Programs or designee shall each designate, by written notice to the other, a representative who is authorized to act in each Party's behalf with respect to those matters delegated to the Authorized Representatives. Each Party may designate an authorized alternate with full authority to act in the absence of the Authorized Representative. Each Party shall have the right to change its Authorized Representative or authorized alternate by written notice to the other Party.
- 13.2 The Authorized Representatives shall provide liaison between the Parties and a means of securing effective cooperation, interchange of information, and consultation on a prompt and orderly basis concerning the various matters that may arise, from time to time, in connection with this Agreement.
- 13.3 The Authorized Representatives shall review and attempt to resolve any disputes between the Parties under this Agreement. Should the Authorized Representatives be unable to resolve a dispute, the matter shall be referred to Customer and LADWP's Director of Resource Planning, Development, and Programs who shall use their best efforts for resolution.



- 13.4 Prior to the In-Service Date, the Authorized Representatives shall agree on written procedures pertaining to the synchronization, operation, maintenance, administration, and other activities that may require coordination between the Parties and that are not already contained in Exhibit D.
- 13.5 All actions, agreements, resolutions, determinations, or reports made by the Authorized Representatives shall be made in writing and shall become effective when signed by the Authorized Representatives.
- 13.6 Any expenses incurred by an Authorized Representative or authorized alternate in connection with their duties shall be paid by the Party they represent unless otherwise agreed to in writing by Customer and LADWP's Director of Resource Planning, Development, and Programs.
- 13.7 The Authorized Representatives shall have no authority to modify this Agreement, except that that they may mutually make any improvements, additions, or changes to the Interconnected Operating Procedures set forth in Exhibit D.

**14. DEFAULT:**

- 14.1 Default by Customer: The occurrence of any of the following shall constitute a material breach and default of this Agreement by Customer:
- 14.1.1 Failure by Customer to make payment to LADWP of uncontested amounts within the times set forth in this Agreement; or
- 14.1.2 Failure by Customer to comply with requirements pertaining to the safety of persons or property set forth herein or in the applicable Laws, Rate Ordinance(s), rate contract(s), the Electric Service Requirements, or the Rules; or
- 14.1.3 Failure by Customer to substantially observe and perform any other material provision of this Agreement within thirty (30) calendar days of receiving written notice from LADWP of the provisions of this Agreement with which LADWP believes Customer has not complied. If Customer determines that any such provision cannot be complied with within thirty (30) days, Customer shall so notify

LADWP in writing within thirty (30) days of receiving LADWP's written notice. Customer's written notice shall contain a statement of the reasons why the provision cannot be complied with within thirty (30) days, and Customer shall provide an estimated schedule for compliance with the provision. Upon receipt of such written notification from the Customer, LADWP's Authorized Representative, at his or her sole discretion, may establish, after consultation with Customer, a new date to achieve compliance. If Customer complies with the provision by the established date to achieve compliance, then LADWP will take no further action regarding that instance of non-compliance.

14.1.4 Default by Customer under the SOPPA or any Ancillary Document (as defined in the SOPPA).

14.2 Default by LADWP: Failure by LADWP to substantially observe and perform any material provision required by this Agreement, where such failure results in a condition materially harmful to Customer and continues for thirty (30) calendar days after receipt of written notice from Customer, shall constitute a material breach and default by LADWP of this Agreement, provided, however, that if the nature of such default is curable, but that the same cannot with due diligence be cured within the thirty (30) calendar day period, LADWP shall not be deemed to be in default if it commences to cure the default within the thirty (30) calendar day period and thereafter diligently prosecutes the same to completion.

15. REMEDIES UPON DEFAULT: Either Party shall be entitled to monetary damages based on proof of actual damages resulting from default of the other Party. The non-defaulting Party shall have the right to terminate this Agreement upon the occurrence of any of the events of default described in Section 14.

16. FORCE MAJEURE: Neither Party shall be considered to be in default in the performance of any of its obligations under this Agreement (other than obligations of said Party to make payments due) if failure of performance shall be due to an uncontrollable force. The term "uncontrollable force" shall mean any cause beyond the control of the Party affected, including, but not limited to, failure of or threat of failure of facilities, flood, earthquake, storm, fire, lightning, epidemic, war, civil disturbance or disobedience, labor dispute, labor or material shortage, sabotage, restraint by court order or public authority, and action or nonaction by or inability to obtain authorizations or approvals from any governmental agency or authority, which by exercise of due diligence it shall be unable to overcome.

Nothing contained herein shall be construed so as to require a Party to settle any strike or labor dispute in which it may be involved. Either Party rendered unable to fulfill any obligation under this Agreement by reason of uncontrollable force shall give prompt notice of such fact to the other Party and shall exercise due diligence to remove such inability with all reasonable dispatch.

**17. AUTHORIZATIONS AND APPROVALS:**

17.1 Each Party shall obtain all the necessary authorizations, licenses, approvals, and permits from Federal, State, or local agencies having jurisdiction.

17.2 This Agreement and all operations hereunder are subject to the applicable Laws.

**18. EFFECT OF SECTION HEADINGS:** Section headings appearing in this Agreement are inserted for convenience only and shall not be construed as interpretations of text.

**19. NONWAIVER:** None of the provisions of this Agreement shall be deemed waived unless expressly waived in writing. Any omission or failure of either Party to demand or enforce strict performance of provisions of the Agreement shall not be construed as a waiver or as a relinquishment of any rights. All provisions and rights shall continue and remain in full force and effect as if such omission or failure had not occurred.

**20. NONDEDICATION OF FACILITIES:** This Agreement shall not be construed as a dedication of any properties or facilities, or any portion thereof, by either Party to each other or the public.

**21. NO THIRD-PARTY BENEFICIARIES:** This Agreement is for the sole benefit of the Parties hereto and shall not be construed as granting rights to any person or entity other than the Parties or imposing on either Party obligations to any person other than a Party.

**22. NOTICES:**

22.1 Any written notice under this Agreement shall be deemed properly given if delivered in person or sent by registered or certified mail, postage prepaid, to the person specified below unless otherwise provided for in this Agreement:

22.1.1 If to LADWP:

Department of Water and Power of the City of Los Angeles  
PO Box 51111, Room 1255  
Los Angeles, California 90051-5700  
Attention: Director of Resource  
Planning, Development, and Programs

22.1.2 If to Customer:

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22.2 Either Party may, by written notice to the other Party, change the name or address of the person to receive notices pursuant to this Agreement.

23. **TRANSFER OF INTEREST:** Neither Party shall assign or transfer this Agreement, in whole or in part, without the prior written consent of the other Party. The consent to assign or transfer shall not be unreasonably withheld. LADWP's Director of Resource Planning, Development, and Programs or designee shall execute assignment or transfer of this Agreement or the consent to assign or transfer this Agreement.
24. **SEVERAL OBLIGATIONS:** Except as otherwise required for public entities under California Government Code Section 895 et seq. or any amendments to or replacements of that chapter, the duties, obligations, and liabilities of the Parties are several and not joint or collective. Nothing contained in this Agreement shall be construed to create an association, trust, partnership, or joint venture or to impose a trust or partnership duty, obligation, or liability on or with regard to either Party. Each Party shall be individually and severally liable for its own obligations under this Agreement.
25. **SEVERABILITY:** If any paragraph, sentence, clause, phrase, or word shall become without full effect due to any judicial decision or change in applicable

Laws, the balance of this Agreement shall remain in full force and effect provided that the purposes of this Agreement can still be fulfilled.

**26. EFFECTIVE DATE AND TERM:**

26.1 This Agreement shall become effective upon the "Effective Date", which is the first day upon which the Agreement has been executed by both Parties.

26.2 Unless terminated earlier under Section 15, this Agreement shall remain in full force and effect until terminated by mutual written agreement of the Authorized Representatives of the Parties.

26.3 Upon the date of termination of this Agreement, all rights to services provided hereunder shall cease, and neither Party shall claim or assert any continuing right to such services hereunder. However, such termination shall not affect the rights and obligations to pay money for transactions occurring prior to termination. Following the termination of this Agreement, the provisions of Section 12 shall survive for periods when Customer owns the Generation Facility.

**27. GOVERNING LAW AND VENUE:** This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the State of California and the City of Los Angeles, without regard to conflict of law principles. All litigation arising out of, or relating to, this Agreement shall be brought in a State or Federal court in the County of Los Angeles in the State of California. The Parties irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of California and waive any defense of forum non conveniens.

**28. UNDERSTANDING:** This Agreement contains the entire understanding between the Parties with respect to the subject matter hereof, and there are no other promises, terms, conditions, obligations, understandings, or agreements between the Parties with respect thereto. This Agreement supersedes all previous communications, representations, understandings, and agreements, either oral or written, between the Parties with respect to the subject matter hereof.

**29. REPRESENTATION:** Each Party has been represented by legal counsel in the negotiation and execution of this Agreement.

**30. EXHIBITS:** Exhibits A through E attached hereto are incorporated herein by this reference. All terms used in Exhibits A through E, when initially capitalized,

whether in the singular or plural tense, shall have the meaning used in this Agreement.

31. **EXECUTION:** IN WITNESS WHEREOF, the signatories hereto represent that they have been appropriately authorized to enter into this \_\_\_\_\_ - LADWP Customer Generation Interconnection Agreement on behalf of the Party for whom they sign. This Agreement is hereby executed on the day and year written below.

\_\_\_\_\_  
(Customer)  
By:

Name (Signature): \_\_\_\_\_  
Name (Print): \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

CITY OF LOS ANGELES ACTING BY AND THROUGH THE  
DEPARTMENT OF WATER AND POWER

By:  
Name (Signature): \_\_\_\_\_  
Name (Print): Martin L. Adams  
Title: General Manager and Chief Engineer  
Date: \_\_\_\_\_



**EXHIBIT A**  
**CUSTOMER GENERATION DATA SHEETS**

Facility Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Owner/Company: \_\_\_\_\_  
Contact Person: \_\_\_\_\_ Phone: \_\_\_\_\_  
Primary Product/Service of Facility: \_\_\_\_\_  
Unit Start-Up Date: \_\_\_\_\_

**SYSTEM CHARACTERISTICS**

Type of Facility [generation type]:

☐ 1. Solar photovoltaic:

Total capacity of Facility [KW DC]: \_\_\_\_\_

Total capacity of Facility [KW AC]: \_\_\_\_\_

Total capacity of Facility [KW CEC-AC]: \_\_\_\_\_

☐ 2. Other Non-Solar Photovoltaic RPS-Eligible Technology:

Generation Type: \_\_\_\_\_

Total Capacity of Facility [KW AC]: \_\_\_\_\_

Thermal \_\_\_\_\_ BTU/Hr \_\_\_\_\_ lbs/hr

Operations: Schedule \_\_\_\_\_ hours/day \_\_\_\_\_ days/year

Typical Daily Profile, O = On and X = Off

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24

**INTERCONNECTION WITH LADWP**

\_\_\_\_\_ Isolated, no connection to power grid

  X   Parallel, connected to grid to purchase power

\_\_\_\_\_ Parallel, connected to grid, utility owned or operated

\_\_\_\_\_ Electric load including planned expansions

GENERATION FACILITY DESCRIPTION

Schematic Diagram and/or Single-Line Diagram

Written Description

(Attach additional pages to this Exhibit A if necessary)

ANNUAL PLAN PRODUCTION/USE CHARACTERISTICS

OUTPUT:        Electric        \_\_\_\_\_ kWh  
                 Thermal        \_\_\_\_\_ Billion BTUs  
                 Mechanical        \_\_\_\_\_ HP-hr

CONSUMPTION: Electric        \_\_\_\_\_ kWh  
                 Thermal        \_\_\_\_\_ MM BTUs

PEAK DEMAND: Electric        \_\_\_\_\_ kWh

System Efficiency:        \_\_\_\_\_ percent

Net Heat Rate:        \_\_\_\_\_ percent

ECONOMIC CHARACTERISTICS

Capital Costs: \_\_\_\_\_

O&M Costs: \_\_\_\_\_ \$/year Fuel

Costs: \_\_\_\_\_ \$/year

Cost of Generated Electricity: \_\_\_\_\_ cents/kWh

FOR LADWP USE ONLY:

ACCOUNT REPRESENTATIVE \_\_\_\_\_

IS No. \_\_\_\_\_ VOLTAGE CONNECTION \_\_\_\_\_

## **EXHIBIT B**

### **SINGLE-LINE DIAGRAM AND EQUIPMENT LIST FOR THE LADWP FACILITY**

If the LADWP Facility is constructed, a single-line diagram and equipment list for the LADWP Facility will be attached to this Exhibit after the LADWP Facility has been designed and constructed. LADWP's Authorized Representative will provide a copy of Exhibit B for Customer's files.

## **EXHIBIT C**

### **METERS USED BY LADWP AT CUSTOMER'S SITE LOCATION**

The meter(s) that are already being used by LADWP for Customer's account at the Customer's Site Location as of the date when Customer executes this Agreement are:

## **EXHIBIT D**

### **INTERCONNECTED OPERATING PROCEDURES**

**1.0 EXHIBIT D DEFINITIONS:** For purposes of this Exhibit D only, the following terms, when initially capitalized, whether in the singular or plural tense, shall mean:

- 1.1 Accident Prevention Tags:** Temporary signs with preprinted instructions and markings that are used to restrict operation or other action so that personnel, systems, and components are protected, warn that the tagged system or component is in a condition associated with test or maintenance activities, or indicate that the system or component is under the operating jurisdiction of an organizational unit other than that of the operating personnel. Commonly used Blocking Devices, or warning devices, such as Blocking Caps, Bank in Service Caps, and Coat Hangers can be used to apply tags but are not Accident Prevention Tags.
- 1.2 Authorized Person:** A person who is authorized to receive Work Authorities on circuits and equipment from the Load Dispatcher, or from the Load Dispatcher's Field Representative. Certification as an Authorized Person is required in order to hold any form of Work Authority.
- 1.3 Blocking Device:** A blocking cap, cover, or other device that is intended to provide a physical obstacle, or a visual reminder, to aid in the prevention of incorrect or unintentional operations. Blocking devices may be used as a means to attach Accident Prevention Tags to a circuit or piece of equipment, but they may never take the place of an Accident Prevention Tag.
- 1.4 Bulk Power System:** Consists of the LADWP Power System's Generation and Transmission System.
- 1.5 Business Day:** Any day that is not a Saturday, a Sunday, or a day on which commercial banks are authorized or required to be closed in Los Angeles, California, or New York, New York.
- 1.6 Clearance:** For LADWP, a Work Authority issued by the Load Dispatcher, or from the Load Dispatcher's Field Representative, that states that the specified circuit, circuit component, or equipment is Disconnected or



isolated from specified sources of energy. It is assurance to the Authorized Person receiving the Clearance that the specified circuit, circuit component, or equipment will remain so Disconnected or isolated until the holder of the Clearance releases it. For Customer, a Work Authority that states the specified circuit, circuit component, or equipment is Disconnected or isolated from specified sources of energy. A Clearance permits the performance of work specified on the Clearance request.

- 1.7 Customer's Operational Agent: \_\_\_\_\_
- 1.8 Disconnected: As used in the preparation of electrical circuits and equipment for a Work Authority, means that a required open gap, usually visible, exists between specified sources of electric energy and the circuit component that is cleared.
- 1.9 Electric Station: Any power system facility used for the generation, transmission, or distribution of electrical energy.
- 1.10 Energy Control Center (ECC): LADWP headquarters for conducting Bulk Power System and Electric Station monitoring and control for all operation, maintenance, and modification to the power system.
- 1.11 Field Representative: An Authorized Person who is employed by LADWP and designated by that person's Superintendent to receive Work Authorities and reissue them to Authorized Persons in charge of the work, and who originates Local Work Authorities on circuits and equipment under that person's jurisdiction.
- 1.12 Industrial Station: A transformer installation located on the customer's premises and supplied from the Department's 34,500-volt electric system.
- 1.13 Load Dispatcher: A North American Electric Reliability Corporation (NERC)-certified LADWP Power System employee who is responsible for the daily operation of the LADWP Power System during normal and emergency conditions.
- 1.14 Local Work Authority: A Work Authority that originates from a facility Field Representative, rather than the Load Dispatcher. It applies to a circuit or piece of equipment not under control of the Load Dispatcher. It can include a Local Clearance or Local OK TO.
- 1.15 OK TO: For LADWP, regarding any electrical circuit or equipment, a statement from the Load Dispatcher or representative that specified work

may be done on or near the circuit or equipment. For Customer, regarding any electrical circuit or equipment, a statement from its control center that specified work may be done on or near the circuit or equipment. It is a type of Work Authority.

- 1.16 Outage Coordinator: A Senior Load Dispatcher or Load Dispatcher whose job function is to schedule outages and to take requests for Work Authorities on circuits and equipment under the jurisdiction of the ECC or the ECC Bid Desk.
- 1.17 Safe Work Area: An area that has been made ready for the specified work to be performed. Safe Work Areas are created by work preparation activities such as switching and tagging with Accident Prevention Tags, ventilation, and/or installation of barriers or barricade tape.
- 1.18 Work Authorities: For LADWP, any Clearance or OK TO issued by the Load Dispatcher or the Load Dispatcher's Field Representative to an Authorized Person for the performance of specified work by LADWP. LADWP Work Authorities can be (1) Primary Work Authorities issued by Load Dispatchers either to Field Representatives for reissue to Authorized Persons or directly to Authorized Persons, (2) Secondary Work Authorities issued by Field Representatives to Authorized Persons, or (3) Local Work Authorities issued by Field Representatives to Authorized Persons on circuits or equipment under local jurisdiction.

## 2.0 **GENERAL RESPONSIBILITIES:**

- 2.1 Except where explicitly specified in Subsection 2.2, LADWP has the sole authority and responsibility to operate and maintain any and all of its Industrial Stations at the Customer's Site Location.
- 2.2 Customer has the sole authority and responsibility to operate and maintain

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- 2.3 Customer shall comply with reliability-based directives and orders issued by LADWP in LADWP's role as Transmission Operator and Load Serving Entity unless such actions would violate safety, equipment, regulatory or statutory requirements. Under such circumstances, Customer shall immediately inform LADWP of its inability to perform the directive in accordance with NERC Standard TOP-001-1a R3.
- 2.4 LADWP shall notify at least one of the Customer contacts listed in Subsection 10.2 whenever it plans to enter Customer's Site Location.

### **3.0 OUTAGE REQUESTS: SCHEDULED AND UNSCHEDULED WORK:**

- 3.1** All requests for outages and Work Authorities will be pre-programmed whenever possible. To the extent possible, outages and other maintenance activities affecting the reliability of the interconnection or delivery of energy shall be coordinated to minimize the impact to both Parties. Customer will be notified at least three (3) Business Days in advance of all scheduled outages and non-emergency work, including visual inspections; such notification will be made to at least one of the Customer contacts listed in Subsection 10.2.
- 3.2** Scheduled Work: Requests for work and visual inspections shall be submitted to LADWP's Outage Coordinator. A Party may, in accordance with Prudent Utility Practices and in coordination with the other Party, remove from service any of its respective facilities that may impact the other Party's facilities as necessary to perform maintenance or testing or to install or replace equipment. The Outage Coordinator will coordinate outage requests, with Customer's cooperation. Requests for work shall normally be submitted at a minimum of three (3) Business Days prior to the date of the work.
- 3.3** Each Party shall, to the extent practical, provide reasonable advance notice of its planned maintenance outages, including any updates or modifications to its planned outage schedule, to the other Party prior to such outages. Such notice shall normally be submitted at a minimum of three (3) Business Days prior to the date of the associated work.
- 3.4** Unscheduled Work: Requests for work in real time shall be for urgent or emergency purposes only and shall be coordinated between LADWP's Load Dispatcher or Senior Subtransmission Dispatcher and Customer's Operational Agent.

### **4.0 SWITCHING:**

- 4.1** LADWP's ECC will direct all switching at its Industrial Station at Customer's Site Location. This includes, but is not limited to, directions to remove and to reinstall conductor connections where needed to establish electrical isolation via a physical air gap.
- 4.2** LADWP Operations personnel will perform all switching at its Industrial Station at Customer's Site Location and will notify Customer according to Subsection 4.3.

- 4.3 All switching will be coordinated between the Parties' respective control centers, with notifications made prior to commencing such switching, and will be in accordance with procedures and terms set forth in this Exhibit D. LADWP's ECC and Customer's Operational Agent will communicate with all affected parties prior to, and after completion of, all switching. No switch that has been operated and tagged in order to provide a Safe Work Area may be operated again without the approval of LADWP's ECC, the Customer's Operational Agent, and any Work Authority holders, and then only if it does not violate any outstanding Work Authorities or safety rules.

**5.0 WORK AUTHORITIES:**

- 5.1 Following completion of switching for a Clearance, OK TO, or other Work Authority, the control center requesting the Work Authority will receive said Work Authority from the other control center. If work is going to be performed by more than one Party, the respective control centers will exchange the appropriate Work Authorities.
- 5.2 LADWP's ECC will issue, and receive return of, Work Authorities for equipment under the sole operational authority of LADWP.
- 5.3 Customer's Operational Agent will issue, and receive return of, Work Authorities for equipment under the sole operational authority of Customer.
- 5.4 Upon completion of work, the control center of the performing Party will release its Work Authority, which means that the applicable facility is back under operating control. No switching to restore any equipment covered under this Exhibit D will be performed until all applicable Work Authorities on the equipment have been released, and the control centers have exchanged information on the status of, and any changes to, the circuit or terminal equipment.

**6.0 REPORTING AND DOCUMENTATION:**

- 6.1 LADWP and Customer shall keep each other informed in real time as to changes in the status of all equipment at their respective facilities that may affect the other Party.
- 6.2 Each Party will maintain appropriate records of all switching, Work Authorities, and other pertinent events in accordance with such Party's standard procedures.

6.3 A Party communicating switching instructions and reports of switching shall ensure that the information is communicated in a clear, concise, and definitive manner, shall ensure that the recipient of the communication repeats the information back correctly, and shall either acknowledge the response as correct or repeat the original statement to resolve any misunderstanding.

6.4 The English language shall be used for all communication between the control centers.

**7.0 ENERGY SCHEDULING AND CURTAILMENT:**

Customer shall immediately, but in a controlled manner, comply with LADWP's requests to curtail output of the Generation Facility if conditions on LADWP's Subtransmission System require a reduction for reliability purposes. This reduction will be for the minimum capacity and duration necessary to resolve the reliability condition.

**8.0 VOLTAGE AND MVAR CONTROL:**

Customer will operate its own voltage control equipment within the capabilities of its equipment to maintain the Subtransmission voltage limits provided by LADWP, within the reactive power capability of the Generation Facility. Customer shall be responsible for under- and over-voltage ride-through capability within the same operating envelope that LADWP uses on its Subtransmission System.

**9.0 EMERGENCY CONDITIONS:**

A Party may take necessary immediate actions under Emergency Conditions without prior notification to the other Party. Said actions shall be immediately communicated to the other Party at the earliest possible time. Any equipment interrupted by said actions shall be restored when reasonable to do so in accordance with applicable Laws, Rate Ordinance(s), rate contract(s), Electric Service Requirements, Rules, and Prudent Utility Practices.

**10.0 CONTACT INFORMATION:**

For purposes of all communications under this Exhibit D only, in accordance with applicable Laws, Rate Ordinance(s), rate contract(s), Electric Service Requirements, Rules, and Prudent Utility Practices, the following contact information shall be used:

**10.1**      If to LADWP:

Energy Control Center c/o Room 1148  
P.O. Box 51111  
Los Angeles, CA 90051-0100

Outage Coordinator      (818) 771-6651  
Load Dispatcher          (818) 771-6643  
Senior Load Dispatcher(818) 771-6640

**10.2**      If to Customer:

Mailing Address:

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Name/Title(s) of Contact(s):

Phone Number(s):

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**11.0**      **ONE-LINE DIAGRAMS:**

Facilities impacted by the Interconnected Operating Procedures contained in this Exhibit D shall be maintained by the responsible Party, in all material respects, in accordance with the depictions contained in the following One-Line Diagrams:

Number

Title



**EXHIBIT E**

**WRITTEN DESCRIPTION OF THE  
CONSTRUCTED OR MODIFIED LADWP FACILITY**

**EXHIBIT H**  
**INTENTIONALLY**  
**DELETED**

**EXHIBIT I  
BASELINE  
REPORT  
(To be provided  
by Operator)**

**EXHIBIT J**  
**LICENSE**

**LICENSE AGREEMENT**  
**BETWEEN THE CITY OF LOS ANGELES, DEPARTMENT OF AIRPORTS AND**  
**CURRENT ENERGY, A CALIFORNIA LIMITED LIABILITY COMPANY.**  
**AT VAN NUYS AIRPORT**

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[ADDRESS]

THIS LICENSE AGREEMENT ("License") is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_. 2023 ("Effective Date"), at Los Angeles, California, by and between the **CITY OF LOS ANGELES**, a municipal corporation, acting by order of and through its Board of Airport Commissioners (the ("Board")) of the DEPARTMENT OF AIRPORTS also known as Los Angeles World Airports or LAWA ("City", "LAWA" or "Licensor") and \_\_\_\_\_, a California \_\_\_\_\_ ("Licensee") (sometimes herein referred to individually as a "party" or together as "parties").

**RECITALS**

WHEREAS, LAWA owns the certain real property located at \_\_\_\_\_ Los Angeles, California, 91343 ("Property"), including all buildings, improvements, structures and fixtures located thereon (collectively, the "Premises"); and

WHEREAS, Licensee desires to obtain, and LAWA desires to provide, a nonexclusive license for the use a specified portion of the rooftops of the one or more buildings at the Property and/or other areas as described herein for Interconnection (the "Licensed Area", as more particularly defined in Exhibit "A" attached hereto and made a part hereof) for the installation, maintenance and operation of the solar photovoltaic system (the "PV System(s)"), as set forth in the certain Operating Agreement between the parties hereto and of even date herewith (the "Operating Agreement"), and subject to the terms and conditions of this License; and

WHEREAS, this License is granted for the sole purpose of effectuating performances under the Operating Agreement.

The parties hereto, for and in consideration of the covenants and conditions hereinafter contained to be kept and performed, DO HEREBY AGREE AS FOLLOWS:

1. **Grant of License.** LAWA hereby grants to Licensee and its agents and contractors a non-exclusive right to enter upon, occupy, and use the "Licensed Area", as depicted on Exhibit A, for the License Term (defined below), which Licensed Area is owned by LAWA and under the control of LAWA, together with the right of ingress and egress over the Premises to and from the Licensed Area, subject to the terms and conditions herein, for the Permitted Use. Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Operating Agreement. Notwithstanding anything to the contrary contained herein, Licensee shall have the sole right to develop and use the Premises for the Permitted Use and Licensor shall not permit the use of the Premises by any other party for solar energy purposes and/or energy storage purposes.

2. **Licensee Rights Subordinate.** The rights granted to Licensee pursuant to this License are non-exclusive and subject to the rights of LAWA (including without limitation its third party lessee(s), sublessees, permittee(s), and licensee(s)) to use the Licensed Area (and any additional real property owned by LAWA surrounding the Licensed Area) for the purposes to which it now is and may, at the option of LAWA, be devoted. This License and all rights of Licensee hereunder are subject and subordinate to all existing (as of the Effective Date) leases, easements, rights of way, declarations, restrictions or other matters of record and all existing agreements of the City with respect to the Premises. Licensee undertakes and agrees to use the Licensed Area and to exercise its rights granted under this License jointly with LAWA and other third parties authorized by LAWA, and will at all times exercise the rights herein granted in such manner as will not unreasonably interfere with the full use and enjoyment of the Licensed Area by LAWA. LAWA shall use the Licensed Area and exercise its rights with respect to the Licensed Area jointly with Licensee, and will at all times use the Licensed Area and exercise its rights with respect thereto, and will cause its lessees, sublessees, permittees, and licensees to use the Licensed Area and exercise their respects rights with respect thereto, in such manner as will not unreasonably interfere with the full use and enjoyment of the Licensed Area by Licensee (including its operation).

3. **Term.**

3.1. The term of the License ("Term") shall be concurrent with the Term of the Operating Agreement as described in Sections 1.1 therein.

3.2. This License does not provide authorization for the potential approval or construction of the PV System(s) or use of the Premises for the PV System operation prior to compliance with CEQA, NEPA and all other applicable laws.

3.3. The date on which this License expires or otherwise terminates shall be referred to herein as the "Termination Date." If the PPA or Operating Agreement for the PV System(s) are terminated for any reason, or the PV System(s) are purchased by LAWA pursuant to and as permitted by the Operating Agreement, this License shall simultaneously expire or terminate, as applicable, without any action required by LAWA or Licensee. Notwithstanding anything herein to the contrary, Licensee acknowledges that it has no right to an extension of this License or a right to a new license at the expiration of this License.

4. **Use.**

4.1. **Permitted Use.** LAWA does hereby grant to Licensee a non-exclusive license to use the Licensed Area for the purpose of the installation, development, construction, operation, management, interconnection, inspection, maintenance, repair, improvement, enhancement, alteration, replacement, and removal of the PV System and uses incidental thereto and for no other use or purpose (the "Permitted Use").

4.2. **As-Is Condition/No LAWA Warranties.** Except as otherwise expressly provided in the Operating Agreement, the Licensed Area is delivered by LAWA, and accepted by Licensee, in an "AS-IS, WHERE-IS, WITH ALL FAULTS" condition, and Licensee hereby



accepts the Licensed Area in its "as-is" condition and Licensee acknowledges that LAWA has not made any statements or representations or warranties regarding the condition of the Licensed Area and the Premises. Licensee is not relying upon any LAWA statement or representation or warranty by LAWA or any third party regarding the Licensed Area, Premises, the fitness or suitability of the Licensed Area or Premises for any particular use of Licensee, the compliance of the Premises or Licensed Area with codes or applicable law, or any other matter. Licensee has had an opportunity to inspect the Premises, including the Licensed Area and every aspect thereof and represents to LAWA that the Premises and the Licensed Area is in acceptable condition for the Permitted Use and assumes all risk associated therewith. LAWA hereby expressly disclaims and Licensee hereby waives all implied warranties including, without limitation, any warranty of merchantability or warranty of fitness for a particular use or purpose. LAWA is under no obligation to perform any work or provide any materials to prepare the Premises or Licensed Area for Licensee. Licensee agrees to surrender the Premises upon the expiration or earlier termination of this License, the Operating Agreement or the PPA, in a condition substantially similar to the condition of the Premises and Licensed Area on the date the License commences, ordinary wear and tear excepted.

4.3. Limitation on Use. Licensee shall not permit or suffer any use of the Licensed Area or any part thereof other than for the Permitted Use, or provide the PV System(s) for the use of others, without first obtaining the LAWA's written consent.

4.4. Assignments; Financing. LAWA and Licensee acknowledge and agree that Section 9 of the Operating Agreement is hereby incorporated herein by reference as though fully set forth herein and applicable to this License (i.e., with references to "this Agreement" being deemed references to "this License").

4.5. Prohibited Uses. Licensee shall not use or allow the Premises to be used for any improper, immoral, or unlawful purposes, nor shall Licensee cause, maintain or permit any nuisance in, on or about the Premises (it being acknowledged that the Permitted Use shall not constitute a nuisance).

5. License Fees. This License is entered into in partial consideration of and to facilitate the Licensee's sale of electric energy from Licensee to LADWP under the SOPPA, from which Licensee provides an annual revenue to LAWA, as further described in the Operating Agreement and SOPPA. As such, no License Fee shall accrue or be payable during the License Term, provided the Operating Agreement and SOPPA are in full force and effect.

6. Notices. Written notices to LAWA hereunder shall be sent to the Chief Executive Officer with a copy sent to the City Attorney of the City of Los Angeles and addressed to said parties at:

To LAWA:

Chief Executive Officer  
Department of Airports  
1 World Way

Post Office Box 92216  
Los Angeles, CA 90009-2216

With a copy to:

City Attorney  
Department of Airports  
1 World Way  
Post Office Box 92216  
Los Angeles, CA 90009-2216

or to such other address as LAWA may designate by written notice to Licensee. Copies of all notices shall also be e-mailed to [CDG-Tenant-Notices@lawa.org](mailto:CDG-Tenant-Notices@lawa.org).

Written notices to Licensee hereunder shall be given by registered or certified mail, postage prepaid, and addressed to:

Current Energy LLC  
Attn: Legal Department  
230 Park Avenue, Suite 845  
New York, NY 10169

25876 The Old Road #418  
Stevenson Ranch, CA 91381

or to such other address as Licensee may designate by written notice to LAWA.

The execution of any such notice by the Chief Executive Officer shall be as effective as to Licensee as if it were executed by Board or by Resolution or Order of said Board, and Licensee shall not question the authority of the Chief Executive Officer to execute any such notice.

All such notices, except as otherwise provided herein, may either be delivered personally to the Chief Executive Officer or to the Office of the City Attorney, Airport Division, in the one case, or to Licensee in the other case, or may be deposited in the United States mail, properly addressed as aforesaid with postage fully prepaid by certified or registered mail, return receipt requested, and shall be effective five (5) days after deposit in the mail, or may be delivered by a nationally recognized overnight commercial courier service that requires the recipient's signature for delivery, and shall be effective one (1) business day after delivery to such courier.

7. **Expiration or Termination.** Upon the expiration or earlier termination of this License (whether or not following an event of default), Licensee shall surrender the Licensed Area and remove the PV System as required by the Operating Agreement, including, without limitation, Section 4.1.2 of the Operating Agreement. Licensee shall have a continuing license to enter the Licensed Area for such purposes and for the purpose of accessing any transmission lines and/or related improvements and facilities constructed by Licensee as contemplated by the Operating Agreement and/or PPA in connection with dismantling and removal thereof until all

requested structures and equipment are removed. This obligation shall survive the termination of this License.

Licensee shall provide written notice to LAWA upon Licensee's removal of all requested structures and equipment from the Premises, as provided above (the "Completion Notice"). Upon delivery of the Completion Notice, LAWA (at its option) will expeditiously conduct an inspection of the Licensed Area to determine (in LAWA's reasonable discretion) if restoration has been completed by Licensee as required herein. If LAWA performs such inspection and determines that restoration has not been completed as required herein, LAWA shall provide written notice to Licensee of the same (the "Failure Notice"). Such inspection shall be performed by LAWA and the Failure Notice shall be delivered to Licensee within thirty (30) days of Licensee's delivery of the Completion Notice or such right to inspect (and to restore at Licensee's cost as provided below) shall be deemed waived by LAWA. Licensee shall have an additional fifteen (15) days from delivery of the Failure Notice to cure any items identified by LAWA in the Failure Notice. If, after such fifteen (15) day period, Licensee has not cured such items, then LAWA may restore the Licensed Area as is required to be performed by Operator herein, entirely at the expense of the Licensee. LAWA will bill the Licensee and Licensee shall promptly pay LAWA for the restoration costs.

8. **No Holding Over.** In the event Licensee continues using or accessing or remains in possession of the Licensed Area after the expiration of this License (other than in connection with the removal of the PV System as contemplated by Section 7 above) (a "Hold Over"), whether with the consent of LAWA or without the consent of LAWA, and provided that the Operating Agreement is *not* still in effect, Licensee shall become a licensee from month to month only and pay to LAWA a license fee equal to the fair market value for the use of the Licensed Area as provided in this License, as calculated in LAWA's reasonable opinion, for so long as such month to month license shall continue and such month to month license shall be subject to every other provision contained herein and such occupancy shall continue unless terminated by LAWA or Licensee giving the other at least thirty (30) days' prior written notice of the intention to terminate such access or use by Licensee. The foregoing provisions of this Section are in addition to and do not affect the right of re-entry or any right of LAWA hereunder or as otherwise provided by law, and in no way shall such provision affect any right which the LAWA may have to recover damages from Licensee for loss or liability incurred by LAWA resulting from such failure or refusal of Licensee to surrender and vacate the Licensed Area as required herein. Nothing contained in this Section shall be construed as consent by LAWA to any holding over by Licensee and LAWA expressly reserves the right to prohibit access and use of the Licensed Area by Licensee as provided in this License upon the expiration or other termination of this License. In all other respects, the use and access shall be governed by the provisions of this License.

9. **Indemnification.**

9.1. Licensee has inspected the Licensed Area, knows the condition thereof, and on behalf of itself and its successors and assigns undertakes and agrees to indemnify and hold harmless the City of Los Angeles, LAWA, the Board of Airport Commissioners of the City of Los Angeles, and all of their officers, agents, successors in interest, insurers, permitted assigns

and/or employees (individually and collectively, "Indemnitees"), and, at the option of the LAWA, defend by counsel satisfactory to the LAWA, the Indemnitees from and against any and all liens and claims of liens, suits, causes of action, claims, administrative proceedings, charges, damages (including indirect, consequential, and incidental damages), demands, judgments, civil fines, penalties, or losses of any kind or nature whatsoever that are incurred by or asserted against the Indemnitees for death, bodily injury or personal injury to any person, including but not limited to Licensee's employees, customers, invitees and agents, or persons who enter onto the Premises, or damage or destruction of any property of either party hereto, or third persons in any manner in each case to the extent caused by acts, negligence, willful misconduct, non-performance, or breach by Licensee of any term and/or condition of this contract by Licensee or its employees, contractors, agents, or invitees, covered under this License, which are incidental to, or connected in any manner with: 1) this License or 2) the Licensed Area. This indemnity shall be in addition to any other rights or remedies which Indemnitees have under law or under this License.

9.2. Licensee on behalf of itself and its successors and assigns further undertakes and agrees to indemnify and hold harmless the Indemnitees, and at the option of the LAWA, defend by counsel satisfactory to the LAWA, the Indemnitees from and against any and all liens and claims of lien, suits, causes of action, claims, administrative proceedings, charges, damages, demands, judgments, civil fines, penalties, (including but not limited to costs, expenses, and legal liability for environmental investigations, monitoring, containment, abatement, removal, repair, cleanup, restoration, remediation, penalties and fines arising from the violation of any local, regional, state, or federal law, or regulation, disbursements, and other environmental response costs), or losses of any kind or nature whatsoever that are incurred by or asserted against the Indemnitees, for death, bodily injury or personal injury to any person, including Licensee employees and agents, or damage or destruction of any property of either party hereto, or third persons in each case to the extent caused by the acts, negligence, willful misconduct, non-performance, or breach by Licensee of any term and/or condition of this contract, relating directly or indirectly to the release or spill of any legally designated hazardous material or waste, resulting from or incident to the presence upon or performance of activities by Licensee or its personnel with respect to the Licensed Area/Property covered under this License, on the part of the Licensee, or the Licensee's officers, agents, invitees, employees, or sub-licensee of any tier. This indemnity shall be in addition to any other rights or remedies which Indemnitees have under law or under this License.

10. **Assumption of Risk/Release.** To the maximum extent allowed by law, Licensee assumes any and all risk of loss, damage or injury of any kind to any person or property arising out of Licensee's use of the Licensed Area. Licensee's assumption of risk shall not include loss or damage caused by the negligence or willful misconduct by LAWA or its agents or invitees and except therefore, shall include, without limitation, loss or damage caused by any condition of LAWA's property, including without limitation any electrical transmission lines and associated structures and equipment, accident or fire or other casualty on the Licensed Area, or electrical discharge, on or near the Licensed Area. Licensee, as a material part of the consideration for this License, hereby waives all claims and demands against LAWA for any such loss, damage or injury of Licensee and/or its Personnel, except if caused by the negligence or willful misconduct



of LAWA or its agents or invitees. In that connection, Licensee waives the benefit of California Civil Code Section 1542, which provides as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party. The provisions of this Section shall survive the termination of this License.

**11. Improvements; Work on Licensed Area.**

11.1 Licensee shall not make or place any improvements in the Licensed Area except in accordance with the Operating Agreement and PPA.

11.2. Any and all improvements made by Licensee shall be at Licensee's sole cost and expense. Licensee shall retain responsibility for all such improvements during the License Term. All such improvements must be at all times in compliance with all applicable laws.

12. **Non-exclusive License.** Licensee hereby acknowledges that this License grants a non-exclusive right only. Subject to Licensee's express rights herein, Licensee is hereby notified that facilities of LAWA or other licensees of LAWA may exist on the Licensed Area. Licensee shall take reasonable precautions and actions to avoid infringement, interference, or damage to all such installations. LAWA and any of its licensees, tenants, and invitees will take reasonable precautions and actions to avoid infringement, interference, or damage to the Licensee's property and equipment.

13. **Licensee Responsible for Personnel.** Licensee shall be responsible for the training of its personnel and contractors under all applicable laws including, but not limited to, training with regard to the operation of equipment, and the handling and disposal of hazardous materials and wastes in connection with the permission herein given.

14. **Maintenance.** The responsibility for maintenance and repair of the Licensed Area and the Premises shall be as set forth in the Operating Agreement (including, without limitation, Section 6.2 thereof). During construction of the improvements, access across other LAWA property to the Licensed Area shall be between the hours of 7:00 a.m. through 7:00 p.m., Monday through Friday and 8:00 a.m. through 5:00 p.m. on Saturdays.

15. **Access Procedures.** Licensee shall access the Premises by conforming to LAWA's security and operational procedures of which it has prior written notice and shall take reasonable precautions to prevent unauthorized ingress and egress to LAWA property by Licensee's agents or invitees. There is expressly reserved unto LAWA and unto all authorized employees of said LAWA the right of continuous access, except that Licensee may, in its reasonable discretion, prohibit access to the PV System(s) (and the area immediately surrounding the PV System(s)) by any persons as required for safety and operational requirements or as otherwise required by applicable law, for a period no longer than reasonably necessary to ensure safety.

16. **Recordation of Memorandum.** Within ten (10) business days of a request from LAWA, the parties hereto shall enter into a memorandum of this License for recordation, at Licensee's sole cost and expense, in the official records of the county in which the Licensed Area is located. The parties consent and agree to execute and deliver such memorandum or amendments thereto as may be necessary to correct the legal descriptions of the Licensed Area.

17. **Governing Law and Venue.** This License shall be interpreted, governed by, and construed under the laws of the State of California or the laws of the United States, as applicable, as if executed and to be performed wholly in the State of California, the City of Los Angeles. Venue shall lie in the City of Los Angeles.

18. **Construction, Maintenance and Operations.** Requirements for Design, Construction, Installation, Maintenance and Operation of the PV Systems, as provided in the Operating Agreement, are incorporated as terms of this License and, unless otherwise specified herein, Licensee shall comply with these requirements during any work performed in the Licensed Area.

19. **No Third Party Beneficiaries.** LAWA and Licensee do not intend to create rights in or grant remedies to any third party as a beneficiary of this License Agreement or of any duty obligation, covenant or undertaking established under this License Agreement.

20. **Waivers.** Any waiver at any time by either party hereto of its rights with respect to a default under this License, or with respect to any other matter arising in connection with this License, shall not be deemed a waiver with respect to any subsequent default or other matter arising in connection therewith. Any delay in assessing or enforcing any right, shall not be deemed to be a waiver of such right, provided that all applicable statutory periods of limitation shall apply.

21. **Headings.** The titles or headings to sections shall have no effect on interpretation of provisions.

22. **Default.** The default provisions for this License shall be as set forth in the Operating Agreement (including, without limitation, Section 8 thereof).

23. **Integration; Exhibits.** This License, together with the Operating Agreement, the PPA, and the Exhibits and Schedules executed hereunder, constitutes the entire agreement and understanding between the LAWA and Licensee with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect. This License may be modified or amended only in writing, signed by the Parties in interest at the time of the modification or amendment. The Exhibits and Schedules referred to herein are integral parts hereof and thereof and are made a part of this License by reference.

In the event of a conflict between this License and Operating Agreement, the terms of the Operating Agreement shall control.

[SIGNATURES ON FOLLOWING PAGE]



IN WITNESS WHEREOF, LAWA has caused this License to be executed on its behalf by Executive Director and Licensee has caused the same to be executed by its duly authorized officers, all as of the day and year first hereinabove written.

**APPROVED AS TO FORM:**

**CITY OF LOS ANGELES**

\_\_\_\_\_  
City Attorney

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Deputy/Assistant City Attorney

By \_\_\_\_\_  
Chief Executive Officer  
Department of Airports

**ATTEST:**

**CURRENT ENERGY, LLC**

By \_\_\_\_\_  
Secretary (Signature)

By \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

[SEAL]

\_\_\_\_\_  
Print Title

**EXHIBIT A**  
**DESCRIPTION OF LICENSED AREA**  
**[see attached]**

5534401.1

**EXHIBIT K  
EQUAL  
EMPLOYMENT  
PRACTICES**

Every non-construction and construction Contract with, or on behalf of, the City of Los Angeles for which the consideration is \$1,000 or more shall contain the following provisions, which shall be designated as the **EQUAL EMPLOYMENT PRACTICES** provision of such contract:

A. During the performance of this Contract, the Contractor agrees and represents that it will provide Equal Employment Practices and the Contractor and each Subcontractor hereunder will ensure that in his or her Employment Practices persons are employed and employees are treated equally and without regard to, or because of, race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
3. The Contractor agrees to post a copy of Paragraph A., hereof, in conspicuous places at its place of business available to employees and applicants for employment.

B. The Contractor will, in all solicitations or advertisements for employees placed by, or on behalf of, the Contractor, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

C. At the request of the Awarding Authority or the DAA, the Contractor shall certify in the specified format that he or she has not discriminated in the performance of City Contracts against any employee or applicant for employment on the basis or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

D. The Contractor shall permit access to, and may be required to provide certified copies of, all of his or her records pertaining to employment and to employment practices by the awarding authority or the DAA for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of City Contracts. Upon request, the Contractor shall provide evidence that he or she has or will comply therewith.

E. The failure of any Contractor to comply with the Equal Employment Practices provisions of this contract may be deemed to be a material breach of City Contracts. The failure shall only be established upon a finding to that effect by the Awarding Authority, on the basis of its own investigation or that of the DAA. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to the Contractor.

F. Upon a finding duly made that the Contractor has failed to comply with the Equal Employment Practices provisions of a City Contract, the Contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the Awarding Authority, and all monies due or to become due hereunder may be forwarded to, and retained by, the City of Los Angeles. In addition thereto, the failure to comply may be the basis for a determination by the Awarding Authority or the DAA that the said Contractor is a non-responsible bidder or proposer pursuant to the provisions of Section 10.40 of this Code. In the event of such a determination, the Contractor shall be disqualified from being awarded a Contract with the City of Los Angeles for a period of two years, or until the Contractor shall establish and carry out a program in conformance with the provisions hereof.

G. Notwithstanding any other provision of this contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.

H. The Board of Public Works shall promulgate rules and regulations through the DAA, and provide necessary forms and required language to the Awarding Authorities to be included in City Request for Bids or Request for Proposal packages or in supplier registration requirements for the implementation of the Equal Employment Practices provisions of this Contract, and such rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive orders. No other rules, regulations or forms may be used by an Awarding Authority of the City to accomplish the contract compliance program.

I. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.

J. By affixing its signature on a Contract that is subject to this article, the Contractor shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of City Contracts.

K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with employment practices, including, but not limited to:

1. hiring practices;
2. apprenticeships where approved programs are functioning and other on-the-job training for non-apprenticeable occupations;

3. training and promotional opportunities; and
4. reasonable accommodations for persons with disabilities.

L. All Contractors subject to the provisions of this section shall include a similar provision in all subcontracts awarded for work to be performed under the Contract with the City, and shall impose the same obligations including, but not limited to, filing and reporting obligations, on the Subcontractors as are applicable to the Contractor. Subcontracts shall follow the same thresholds specified in Section 10.8.1.1. Failure of the Contractor to comply with this requirement or to obtain the compliance of its Subcontractors with all such obligations shall subject the Contractor to the imposition of any and all sanctions allowed by law, including, but not limited to, termination of the Contractor's Contract with the City.

#### SECTION HISTORY

Amended by: Ord. No. 147,030, Eff. 4-28-75; Subsecs. A., B., C., Ord. No. 164,516, Eff. 4-13-89; Subsec. C., Ord. No. 168,244, Eff. 10-18-92; Ord. No. 173,186, Eff. 5-22-00; Subsec. F., Ord. No. 173,285, Eff. 6-26-00, Oper. 7-1-00; In Entirety, Ord. No. 184,292, Eff. 6-27-16.

**EXHIBIT L**  
**AFFIRMATIVE**  
**ACTION**  
**PROGRAM**



Every non-construction and construction Contract with, or on behalf of, the City of Los Angeles for which the consideration is \$25,000 or more shall contain the following provisions which shall be designated as the **AFFIRMATIVE ACTION PROGRAM** provisions of such Contract:

A. During the performance of a City Contract, the Contractor certifies and represents that the Contractor and each Subcontractor hereunder will adhere to an Affirmative Action Program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.

1. This section applies to work or services performed or materials manufactured or assembled in the United States.
2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
3. The Contractor shall post a copy of Paragraph A., hereof, in conspicuous places at its place of business available to employees and applicants for employment.

B. The Contractor shall, in all solicitations or advertisements for employees placed, by or on behalf of, the Contractor, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.

C. At the request of the Awarding Authority or the DAA, the Contractor shall certify on an electronic or hard copy form to be supplied, that the Contractor has not discriminated in the performance of City Contracts against any employee or applicant for employment on the basis or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.

D. The Contractor shall permit access to, and may be required to provide certified copies of, all of its records pertaining to employment and to its employment practices by the Awarding Authority or the DAA for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of City Contracts and, upon request, to provide evidence that it has or will comply therewith.

E. The failure of any Contractor to comply with the Affirmative Action Program provisions of City Contracts may be deemed to be a material breach of a City Contract. The failure shall only be established upon a finding to that effect by the Awarding Authority, on the basis of its own investigation or that of the DAA. No finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to the Contractor.

F. Upon a finding duly made that the Contractor has breached the Affirmative Action Program provisions of a City Contract, the Contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the Awarding Authority, and all monies due or to become due hereunder may be forwarded to and retained by the City of Los Angeles. In addition thereto, the breach may be the basis for a determination by the Awarding Authority or the Board of Public Works that the Contractor is a non-responsible bidder or proposer pursuant to the provisions of Section 10.40 of this Code. In the event of such determination, the Contractor shall be disqualified from being awarded a contract with the City of Los Angeles for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.

G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that the Contractor has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a City Contract, there may be deducted from the amount payable to the Contractor by the City of Los Angeles under the contract, a penalty of ten dollars for each person for each calendar day on which the person was discriminated against in violation of the provisions of a City Contract.

H. Notwithstanding any other provisions of a City Contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.

I. The Public Works Board of Commissioners shall promulgate rules and regulations through the DAA and provide to the Awarding Authorities electronic and hard copy forms for the implementation of the Affirmative Action Program provisions of City contracts, and rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive Orders. No other rules, regulations or forms may be used by an Awarding Authority of the City to accomplish this contract compliance program.

J. Nothing contained in City Contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.

K. By affixing its signature to a Contract that is subject to this article, the Contractor shall agree to adhere to the provisions in this article for the duration of the Contract. The Awarding Authority may also require Contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Program.

1. The Contractor certifies and agrees to immediately implement good faith effort measures to recruit and employ minority, women and other potential employees in a non-discriminatory manner including, but not limited to, the following actions as appropriate and available to the Contractor's field of work. The Contractor shall:

(a) Recruit and make efforts to obtain employees through:

(i) Advertising employment opportunities in minority and other community news media or other publications.

(ii) Notifying minority, women and other community organizations of employment opportunities.

(iii) Maintaining contact with schools with diverse populations of students to notify them of employment opportunities.

(iv) Encouraging existing employees, including minorities and women, to refer their friends and relatives.

(v) Promoting after school and vacation employment opportunities for minority, women and other youth.

(vi) Validating all job specifications, selection requirements, tests, etc.

(vii) Maintaining a file of the names and addresses of each worker referred to the Contractor and what action was taken concerning the worker.

(viii) Notifying the appropriate Awarding Authority and the DAA in writing when a union, with whom the Contractor has a collective bargaining agreement, has failed to refer a minority, woman or other worker.

(b) Continually evaluate personnel practices to assure that hiring, upgrading, promotions, transfers, demotions and layoffs are made in a non-discriminatory manner so as to achieve and maintain a diverse work force.

(c) Utilize training programs and assist minority, women and other employees in locating, qualifying for and engaging in the training programs to enhance their skills and advancement.

(d) Secure cooperation or compliance from the labor referral agency to the Contractor's contractual Affirmative Action Program obligations.

(e) Establish a person at the management level of the Contractor to be the Equal Employment Practices officer. Such individual shall have the authority to disseminate and enforce the Contractor's Equal Employment and Affirmative Action Program policies.

(f) Maintain records as are necessary to determine compliance with Equal Employment Practices and Affirmative Action Program obligations and make the records available to City, State and Federal authorities upon request.

(g) Establish written company policies, rules and procedures which shall be encompassed in a company-wide Affirmative Action Program for all its operations and Contracts. The policies shall be provided to all employees, Subcontractors, vendors, unions and all others with whom the Contractor may become involved in fulfilling any of its Contracts.

(h) Document its good faith efforts to correct any deficiencies when problems are experienced by the Contractor in complying with its obligations pursuant to this article. The Contractor shall state:

(i) What steps were taken, how and on what date.

(ii) To whom those efforts were directed.

(iii) The responses received, from whom and when.

(iv) What other steps were taken or will be taken to comply and when.

(v) Why the Contractor has been or will be unable to comply.

2. Every contract of \$25,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall also comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.

**L.** The Affirmative Action Program required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Awarding Authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:

1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
2. Classroom preparation for the job when not apprenticeable;
3. Pre-apprenticeship education and preparation;
4. Upgrading training and opportunities;
5. Encouraging the use of Contractors, Subcontractors and suppliers of all racial and ethnic groups; provided, however, that any contract subject to this ordinance shall require the Contractor, Subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the Contractor's, Subcontractor's or supplier's geographical area for such work;
6. The entry of qualified women, minority and all other journeymen into the industry; and
7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.

**M.** Any adjustments which may be made in the Contractor's work force to achieve the requirements of the City's Affirmative Action Program in purchasing and construction shall be accomplished by either an increase in the size of the work force or replacement of those employees who leave the work force by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.

**N.** This ordinance shall not confer upon the City of Los Angeles or any Agency, Board or Commission thereof any power not otherwise provided by law to determine the legality of any existing collective bargaining agreement and shall have application only to discriminatory employment practices by Contractors engaged in the performance of City Contracts.

**O.** All Contractors subject to the provisions of this article shall include a similar provision in all subcontracts awarded for work to be performed under the Contract with the City and shall impose the same obligations including, but not limited to, filing and reporting obligations, on the Subcontractors as are applicable to the Contractor. Failure of the Contractor to comply with this requirement or to obtain the compliance of its Subcontractors with all such obligations shall subject the Contractor to the imposition of any and all sanctions allowed by law, including, but not limited to, termination of the Contractor's Contract with the City.

#### SECTION HISTORY

Amended by Ord. No. 147,030, Eff. 4-28-75; Subsecs. A., B., C., Ord. No. 164,516, Eff. 4-13-89; Subsecs. B. and C., Ord. No. 168,244, Eff. 10-18-92; Title and Section, Ord. No. 173,186, Eff. 5-22-00; Subsec. F., Ord. No. 173,285, Eff. 6-26-00, Oper. 7-1-00; In Entirety, Ord. No. 184,292, Eff. 6-27-16.

**EXHIBIT M**  
**INSURANCE REQUIREMENTS**  
**FOR LOS ANGELES WORLD**  
**AIRPORTS**



LOS ANGELES WORLD AIRPORTS

**RISK MANAGEMENT DIVISION**  
**INSURANCE REQUIREMENTS**

**NAME:** ROOFTOP PHOTOVOLTAIC (PV) SOLAR POWER SYSTEM FOR VNY  
**AGREEMENT/ACTIVITY:** RFP / Develop. Operate and Maintain Specified Rooftop PV Systems at VNY  
**LAWA DIVISION:** Environmental Programs Division  
**WIZARD FILE NO.:** 10175

The insured must maintain insurance coverage at limits normally required of its type operation; however, the following coverage noted with an "X" is the minimum required and must be at least the level of the limits indicated. All policies must be occurrence based with the minimum required per occurrence limits indicated below.

	<b><u>LIMITS</u></b>
<b>(X) Workers' Compensation</b> (Statutory)/Employer's Liability	<b><u>Statutory</u></b>
() Voluntary Compensation Endorsement	
(X) Waiver of Subrogation	
 <b>(X) Automobile Liability</b> - covering owned, non-owned & hired auto	 <b><u>\$2,000,000 CLS</u></b>
 <b>(X) Commercial General Liability</b> - including the following coverage:	 <b><u>\$2,000,000</u></b>
(X) Premises and Operations	
(X) Contractual (Blanket/Schedule)	
(X) Independent Contractors	
(X) Personal Injury	
(X) Damage to Premises Rented to You (minimum \$1 million each occurrence)	
(X) Products /Completed Operations	
(X) Additional Insured Endorsement, specifically naming LAWA	
(Please see attached supplement).	
 <b>() Coverage for Hazardous Substances</b>	 <b><u>***\$\$\$</u></b>
*** If exposure exists; must meet contractual requirements	

\*\*\*\*\***RETURN THIS PAGE WITH EVIDENCE OF YOUR INSURANCE**\*\*\*\*\*

**SUBMIT ALL DOCUMENTS TO [RISKINSURANCE@LAWA.ORG](mailto:RISKINSURANCE@LAWA.ORG)**

04/2022



**RISK MANAGEMENT DIVISION**  
**INSURANCE REQUIREMENTS**  
**INSURANCE REQUIREMENTS FOR LOS ANGELES WORLD AIRPORTS (SUPPLEMENT)**

**The only evidence of insurance accepted will be either a Certificate of Insurance, or a True and Certified copy of the policy. The following items must accompany the form of evidence provided:**

**Insurance companies, must have an AM Best rating of A- or better, and have a minimum financial size of at least four**

**Endorsements:**

- **Workers Compensation Waiver of Subrogation Endorsement  
(WC 04 03 06 or similar)**
- **General Liability Additional Insured Endorsement**
- **Ongoing and Products - Completed Operations Endorsement  
(ISO Standard Endorsements preferred)**

**Certificate Holder:**

**Los Angeles World Airports  
PO Box 92216  
Los Angeles, CA 90009**

**A typed legible name of the Authorized Representative must accompany the signature on the Certificate of Insurance and/or the True and Certified copy of the policy.**

**A blanket/automatic endorsement is not acceptable unless you have a direct contract with LAWA.**

**Language written on a certificate of insurance is not acceptable as an endorsement.**



**EXHIBIT N**  
**SMALL/VERY SMALL BUSINESS**  
**ENTERPRISE PROGRAM AND LOCAL**  
**BUSINESS PREFERENCE PROGRAM**

**AFFIDAVIT**  
**REQUIRED OF ALL PROPOSERS/BIDDERS**  
**(This Affidavit will become part of the contract for the selected Proposer/Bidder)**

The City of Los Angeles, Los Angeles World Airports (LAWA) is committed to creating an environment that provides all individuals and businesses open access to the business opportunities available at LAWA.

**MANDATORY BUSINESS ENTERPRISE PARTICIPATION LEVELS:**

This Project has the following mandatory participation levels:	If awarded the contract, the selected Proposer/Bidder commits to achieving the following participation levels on the Project:
SBE <u>7</u> %	SBE <u>8</u> %
LBE <u>0</u> %	LBE <u>0</u> %
LSBE <u>0</u> %	LSBE <u>0</u> %
DVBE <u>0</u> %	DVBE <u>0</u> %

Achievement level(s) will be calculated as the percentage of the total contract amount for which SBEs, LBEs, LSBEs or DVBEs were utilized. The selected Proposer/Bidder's performance on the applicable business enterprise levels will be monitored throughout the duration of the contract, and the business enterprise achievement levels will be calculated at the end of the contract term.

**SUBCONTRACTORS:**

As applicable, the selected Proposer/Bidder will be required to comply with California's "Subletting and Subcontracting Fair Practices Act" (Public Contract Code Sections 4100 et seq.) ([www.leginfo.ca.gov/cgi-bin/calawquery?codesection=pcc&codebody=&hits=20](http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=pcc&codebody=&hits=20)).

Any reduction, increase, or other change to the SBE, LBE, LSBE or DBVE Subcontract amounts without prior written approval of Procurement Services Division (PSD) is considered an Unauthorized Subcontractor Substitution, and the selected Proposer/Bidder may be subject to a penalty. A subcontract dollar value increased or reduced solely as the result of a Change Order issued by LAWA to add or delete from the original scope of work shall not be subject to a penalty for an Unauthorized Subcontractor Substitution.

Proposers/Bidders must list all Subcontractors on LAWA's Subcontractor Participation Plan and include all requested information. Only PSD is authorized to grant either initial approval of Subcontractor(s) or additions, deletions, and substitutions.

**PENALTIES:**

Violation of the SBE, LBE, LSBE and DVBE Program Rules and Regulations ([http://www.lawa.org/welcome\\_LAWA.aspx?id=146](http://www.lawa.org/welcome_LAWA.aspx?id=146)) may result in financial penalties.

At the end of each project, LAWA may withhold as disputed funds 15% of the total dollar value of all subcontract(s) that appear to be in violation of the SBE, LBE, LSBE or DVBE Programs and 15% of the total dollar value of all subcontract(s) where work was performed on the project without, or prior to, approval by LAWA.

**REPORTING REQUIREMENTS:**

The selected Proposer/Bidder shall submit to LAWA, on a monthly basis, together with its invoice the Subcontractor Utilization Report listing the SBE, LBE, LSBE or DVBE subcontractors utilized during the reporting period. LAWA will not process or pay selected Proposer/Bidder's subsequent invoices if the Subcontractor Utilization Reports are not submitted with the monthly invoice.


The Contractor must submit the Final Subcontracting Report to PSD within fifteen (15) calendar days after a request for the report by PSD. Failure to comply shall result in the assessment of liquidated damages in the amount of \$100.00 per day by LAWA.

**CERTIFICATION**

The Bidder/Proposer certifies that it/he/she has read and understood the SBE, LBE, LSBE and DVBE Program Rules and Regulations (located at [http://www.lawa.org/welcome\\_LAWA.aspx?id=146](http://www.lawa.org/welcome_LAWA.aspx?id=146)) and further certifies that, if awarded the Contract, it/he/she shall fully comply with LAWA's SBE, LBE, LSBE and DVBE Programs.

Current Energy, LLC 25876 THE OLD ROAD #418 STEVENSON RANCH, CA 91381 (562) 225-8156

Company Name, Address and Phone Number

  
Signature of Officer or other Authorized Representative

September 19, 2022

Date

Steve Heiney, Principal

Print Name and Title of Officer or Other Authorized Representative

Request for Proposals for Rooftop Photovoltaic Solar Power Systems For Van Nuys Airport Properties  
Project Title

LAWA Official Site | Small Business Enterprise Program (SBE)

LOS ANGELES WORLD AIRPORTS ([lawa.org](http://lawa.org)) SBE RULES & REGS 2019

# SUBCONTRACTOR PARTICIPATION PLAN

## ATTENTION:

**You MUST list ALL anticipated subcontractors, regardless of their dollar amount or percent proposed, and regardless of whether they are certified or not.**

**You MUST fill out ALL applicable fields completely for the Prime and all subcontractors. Failure to provide complete and legible information on this form may result in your firm not receiving full certification credit.**

Request for Proposals for Rooftop Photovoltaic Solar Power Systems

Project Title: For Van Nuys Airport Properties

Today's Date: September 19, 2022

BIDDER/PROPOSER COMPANY INFORMATION		BID/PROPOSAL AMOUNT		DESCRIPTION OF PROJECT SERVICES
NAME: <u>Current Energy, LLC</u>	ETHNICITY: <u>White</u>	\$2,982,800.25		Current Energy will manage the design, engineering, procurement, and installation of the proposed project(s). Current Energy will interface with all agencies including but not limited to LADWP, LAWA, and the City of Los Angeles.  NAICS:
ADDRESS: <u>25876 THE OLD ROAD #418</u>	GENDER: <u>Male</u>			
CITY/STATE/ZIP: <u>STEVENSON RANCH, CA 91381</u>	FEDERAL TAX ID #: <u>81-5097032</u>			
CONTACT NAME: <u>Steve Heiney</u>	EMAIL: <u>steve@Currentenergy.net</u>			
TELEPHONE NO: <u>(562) 225-8156</u>				
CERTIFICATION TYPE: <input type="checkbox"/> ACDBE <input type="checkbox"/> DBE <input type="checkbox"/> DVBE <input type="checkbox"/> MBE <input type="checkbox"/> LBE <input type="checkbox"/> LSBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE				
CERTIFYING AGENCY: <input type="checkbox"/> CITY OF L.A. <input type="checkbox"/> CALIF DGS <input type="checkbox"/> CALTRANS <input type="checkbox"/> METRO <input type="checkbox"/> SBA <input type="checkbox"/> DVA <input type="checkbox"/> USWCC <input type="checkbox"/> NWBOC <input type="checkbox"/> WBEC-WEST <input type="checkbox"/> OTHER _____				
SUBCONTRACTOR COMPANY INFORMATION		\$ PROPOSED	% PROPOSED	DESCRIPTION OF PROJECT SERVICES
NAME: <u>Morgner Technology Management</u>	ETHNICITY: <u>Hispanic</u>	\$238,624.02	8%	Morgner will provide construction management support services, quality assurance/quality control, Project Controls (Schedule/Budget), Document Control and CAD Services.  NAICS: 236220, 237110, 237310, 541611, 541611 541620, 541690, 541720, 561320
ADDRESS: <u>dba Morgner Construction Management</u>	GENDER: <u>Female</u>			
CITY/STATE/ZIP: <u>1880 Century Park East, Ste 1402</u>	FEDERAL TAX ID #: <u>95-4351674</u>			
CONTACT NAME: <u>Los Angeles, CA 90067</u>	EMAIL: <u>mmorgner@morgnerco.com</u>			
TELEPHONE NO: <u>Monique Morgner Lukeman, CEO (323) 900-0030</u>				
CERTIFICATION TYPE: <input type="checkbox"/> ACDBE <input checked="" type="checkbox"/> DBE <input type="checkbox"/> DVBE <input checked="" type="checkbox"/> MBE <input checked="" type="checkbox"/> LBE <input type="checkbox"/> LSBE <input checked="" type="checkbox"/> SBE <input checked="" type="checkbox"/> WBE				
CERTIFYING AGENCY: <input checked="" type="checkbox"/> CITY OF L.A. <input checked="" type="checkbox"/> CALIF DGS <input type="checkbox"/> CALTRANS <input checked="" type="checkbox"/> METRO <input checked="" type="checkbox"/> SBA <input type="checkbox"/> DVA <input type="checkbox"/> USWCC <input type="checkbox"/> NWBOC <input type="checkbox"/> WBEC-WEST <input type="checkbox"/> OTHER <u>LGBT issued by NGLCC</u>				
NAME: <u>Argubright Construction</u>	ETHNICITY: <u>White</u>	\$357,936.03	12%	General Construction, PV Installation     NAICS:
ADDRESS: <u>18140 Index St</u>	GENDER: <u>Male</u>			
CITY/STATE/ZIP: <u>Northridge, Ca 91326</u>	FEDERAL TAX ID #: <u>20-1468445</u>			
CONTACT NAME: <u>Steve Argubright</u>	EMAIL: _____			
TELEPHONE NO: <u>(818) 402-2270</u>	<u>argubrighthanger@gmail.com</u>			
CERTIFICATION TYPE: <input type="checkbox"/> ACDBE <input type="checkbox"/> DBE <input type="checkbox"/> DVBE <input type="checkbox"/> MBE <input type="checkbox"/> LBE <input type="checkbox"/> LSBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE				
CERTIFYING AGENCY: <input type="checkbox"/> CITY OF L.A. <input type="checkbox"/> CALIF DGS <input type="checkbox"/> CALTRANS <input type="checkbox"/> METRO <input type="checkbox"/> SBA <input type="checkbox"/> DVA <input type="checkbox"/> USWCC <input type="checkbox"/> NWBOC <input type="checkbox"/> WBEC-WEST <input type="checkbox"/> OTHER _____				

SUBCONTRACTOR COMPANY INFORMATION		PROFILE INFORMATION	\$ PROPOSED	% PROPOSED	DESCRIPTION OF PROJECT SERVICES
NAME:		ETHNICITY:			
ADDRESS:		GENDER:			
CITY/STATE/ZIP:		EMAIL:			
CONTACT NAME:		FEDERAL TAX ID #:			
TELEPHONE NO:					
CERTIFICATION TYPE: <input type="checkbox"/> ACDBE <input type="checkbox"/> DBE <input type="checkbox"/> DVBE <input type="checkbox"/> MBE <input type="checkbox"/> LBE <input type="checkbox"/> LSBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE					
CERTIFYING AGENCY: <input type="checkbox"/> CITY OF L.A. <input type="checkbox"/> CALIF DGS <input type="checkbox"/> CALTRANS <input type="checkbox"/> METRO <input type="checkbox"/> SBA <input type="checkbox"/> DVA <input type="checkbox"/> USWCC <input type="checkbox"/> NWBOC <input type="checkbox"/> WBEC-WEST <input type="checkbox"/> OTHER				NAICS:	
NAME:		ETHNICITY:			
ADDRESS:		GENDER:			
CITY/STATE/ZIP:		EMAIL:			
CONTACT NAME:		FEDERAL TAX ID #:			
TELEPHONE NO:					
CERTIFICATION TYPE: <input type="checkbox"/> ACDBE <input type="checkbox"/> DBE <input type="checkbox"/> DVBE <input type="checkbox"/> MBE <input type="checkbox"/> LBE <input type="checkbox"/> LSBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE					
CERTIFYING AGENCY: <input type="checkbox"/> CITY OF L.A. <input type="checkbox"/> CALIF DGS <input type="checkbox"/> CALTRANS <input type="checkbox"/> METRO <input type="checkbox"/> SBA <input type="checkbox"/> DVA <input type="checkbox"/> USWCC <input type="checkbox"/> NWBOC <input type="checkbox"/> WBEC-WEST <input type="checkbox"/> OTHER				NAICS:	
NAME:		ETHNICITY:			
ADDRESS:		GENDER:			
CITY/STATE/ZIP:		EMAIL:			
CONTACT NAME:		FEDERAL TAX ID #:			
TELEPHONE NO:					
CERTIFICATION TYPE: <input type="checkbox"/> ACDBE <input type="checkbox"/> DBE <input type="checkbox"/> DVBE <input type="checkbox"/> MBE <input type="checkbox"/> LBE <input type="checkbox"/> LSBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE					
CERTIFYING AGENCY: <input type="checkbox"/> CITY OF L.A. <input type="checkbox"/> CALIF DGS <input type="checkbox"/> CALTRANS <input type="checkbox"/> METRO <input type="checkbox"/> SBA <input type="checkbox"/> DVA <input type="checkbox"/> USWCC <input type="checkbox"/> NWBOC <input type="checkbox"/> WBEC-WEST <input type="checkbox"/> OTHER				NAICS:	
NAME:		ETHNICITY:			
ADDRESS:		GENDER:			
CITY/STATE/ZIP:		EMAIL:			
CONTACT NAME:		FEDERAL TAX ID #:			
TELEPHONE NO:					
CERTIFICATION TYPE: <input type="checkbox"/> ACDBE <input type="checkbox"/> DBE <input type="checkbox"/> DVBE <input type="checkbox"/> MBE <input type="checkbox"/> LBE <input type="checkbox"/> LSBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE					
CERTIFYING AGENCY: <input type="checkbox"/> CITY OF L.A. <input type="checkbox"/> CALIF DGS <input type="checkbox"/> CALTRANS <input type="checkbox"/> METRO <input type="checkbox"/> SBA <input type="checkbox"/> DVA <input type="checkbox"/> USWCC <input type="checkbox"/> NWBOC <input type="checkbox"/> WBEC-WEST <input type="checkbox"/> OTHER				NAICS:	



SUBCONTRACTOR COMPANY INFORMATION	PROFILE INFORMATION	\$ PROPOSED	% PROPOSED	DESCRIPTION OF PROJECT SERVICES
NAME:	ETHNICITY:			
ADDRESS:	GENDER:			
CITY/STATE/ZIP:	EMAIL:			
CONTACT NAME:	FEDERAL TAX ID #:			
TELEPHONE NO:				
CERTIFICATION TYPE: <input type="checkbox"/> ACDBE <input type="checkbox"/> DBE <input type="checkbox"/> DVBE <input type="checkbox"/> MBE <input type="checkbox"/> LBE <input type="checkbox"/> LSBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE				
CERTIFYING AGENCY: <input type="checkbox"/> CITY OF L.A. <input type="checkbox"/> CALIF DGS <input type="checkbox"/> CALTRANS <input type="checkbox"/> METRO <input type="checkbox"/> SBA <input type="checkbox"/> DVA <input type="checkbox"/> USWCC <input type="checkbox"/> NWBOC <input type="checkbox"/> WBEC-WEST <input type="checkbox"/> OTHER _____			NAICS:	

I certify under the penalty of perjury that the information contained on this form is true and correct and that the firms listed are the subcontractors anticipated to be utilized if this project is awarded to the above prime contractor. I agree to comply with any applicable provisions for additions and substitutions, and I further understand and agree that any and all changes or substitutions must be authorized by the LAWA Procurement Services Division prior to their implementation. An amended Subcontractor Participation Plan is required for any substitution or change to Subcontractors listed on the originally submitted Plan.

<b>Participation Level(s) Proposed by Bidder/Proposer:</b>	_____ %	<input type="checkbox"/> ACDBE
	_____ %	<input type="checkbox"/> DBE
	_____ %	<input type="checkbox"/> DVBE
	_____ %	<input type="checkbox"/> LBE
	_____ %	<input type="checkbox"/> LSBE
	_____ %	<input type="checkbox"/> MBE/WBE
	<u>8</u> %	<input checked="" type="checkbox"/> SBE

<b>Goal(s) Stated in the Request for Bid/Proposal:</b>	_____ %	<input type="checkbox"/> ACDBE
	_____ %	<input type="checkbox"/> DBE
	_____ %	<input type="checkbox"/> DVBE
	_____ %	<input type="checkbox"/> LBE
	_____ %	<input type="checkbox"/> LSBE
	_____ %	<input type="checkbox"/> MBE/WBE
	<u>7</u> %	<input checked="" type="checkbox"/> SBE

  
SIGNATURE

September 19, 2022

DATE

Steve Heiney  
PRINT NAME

Principal  
TITLE

(562) 225-8156  
PHONE



# Inclusivity Approach

## Mission

Current Energy is dedicated to building a workplace that reflects America's diversity and aims to model diversity, equity, accessibility and inclusion as a core company principal.

## Approach

### WORKFORCE INCLUSIVITY

Diversity and inclusion at Current Energy is expressed through management's commitment to equality and the treatment of all individuals, empathy to all people and their background, and inclusion of all voices. We understand that the wide range of experiences and perspectives resulting from such diversity and inclusion promotes innovation and business success. It makes us creative, productive, responsive, competitive and creates value for our shareholders.

Current Energy strives to hire local, qualified, experienced people regardless of backgrounds and beliefs. We provide fair opportunities to all employees based on their individual needs. This helps ensure that our programs and processes are fair, impartial, and offer equal possible results for all of our employees.

Specifically for inclusion, we make sure that all employees feel a sense of belonging in the workplace by helping our staff feel comfortable, appreciated, and supported by the company to be their authentic selves, and work in a way that suits them. The way we promote Diversity, Equity and Inclusion includes:

- Being aware of unconscious bias.
- Changing the conversation when it lacks meaning or is unproductive.
- Promoting pay equity by identifying pay gaps
- Acknowledging holidays of all cultures
- Facilitating ongoing feedback and encouraging employees to share their input

### SUCCESSFUL ENGAGEMENT OF SUB CONSULTANTS

As it relates to our contracting community and how we approach inclusivity, we also work within network of over 500+ trades to advertise subcontracting opportunities to local, small and disadvantage businesses including women-owned, newly formed businesses, as well as the LGBTQ communities. We are committed to partnering with companies that share in our mission and align with our inclusion and diversity goals.

For example, major subcontractor, **Morgner, is a certified women, small, disadvantaged (WBE/SBE/DBE) and LGBTQ-owned** company located in Los Angeles. They have served LAWA and VNY Airport projects in varying capacities on over eleven current and completed projects including the \$4.6B APM, \$2.6B Delta Skyway Modernization, \$2B Southwest T1/T1.5 and recently was awarded Southwest's new T0 and 1E terminals where they will play an integral role as the Programs Quality Assurance Manager and Aviation Specialist. Morgner's partnership on both pursuits will play an substantial role in our overall **project management approach, representing almost 20% of the total estimated contract value.**

Additionally, Current Energy has selected **Argubright Construction, Inc., (ACI)**, as the General Contractor to provide solar installation for both Solar Rooftop and Ground Mount projects. ACI's hiring and contracting practices also aligns with our vision for inclusion, diversity and equity. They **operate locally with a staff** of nearly 20 full-time employees and has a workforce of more than **90% minority employees.** They are an equal opportunity employer who continuously involves his workforce in many decision making opportunities, creates succession planning, and focuses on expanding his workforce through education and paid training.

Lastly, we intend to partner with other trades that have yet to be identified at this juncture and will draw from our contracting community whose relevant experiences and values align with the team's.

**Table 5 - Past Performance and History of Inclusivity**

Project/Pursuit Name	Project Goal	% Goal Achieved	Participation				
			SBE	MBE/DBE	LSBE	DVBE	Other
San Diego Airport Quality/ Specialty Inspections and Testing Proposal Pursuit	8%	100%	X	X	X	X	X
SANDAG Mobility Central HUB	4.08%	54%	X	X			X
LA Metro Value Capture	23%	56.8%	X	X			X
LA Metro Union Station Strategic Advisory	30%	32.8%	X	X			X
Southwest Apron Proposal	8%	100%	X	X	X		X
The Clippers Arena Proposal Pursuit	N/A	100%	X	X	X		X

**PAST PERFORMANCE AND HISTORY OF INCLUSIVITY**

Our team has always looked for opportunities to partner with other local, small and disadvantage firms. We also understand that inclusivity is not just about the size of the firm, but the makeup of the firm. Our approach to Inclusivity has always been to extend teaming opportunities to women, minorities, disadvantage, military/veterans, and LGBTQ firms alike. Inclusivity for Current Energy means allowing every firm to carve out their success so the partnership is a meaningful one—one that lasts and hopefully continues to grow into other opportunities.

Our major subcontractor, Morgner will be assisting the project team with proper outreach and tracking of the project's outreach goals. **Table 5** represents their past performance in meeting/exceeding project SBE/DBE goals.

**SUBCONTRACTOR MANAGEMENT AND DISPUTE MANAGEMENT**

Our approach to weeding out the non-performing sub/trade contractors starts at the pre-qualifications process. The pre-qualification includes project specific requirements including RFP and contracting requirements as well as a deeper dive into the company's history, experience, capability and financial stability. We also request information about any legal proceedings or if the company has ever been barred or removed from any jobsite/project.

We also conduct a due diligent vetting with our major partners through team meetings, interviews and a review of their qualifications, business and personal reference checks. Through the vetting process, we study their business operations, structure and culture dynamics and compatibility.

Regardless if the subcontractor comes on board through a formal pre-qualification or was invited through relationship-based process, we typically manage disputes similarly. Our conflict resolution process works most effectively when the project team:

- **Makes a commitment to work together as partners**
- **Endorses common project goals**
- **Understands the plan for managing key challenges**
- **Agrees to a dispute resolution plan**
- **Participates actively in follow-up to measuring partnering progress**

We recognize that over the course of this long-duration project, conflicts may occur. Our collaborative approach to conflict resolution focuses first and foremost on promoting a team atmosphere based on respect and trust and supported by partnering principles. At the project level, we know that partnering is more than just attendance in a partnering workshop.

**First we create a collaborative project approach**

with to help identify potential problems early. By creating and culture of communication and transparency, we can spot a problem before it actually arises - and it starts with requiring the use of preliminary notices all the way down the chain. These include daily reports, weekly progress/project meetings, and monthly reporting.

**Before taking action, we try to talk it out.** We

encourage sit down discussions about the issues to help all involved parties understand everyone's position. This usually helps identify thier factors contributing to their struggles that we may not be aware of i.e. own problems as a vendor, material or workforce shortages, or issues with other subs. The time is typically utilized to create solutions to help minimize the construction impact.

**ADMINISTRATIVE FUNCTION SUPPORT**

Our team's ability to provide administrative function support comes from our Mentor-Protege program, which Morgner will tailor to this pursuit. It's designed to provide other small or emerging business entities with developmental assistance that is mutually beneficial in the areas of planning, business/finance, administration and business development, as well as other mutually agreed upon benefits as it relates to the project or contract scope.

Our goal is to improve the performance of contracts and subcontracts, foster and establish long-term business relationships, strengthen the small business community, and instill a culture of business to business support.

We believe in an instinctive approach that begins with an organization's leadership, professional resources, background, strategy, goals, and mission. Our collaboration provides a foundation that support small businesses, while allowing each firm the opportunity to develop its own niche in a challenging market.

**Business/Financial Management**

We use a method that facilitates an open forum and encourages communication with our SBE/DBE subcontractors. We identify areas of support such in finance, control, management and marketing. This

method involves tailoring to the project goals and objectives, challenges, and risks involved in fulfilling the scope for the subcontractor.

**Project Contract Administration**

In the 30 years of working with public agencies, we have gathered the experienced, understanding-- and patience necessary to satisfy and comply with all the forms, certifications and legal jargon required by a public agency project/bid. We help, often times, hand-hold subcontractors through the entire process from pre-proposal qualifications to contract requirements. Our process is involved, engaging and provides the subcontractors with a step-by-step pathway to their own contract understanding and project success.

**Business Planning and Projection**

For a small business, every aspect of projection is a challenging task due to the evolving atmosphere we face in this billion-dollar market space. Through our years of experience in understanding the political climate in our industry, we were able to share key insights that allowed our subcontractor to plan, strategize and execute the next course of action for their company.

As a small business ourselves, we understand the multiple hats owners wear to make their business succeed. Therefore, we share our resources when necessary with our colleagues and subcontractors. We also share talent resources to fulfill common goals on a project, even if it is not financially rewarding for our company. We firmly believe collaborating with our subcontractors to capitalize on our individual strengths is the key to growing together to support each other wherever we are the weakest.

**SUBCONTRACTOR PROMPT PAYMENT APPROACH**

As the prime proposer and finance manager, Current Energy will review all progress payments for accuracy and completeness and once request for payments are approved, we will comply with LAWA/NVY's 7-day prompt payment requirement to all sub-consultants and trade contractors.

**EXHIBIT O  
LIVING WAGE  
ORDINANCE**

## CHAPTER 1, ARTICLE 11

### LIVING WAGE

#### Section

- 10.37 Legislative Findings.
- 10.37.1 Definitions.
- 10.37.2 Payment of Minimum Compensation to Employees.
- 10.37.3 Health Benefits.
- 10.37.4 Employer Reporting and Notification Requirements.
- 10.37.5 Retaliation Prohibited.
- 10.37.6 Enforcement.
- 10.37.7 Administration.
- 10.37.8 City is a Third Party Beneficiary of Contracts Between an Employer and Subcontractor for Purposes of Enforcement.
- 10.37.9 Coexistence with Other Available Relief for Specific Deprivations of Protected Rights.
- 10.37.10 Expenditures Covered.
- 10.37.11 Timing of Application.
- 10.37.12 Express Supersession by Collective Bargaining Agreement.
- 10.37.13 Liberal Interpretation of Coverage; Rebuttable Presumption of Coverage.
- 10.37.14 Contracts, Employers and Employees Not Subject to this Article.
- 10.37.15 Exemptions.
- 10.37.16 Severability.

#### Sec. 10.37. Legislative Findings.

The City awards many contracts to private firms to provide services to the public and to City government. Many lessees or licensees of City property perform services that affect the proprietary interests of City government in that their performance impacts the success of City operations. The City also provides financial assistance and funding to other firms for the purpose of economic development or job growth. The City expends grant funds under programs created by the federal and state governments. These expenditures serve to promote the goals established for the grant programs and for similar goals of the City. The City intends that the policies underlying this article serve to guide the expenditure of such funds to the extent allowed by the laws under which such grant programs are established.

Experience indicates that procurement by contract of services all too often has resulted in the payment by service contractors to their employees of wages at or slightly above the minimum required by federal and state minimum wage laws. The minimal compensation tends to inhibit the quantity and quality of services rendered by those employees to the City and to the public. Underpaying employees in this way fosters high turnover, absenteeism and lackluster performance. Conversely, adequate compensation promotes amelioration of these undesirable conditions. Through this article, the City intends to require service contractors to provide a minimum level of compensation which will improve the level of services rendered to and for the City.

The inadequate compensation leaves service employees with insufficient resources to afford life in Los Angeles. Contracting decisions involving the expenditure of City funds should not foster conditions that place a burden on limited social services. The City, as a principal provider of social support services, has an interest in promoting an employment environment that protects such limited resources. In requiring the payment of a higher minimum level of compensation, this article benefits that interest.

In comparison with the wages paid at San Francisco International Airport, the wage for Los Angeles airport workers is often lower even though the airports are similar in the number of passengers they serve and have similar goals of providing a living wage to the airport workforce. Studies show that higher wages at the airport leads to increases in worker productivity and improves customer service. Higher wages for airport workers also results in a decline in worker turnover, yielding savings to the employers and alleviating potential security concerns. Therefore, the City finds that a higher wage for airport employees is needed to reduce turnover and retain a qualified and stable workforce.

Many airport workers who provide catering services to the airlines are paid below the living wage. Federal law allows employment contract agreements between airline caterers and its workers to remain in effect without an expiration date, effectively freezing wages for workers. Long-term employment contract agreements provide little incentive for employers to renegotiate the employment contract agreements with their workers. Airline catering

## EXHIBIT O

10-55

### Living Wage Ordinance



workers often struggle to pay their bills, sometimes having to choose between paying medical bills and buying food for their families. The City finds that airline caterers should pay their workers, at a minimum, the living wage with benefits.

Airport workers are also the first to respond when an emergency occurs at the airport. In order to properly assist first responders during a crisis at the airport, the City finds that airport employees of Certified Service Provider License Agreement holders should be formally trained for an emergency response at the airport.

Nothing less than the living wage should be paid by employers that are the recipients of City financial assistance. Whether workers are engaged in manufacturing or some other line of business, the City does not wish to foster an economic climate where a lesser wage is all that is offered to the working poor.

The City holds a proprietary interest in the work performed by many employees of City lessees and licensees and by their service contractors, subcontractors, sublessees and sublicensees. The success or failure of City operations may turn on the success or failure of these enterprises, for the City has a genuine stake in how the public perceives the services rendered for them by such businesses. Inadequate compensation of these employees adversely impacts the performance by the City's lessee or licensee and thereby hinders the opportunity for success of City operations. A proprietary interest in providing a living wage is important for various reasons, including, but not limited to: 1) the public perception of the services or products rendered to them by a business; 2) security concerns related to the location of the business or any product or service the business produces; or 3) an employer's industry-specific job classification which is in the City's interest to cover by the living wage. This article is meant to cover all such employees not expressly exempted.

Requiring payment of the living wage further serves a proprietary concern of the City. If an employer does not comply with this article, the City may: 1) declare a material breach of the contract; 2) declare the employer non-responsible and limit its ability to bid on future City contracts, leases or licenses; and 3) exercise any other remedies available.

#### SECTION HISTORY

Article and Section Added by Ord. No. 171,547, Eff. 5-5-97.  
Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

#### Sec. 10.37.1. Definitions.

The following definitions shall apply throughout this article:

(a) "Airline Food Caterer" means any Employer that, with respect to the Airport:

(1) prepares food or beverage to or for aircraft crew or passengers;

(2) delivers prepared food or beverage to or for aircraft crew or passengers;

(3) conducts security or inspection of aircraft food or beverage; or

(4) provides any other service related to or in connection with the preparation of food or beverage to or for aircraft crew or passengers.

(b) "Airport" means the Department of Airports and each of the airports which it operates.

(c) "Awarding Authority" means the governing body, board, officer or employee of the City or City Financial Assistance Recipient authorized to award a Contract and shall include a department which has control of its own funds.

(d) "City" means the City of Los Angeles and all awarding authorities thereof, including those City departments which exercise independent control over their expenditure of funds.

(e) "City Financial Assistance Recipient" means any person who receives from the City discrete financial assistance for economic development or job growth expressly articulated and identified by the City, as contrasted with generalized financial assistance such as through tax legislation, in accordance with the following monetary limitations. Assistance given in the amount of \$1,000,000 or more in any 12-month period shall require compliance with this article for five years from the date such assistance reaches the \$1,000,000 threshold. For assistance in any 12-month period totaling less than \$1,000,000 but at least \$100,000, there shall be compliance for one year, with the period of compliance beginning when the accrual of continuing assistance reaches the \$100,000 threshold.



Categories of assistance include, but are not limited to, bond financing, planning assistance, tax increment financing exclusively by the City and tax credits, and shall not include assistance provided by the Community Development Bank. City staff assistance shall not be regarded as financial assistance for purposes of this article. A loan at market rate shall not be regarded as financial assistance. The forgiveness of a loan shall be regarded as financial assistance. A loan shall be regarded as financial assistance to the extent of any differential between the amount of the loan and the present value of the payments thereunder, discounted over the life of the loan by the applicable federal rate as used in 26 U.S.C. §§ 1274(d) and 7872(f). A recipient shall not be deemed to include lessees and sublessees.

A recipient shall be exempted from application of this article if:

(1) it is in its first year of existence, in which case the exemption shall last for one year;

(2) it employs fewer than five Employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year; or

(3) it obtains a waiver as a recipient who employs the long-term unemployed or provides trainee positions intended to prepare Employees for permanent positions. The recipient shall attest that compliance with this article would cause an economic hardship and shall apply in writing to the City department or office administering the assistance. The department or office shall forward the waiver application and the department or office's recommended action to the City Council. Waivers shall be effected by Council resolution.

(f) "Contractor" means any person that enters into:

(1) a Service Contract with the City;

(2) a contract with a Public Lessee or Licensee; or

(3) a contract with a City Financial Assistance Recipient to help the recipient in performing the work for which the assistance is being given.

(g) "Designated Administrative Agency (DAA)" means the Department of Public Works, Bureau of Contract Administration, which shall bear administrative responsibilities under this article.

(h) "Employee" means any person who is not a managerial, supervisory or confidential employee who expends any of his or her time working for an Employer in the United States.

(i) "Employer" means any person who is:

(1) a City Financial Assistance Recipient;

(2) Contractor;

(3) Subcontractor;

(4) Public Lessee or Licensee; and

(5) Contractor, Subcontractor, sublessee or sublicensee of a Public Lessee or Licensee.

(j) "Person" means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association or other entity that may employ individuals or enter into contracts.

(k) "Public Lease or License" means, except as provided in Section 10.37.15, a lease, license, sublease or sublicense of City property, including, but not limited to, Non-Exclusive License Agreements, Air Carrier Operating Permits and Certified Service Provider License Agreements (CSPLA), for which services are furnished by Employees where any of the following apply:

(1) The services are rendered on premises at least a portion of which is visited by members of the public (including, but not limited to, airport passenger terminals, parking lots, golf courses, recreational facilities);

(2) Any of the services feasibly could be performed by City employees if the City had the requisite financial and staffing resources; or

(3) The DAA has determined in writing as approved by the Board of Public Works that coverage would further the proprietary interests of the City. Proprietary interest includes, but is not limited to:

(i) the public perception of the services or products rendered to them by a business;

(ii) security concerns related to the location of the business or any product or service the business produces; or

(iii) an Employer's industry-specific job classifications as defined in the regulations.

(l) "Service Contract" means a contract involving an expenditure in excess of \$25,000 and a contract term of at least three months awarded to a Contractor by the City to furnish services for the City where any of the following apply:

(1) at least some of the services are rendered by Employees whose work site is on property owned or controlled by the City;

(2) the services feasibly could be performed by City employees if the City had the requisite financial and staffing resources; or

(3) the DAA has determined in writing as approved by the Board of Public Works that coverage would further the proprietary interests of the City. Proprietary interest includes, but is not limited to:

(i) the public perception of the services or products rendered to them by a business;

(ii) security concerns related to the location of the business or any product or service the business produces; or

(iii) an Employer's industry-specific job classifications as defined in the regulations.

(m) "Subcontractor" means any person not an Employee who enters into a contract:

(1) to assist in performance of a Service Contract;

(2) with a Public Lessee or Licensee, sublessee, sublicensee or Contractor to perform or assist in performing services for the leased or licensed premises.

(n) "Willful Violation" means that the Employer knew of its obligations under this article and deliberately failed or refused to comply with its provisions.

#### SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Subsec. (e), Ord. No. 176,155, Eff. 9-22-04; Subsec. (e), Ord. No. 176,283, Eff. 12-25-04, Oper. 9-22-04; Subsecs. (a) through (l) re-lettered (d) through (o), respectively and new Subsecs. (a), (b), and (c) added, Ord. No. 180,877, Eff. 10-19-09; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

#### Sec. 10.37.2. Payment of Minimum Compensation to Employees.

(a) **Wages.** An Employer shall pay an Employee for all hours worked on a Service Contract or if a Public Lease or License or for a Contractor of a Public Lessee or Licensee, for all hours worked furnishing a service relating to the City, a wage of no less than the hourly rates set under the authority of this article.

##### (1) Non-Airport Employee Wages.

(i) If an Employer provides an Employee with health benefits as provided in Section 10.37.3 of this article, the Employee shall be paid the following:

a. On July 1, 2018, the wage rate for an Employee shall be no less than \$13.25 per hour.

b. On July 1, 2019, the wage rate for an Employee shall be no less than \$14.25 per hour.

c. On July 1, 2020, the wage rate for an Employee shall be no less than \$15.00 per hour.

d. On July 1, 2022, and annually thereafter, the hourly wage rate paid to an Employee shall be adjusted consistent with any adjustment pursuant to Section 187.02 D. of the Los Angeles Municipal Code.

(ii) If an Employer does not provide an Employee with health benefits as provided in Section 10.37.3 of this article, the Employee shall be paid the applicable wage rate in Section

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10.37.2(a)(1)(i) and an additional wage rate of \$1.25 per hour.

(iii) Section 10.37.11 is not applicable to this subdivision.

**(2) Airport Employee Wages.**

(i) If an Employer servicing the Airport provides an Employee with health benefits as provided in Section 10.37.3 of this article, the Employee shall be paid the following:

a. On July 1, 2017, the wage rate for an Employee shall be no less than \$12.08 per hour.

b. On July 1, 2018, the wage rate for an Employee shall be no less than \$13.75 per hour.

c. On July 1, 2019, the wage rate for an Employee shall be no less than \$15.25 per hour.

d. On July 1, 2020, the wage rate for an Employee shall be no less than \$16.50 per hour.

e. On July 1, 2021, the wage rate for an Employee shall be no less than \$17.00 per hour.

f. Beginning on July 1, 2022, the wage rate for an Employee shall increase annually, on July 1, to an amount \$2.00 above the minimum rate under the City's Minimum Wage Ordinance for that same period of time.

(ii) If an Employer servicing the Airport does not provide an Employee with health benefits as provided in Section 10.37.3 of this article, the Employee shall be paid the applicable wage rate in Section 10.37.2(a)(2)(i) and an additional wage rate as follows:

a. On July 1, 2017, an Employer servicing the Airport shall pay an Employee an additional wage rate of \$5.18 per hour.

b. Beginning on July 1, 2018, an Employer servicing the Airport shall pay an Employee an additional wage rate per hour

equal to the health benefit payment in effect for an Employee pursuant to Section 10.37.3(a)(5).

(3) An Employer may not use tips or gratuities earned by an Employee to offset the wages required under this article.

(b) **Compensated Time Off.** An Employer shall provide an Employee compensated time off as follows:

(1) An Employee who works at least 40 hours per week or is classified as a full-time Employee by the Employer shall accrue no less than 96 hours of compensated time off per year.

(2) An Employee who works less than 40 hours per week and is not classified as a full-time Employee by the Employer shall accrue hours of compensated time off in increments proportional to that accrued by an Employee who works 40 hours per week.

(3) **General Rules for Compensated Time Off.**

(i) An Employee must be eligible to use accrued paid compensated time off after the first 90 days of employment or consistent with company policies, whichever is sooner. Compensated time off shall be paid at an Employee's regular wage rate at the time the compensated time off is used.

(ii) An Employee may use accrued compensated time off hours for sick leave, vacation or personal necessity.

(iii) An Employer may not unreasonably deny an Employee's request to use the accrued compensated time off. The DAA, through regulations, may provide guidance on what is considered unreasonable.

(iv) The DAA may allow an Employer's established compensated time off policy to remain in place even though it does not meet these requirements, if the DAA determines that the Employer's established policy is overall more generous.

(v) Unused accrued compensated time off shall carry over until time off reaches a maximum of 192 hours, unless the Employer's established policy is overall more generous.

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(vi) After an Employee reaches the maximum accrued compensated time off, an Employer shall provide a cash payment once every 30 days for accrued compensated time off over the maximum. An Employer may provide an Employee with the option of cashing out any portion of, or all of, the Employee's accrued compensated time off, but, an Employer shall not require an Employee to cash out any accrued compensated time off. Compensated time off cashed out shall be paid to the Employee at the wage rate that the Employee is earning at the time of cash out.

(vii) An Employer may not implement any unreasonable employment policy to count accrued compensated time off taken under this article as an absence that may result in discipline, discharge, suspension or any other adverse action.

(4) **Compensated Release Time.** An Employer servicing the Airport who holds a Certified Service Provider License Agreement and is subject to this article shall comply with the following additional requirements:

(i) A CSPLA Employer shall provide an Employee at the Airport, 16 hours of additional compensated release time annually to attend and complete emergency response training courses approved by the Airport.

(ii) By December 31, 2018, and continuing thereafter on an annual basis, an Employee of a CSPLA Employer shall successfully complete the 16 hours of emergency response training.

(iii) An Employee of a CSPLA Employer hired after December 31, 2018, shall complete the 16 hours of emergency response training within 120 days of the first date of hire.

(iv) The 16 hours of compensated release time shall only be used to attend Airport approved annual emergency response training courses. The 16 hours of compensated release time does not accumulate or carry over to the following year. The 16 hours of compensated release time shall not be included as part of the 96 hours of compensated time off required under this article.

(c) **Uncompensated Time Off.** An Employer shall provide an Employee uncompensated time off as follows:

(1) An Employee who works at least 40 hours a week or is classified as a full-time Employee by an Employer shall accrue no less than 80 hours of uncompensated time off per year.

(2) An Employee who works less than 40 hours per week and is not classified as a full-time Employee by the Employer shall accrue hours of uncompensated time off in increments proportional to that accrued by an Employee who works 40 hours per week.

(3) **General Rules for Uncompensated Time Off.**

(i) An Employee must be eligible to use accrued uncompensated time off after the first 90 days of employment or consistent with company policies, whichever is sooner.

(ii) Uncompensated time off may only be used for sick leave for the illness of an Employee or a member of his or her immediate family and where an Employee has exhausted his or her compensated time off for that year.

(iii) An Employer may not unreasonably deny an Employee's request to use the accrued uncompensated time off. The DAA, through regulations, may provide guidance on what is considered unreasonable.

(iv) Unused accrued uncompensated time off shall carry over until the time off reaches a maximum of 80 hours, unless the Employer's established policy is overall more generous.

(v) An Employer may not implement any unreasonable employment policy to count accrued uncompensated time off taken under this article as an absence that may result in discipline, discharge, suspension or any other adverse action.

#### SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Subsec.

(a), Ord. No. 173,285, Eff. 6-26-00, Oper. 7-1-00; Subsec.

(a), Ord. No. 180,877, Eff. 10-19-09; In Entirety, Ord. No.

184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff.

1-20-18; Subsec. (a)(1), Ord. No. 185,745, Eff. 10-15-18.

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**Sec. 10.37.3. Health Benefits.**

(a) **Health Benefits.** The health benefits required by this article shall consist of the payment by an Employer of at least \$1.25 per hour to Employees towards the provision of health care benefits for an Employee and his or her dependents. On July 1, 2017, the health benefit rate for an Employee working for an Employer servicing the Airport shall be at least \$5.18 per hour. On July 1, 2018, the annual increase for Employees working for an Employer servicing the Airport shall continue as provided in Section 10.37.3(a)(5).---

(1) Proof of the provision of such benefits must be submitted to the Awarding Authority to qualify for the wage rate in Section 10.37.2(a) for Employees with health benefits.

(2) Health benefits include health coverage, dental, vision, mental health and disability income. For purposes of this article, retirement benefits, accidental death and dismemberment insurance, life insurance and other benefits that do not provide medical or health related coverage will not be credited toward the cost of providing Employees with health benefits.

(3) If the Employer's hourly health benefit payment is less than that required under this article, the difference shall be paid to the Employee's hourly wage.

(4) Health benefits are not required to be paid on overtime hours.

(5) On July 1, 2018, and annually thereafter each July 1, the amount of payment for health benefits provided to an Employee working for an Employer servicing the Airport shall be adjusted by a percentage equal to the percentage increase, if any, in the United States Bureau of Labor Statistics Consumer Price Index for All Urban Consumers: Medical Care Services, as measured from January to December of the preceding year. The DAA shall announce the adjusted rates on February 1st and publish a bulletin announcing the adjusted rates, which shall take effect on July 1st of each year.

(b) **Periodic Review.** At least once every three years, the City Administrative Officer shall review the health benefit payment by Employers servicing the Airport set forth in Section 10.37.3(a) to determine whether the payment accurately reflects the cost of health care and to

assess the impacts of the health benefit payment on Airport Employers and Airport Employees and shall transmit a report with its findings to the Council.

**SECTION HISTORY**

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; In Entirety, Ord. No. 180,877, Eff. 10-19-09; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

**Sec. 10.37.4. Employer Reporting and Notification Requirements.**

(a) An Employer shall post in a prominent place in an area frequented by Employees a copy of the Living Wage Poster and the Notice Regarding Retaliation, both available from the DAA.

(b) An Employer shall inform an Employee of his or her possible right to the federal Earned Income Credit (EIC) under Section 32 of the Internal Revenue Code of 1954, 26 U.S.C. § 32, and shall make available to an Employee forms informing them about the EIC and forms required to secure advance EIC payments from the Employer.

(c) An Employer is required to retain payroll records pertaining to its Employees for a period of at least four years, unless more than four years of retention is specified elsewhere in the contract or required by law.

(d) A Contractor, Public Lessee, Licensee, and City Financial Assistant Recipient is responsible for notifying all Contractors, Subcontractors, sublessees, and sublicensees of their obligation under this article and requiring compliance with this article. Failure to comply shall be a material breach of the contract.

**SECTION HISTORY**

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

**Sec. 10.37.5. Retaliation Prohibited.**

An Employer shall not discharge, reduce in compensation, or otherwise discriminate against any Employee for complaining to the City with regard to the Employer's compliance or anticipated compliance with this article, for opposing any practice proscribed by this article,

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for participating in proceedings related to this article, for seeking to enforce his or her rights under this article by any lawful means, or for otherwise asserting rights under this article.

#### SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

#### Sec. 10.37.6. Enforcement.

(a) An Employee claiming violation of this article may bring an action in the Superior Court of the State of California against an Employer and may be awarded:

(1) For failure to pay wages required by this article, back pay shall be paid for each day during which the violation occurred.

(2) For failure to comply with health benefits requirements pursuant to this article, the Employee shall be paid the differential between the wage required by this article without health benefits and such wage with health benefits, less amounts paid, if any, toward health benefits.

(3) For retaliation the Employee shall receive reinstatement, back pay or other equitable relief the court may deem appropriate.

(4) For Willful Violations, the amount of monies to be paid under Subdivisions (1) - (3), above, shall be trebled.

(b) The court shall award reasonable attorney's fees and costs to an Employee who prevails in any such enforcement action and to an Employer who prevails and obtains a court determination that the Employee's lawsuit was frivolous.

(c) Compliance with this article shall be required in all City contracts to which it applies. Contracts shall provide that violation of this article shall constitute a material breach thereof and entitle the Awarding Authority to terminate the contract and otherwise pursue legal remedies that may be available. Contracts shall also include an agreement that the Employer shall comply with federal law proscribing retaliation for union organizing.

(d) The DAA may audit an Employer at any time to verify compliance. Failure by the Employer to cooperate

with the DAA's administrative and enforcement actions, including, but not limited to, requests for information or documentation to verify compliance with this article, may result in a determination by the DAA that the Employer has violated this article.

(e) An Employee claiming violation of this article may report the claimed violation to the DAA, which shall determine whether this article applies to the claimed violation.

(1) If any of the Employee's allegations merit further review, the DAA shall perform an audit; the scope of which will not exceed four years from the date the complaint was received.

(2) If the claimed violation is filed after a contract has expired, and information needed for the review is no longer readily available, the DAA may determine this article no longer applies.

(3) In the event of a claimed violation of the requirements relating to compensated time off, uncompensated time off or wages, the DAA may require the Employer to calculate the amount the Employee should have earned and compensate the Employee. Nothing shall limit the DAA's authority to evaluate the calculation.

(i) If the DAA determines that an Employer is in violation of Section 10.37.2(b), the time owed must be made available immediately. At the Employer's option, retroactive compensated time off in excess of 192 hours may be paid to the Employee at the current hourly wage rate.

(ii) If the DAA determines that an Employer is in violation of Section 10.37.2(c), the Employer shall calculate the amount of uncompensated time off that the Employee should have accrued. This time will be added to the uncompensated time off currently available to the Employee and must be available immediately.

(f) Where the DAA has determined that an Employer has violated this article, the DAA shall issue a written notice to the Employer that the violation is to be corrected within ten days or other time period determined appropriate by the DAA.

(g) In the event the Employer has not demonstrated to the DAA within such period that it has cured the violation, the DAA may then:

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(1) Request the Awarding Authority to declare a material breach of the Service Contract, Public Lease or License, or financial assistance agreement and exercise its contractual remedies thereunder, which may include, but not be limited to: (i) termination of the Service Contract, Public Lease or License, or financial assistance agreement; (ii) the return of monies paid by the City for services not yet rendered; and (iii) the return to the City of money held in retention (or other money payable on account of work performed by the Employer) when the DAA has documented the Employer's liability for unpaid wages, health benefits or compensated time off.

(2) Request the Awarding Authority to declare the Employer non-responsible from future City contracts, leases and licenses in accordance with the Contractor Responsibility Ordinance (LAAC Section 10.40, et seq.) and institute proceedings in a manner that is consistent with law.

(3) Impose a fine payable to the City in the amount of up to \$100 for each violation for each day the violation remains uncured.

(4) Exercise any other remedies available at law or in equity.

(h) Notwithstanding any provision of this Code or any other law to the contrary, no criminal penalties shall attach for violation of this article.

#### SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Subsec. (d), Para. (1), Ord. No. 173,747, Eff. 2-24-01; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

#### Sec. 10.37.7. Administration.

The DAA shall administer the requirement of this article and monitor compliance, including the investigation of claimed violations. The DAA shall promulgate rules and regulations consistent with this article for the implementation of the provision of this article. The DAA shall also issue determinations that persons are City Financial Assistance Recipients, that particular contracts shall be regarded as "Service Contracts" for purposes of Section 10.37.1(l), and that particular leases and licenses shall be regarded as "Public Leases" or "Public Licenses" for purposes of Section 10.37.1(k), when it receives an

application for a determination of non-coverage or exemption as provided for in Section 10.37.14 and 10.37.15.

The DAA may require an Awarding Authority to inform the DAA about all contracts in the manner described by regulation. The DAA shall also establish Employer reporting requirements on Employee compensation and on notification about and usage of the federal Earned Income Credit referred to in Section 10.37.4. The DAA shall report on compliance to the City Council no less frequently than annually.

Every three years after July 1, 2018, the Chief Legislative Analyst (CLA) with the assistance of the City Administrative Officer (CAO) shall commission a study to review the state of the Airport's regional economy; minimum wage impacts for Employees servicing the Airport; Airport service industry impacts; temporary workers, guards and janitors impacts; restaurants, hotels and bars impacts; transitional jobs programs impacts; service charges, commissions and guaranteed gratuities impacts; and wage theft enforcement. On an annual basis, the CLA and CAO shall collect economic data, including jobs, earnings and sales tax. The Study shall also address how extensively affected Employers are complying with this article, how the article is affecting the workforce composition of affected Employers, and how the additional costs of the article have been distributed among Employees, Employers and the City.

#### SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Ord. No. 173,285, Eff. 6-26-00, Oper. 7-1-00; Ord. No. 173,747, Eff. 2-24-01; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

#### Sec. 10.37.8. City is a Third Party Beneficiary of Contracts Between an Employer and Subcontractor for Purposes of Enforcement.

Any contract an Employer executes with a Contractor or Subcontractor, as defined in Section 10.37.1(f) and (m), shall contain a provision wherein the Contractor or Subcontractor agree to comply with this article and designate the City as an intended third party beneficiary for purposes of enforcement directly against the Contractor or Subcontractor, as provided for in Section 10.37.6 of this article.

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## SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Ord. No. 173,285, Eff. 6-26-00, Oper. 7-1-00; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

### Sec. 10.37.9. Coexistence with Other Available Relief for Specific Deprivations of Protected Rights.

This article shall not be construed to limit an Employee's right to bring legal action for violation of other minimum compensation laws.

## SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

### Sec. 10.37.10. Expenditures Covered.

This article shall apply to the expenditure - whether through aid to City Financial Assistance Recipients, Service Contracts let by the City or Service Contracts let by its Financial Assistance Recipients - of funds entirely within the City's control and to other funds, such as federal or state grant funds, where the application of this article is consonant with the laws authorizing the City to expend such other funds.

## SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

### Sec. 10.37.11. Timing of Application.

The provisions of this article shall become operative 60 days following the effective date of the ordinance and are not retroactive.

## SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Subsec. (b), Subsec. (c) Added, Ord. No. 173,747, Eff. 2-24-01; Subsec. (d) Added, Ord. No. 180,877, Eff. 10-19-09; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18.

### Sec. 10.37.12. Express Supersession by Collective Bargaining Agreement.

The requirements of this article may be superseded by a collective bargaining agreement if expressly stated in the agreement. This provision applies to any collective bargaining agreement that expires or is open for negotiation of compensation terms after the effective date of this ordinance. Any collective bargaining agreement that purports to supersede any requirement of this article shall be submitted by the Employer to the DAA.

(a) A collective bargaining agreement may expressly supersede the requirements of this article with respect to Employees of Employers servicing the Airport only when an Employee is paid a wage not less than the applicable wage rate in Section 10.37.2(a)(2)(i).

(b) A collective bargaining agreement may expressly supersede the requirements of this article with respect to Employees of Airline Food Caterers only when an Employee of the Airline Food Caterer is paid a total economic package no less than the applicable wage rate in Section 10.37.2(a)(2)(ii).

## SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; In Entirety, Ord. No. 184,318, Eff. 7-7-16; Title and Section In Entirety, Ord. No. 185,321, Eff. 1-20-18.

### Sec. 10.37.13. Liberal Interpretation of Coverage; Rebuttable Presumption of Coverage.

The definitions of "City Financial Assistance Recipient" in Section 10.37.1(e), of "Public Lease or License" in Section 10.37.1(k), and of "Service Contract" in Section 10.37.1(l) shall be liberally interpreted so as to further the policy objectives of this article. All City Financial Assistance Recipients meeting the monetary thresholds of Section 10.37.1(e), all Public Leases and Licenses (including subleases and sublicenses) where the City is the lessor or licensor, and all City contracts providing for services shall be presumed to meet the corresponding definition mentioned above, subject, however, to a determination by the DAA of non-coverage or exemption on any basis allowed by this article, including, but not limited to, non-coverage for failure to satisfy such definition. The DAA shall by regulation establish procedures for informing persons engaging in such transactions with the City of their opportunity to apply for

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a determination of non-coverage or exemption and procedures for making determinations on such applications.

#### SECTION HISTORY

Added by Ord. No. 172,336, Eff. 1-14-99.

Amended by: Ord. No. 173,747, Eff. 2-24-01; In Entirety, Ord. No. 184,318, Eff. 7-7-16; In Entirety, Ord. No. 185,321, Eff. 1-20-18; In Entirety, Ord. No. 185,745, Eff. 10-15-18.

#### Sec. 10.37.14. Contracts, Employers and Employees Not Subject to this Article.

The following contracts are not subject to the Living Wage Ordinance. An Awarding Authority, after consulting with the DAA, may determine whether contracts and/or Employers are not subject to the Living Wage Ordinance due to the following:

(a) a contract where an employee is covered under the prevailing wage requirements of Division 2, Part 7, of the California Labor Code unless the total of the basic hourly rate and hourly health and welfare payments specified in the Director of Industrial Relations' General Prevailing Wage Determinations are less than the minimum hourly rate as required by Section 10.37.2(a) of this article.

(b) a contract with a governmental entity, including a public educational institution or a public hospital.

(c) a contract for work done directly by a utility company pursuant to an order of the Public Utilities Commission.

#### SECTION HISTORY

Added by Ord. No. 184,318, Eff. 7-7-16.

Amended by: In Entirety, Ord. No. 185,321, Eff. 1-20-18.

#### Sec. 10.37.15. Exemptions.

Upon the request of an Employer, the DAA may exempt compliance with this article. An Employer seeking an exemption must submit the required documentation to the DAA for approval before the exemption takes effect.

(a) A Public Lessee or Licensee, that employs no more than seven people total on and off City property shall be exempted. A lessee or licensee shall be deemed to employ no more than seven people if the

company's entire workforce worked an average of no more than 1,214 hours per month for at least three-fourths of the previous calendar year. If a Public Lease or License has a term of more than two years, the exemption granted pursuant to this section shall expire after two years, but shall be renewable in two-year increments.

(b) Non-Profit Organizations. Corporations organized under Section 501(c)(3) of the United States Internal Revenue Code of 1954, 26 U.S.C. § 501(c)(3), whose chief executive officer earns a salary which, when calculated on an hourly basis, is less than eight times the lowest wage paid by the corporation, shall be exempted as to all Employees other than child care workers.

(c) Students. High school and college students employed in a work study or employment program lasting less than three months shall be exempt. Other students participating in a work-study program shall be exempt if the Employer can verify to the DAA that:

(1) The program involves work/training for class or college credit and student participation in the work-study program is for a limited duration, with definite start and end dates; or

(2) The student mutually agrees with the Employer to accept a wage below this article's requirements based on a training component desired by the student.

(d) Nothing in this article shall limit the right of the Council to waive the provisions herein.

(e) Nothing in this article shall limit the right of the DAA to waive the provisions herein with respect to and at the request of an individual Employee who is eligible for benefits under Medicare, a health plan through the U.S. Department of Veteran Affairs or a health plan in which the Employee's spouse, domestic partner or parent is a participant or subscriber to another health plan. An Employee who receives this waiver shall only be entitled to the hourly wage pursuant to Section 10.37.2(a)(2)(i).

#### SECTION HISTORY

Added by Ord. No. 184,318, Eff. 7-7-16.

Amended by: In Entirety, Ord. No. 185,321, Eff. 1-20-18.

## EXHIBIT O

### Living Wage Ordinance

**Sec. 10.37.16. Severability.**

If any subsection, sentence, clause or phrase of this article is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this section, and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**SECTION HISTORY**

Added by Ord. No. 172,336, Eff. 1-14-99.

Amended by: In Entirety, Ord. No. 184,318, Eff. 7-7-16; In  
Entirety, Ord. No. 185,321, Eff. 1-20-18.

**EXHIBIT O****Living Wage Ordinance**

**EXHIBIT P  
WORKER RETENTION  
ORDINANCE**

## CHAPTER 1, ARTICLE 10

### WORKER RETENTION

(Title amended, Ord. No. 185,356, Eff. 1-26-18.)

Section	
10.36	Findings and Statement of Policy.
10.36.1	Definitions.
10.36.2	Transition Employment Period.
10.36.3	Enforcement.
10.36.4	Exemption for Contractor or Contractor's Prior Employees.
10.36.5	Coexistence with Other Available Relief for Specific Deprivations of Protected Rights.
10.36.6	Expenditures Covered by this Article.
10.36.7	Promulgation of Implementing Rules.
10.36.8	Severability.

#### Sec. 10.36. Findings and Statement of Policy.

The City awards many contracts to private firms to provide services to the public and to City government. The City also leases its property or grants licenses to enter onto its property and these lessees and licensees often perform services that affect the proprietary interests of City government in that their performance impacts the success of City operations. The City also provides financial assistance and funding to other firms for the purpose of economic development or job growth. At the conclusion of the term of a service contract, lease or license with the City or with those receiving financial assistance from the City, a different firm often receives the successor contract to perform the same City services or to lease or license the same City property.

The City obtains benefits achieved through the competitive process of entering into new contracts. It is the experience of the City that reasons for change do not necessarily include a need to replace workers presently performing services who already have useful knowledge about the workplace where the services are performed.

The City has a proprietary interest in the work performed by employees of City contractors, lessees and licensees and by the employees of firms receiving City financial assistance. The success or failure of City operations may turn on the success or failure of these firms, and the City has a genuine stake in how the public perceives

the services rendered by these firms. Replacement of existing employees can adversely impact the performance by these firms and thereby hinders the opportunity for success of City operations.

Incumbent workers have invaluable existing knowledge and experience with the work schedules, practices and clients. Replacing these workers with workers without these experiences decreases efficiency and results in a disservice to the City and City financed or assisted projects.

Retaining existing workers when a change in firm occurs reduces the likelihood of labor disputes and disruptions. The reduction of the likelihood of labor disputes and disruptions results in the assured continuity of services to City constituents and visitors who receive services provided by the City, the City's lessees or licensees, or by City financed or assisted projects.

Contracting decisions involving the expenditure of City funds should avoid a potential effect of creating unemployment and the consequential need for social services. The City, as a principal provider of social support services, has an interest in the stability of employment under contracts, leases and licenses with the City and by those receiving financial assistance from the City. The retention of existing workers benefits that interest.

#### SECTION HISTORY

Article and Section Added by Ord. No. 170,784, Eff. 1-13-96.  
Amended by: Article and Section, Ord. No. 171,004, Eff. 5-18-96;  
In Entirety, Ord. No. 184,293, Eff. 6-27-16; In Entirety,  
Ord. No. 185,356, Eff. 1-26-18.

#### Sec. 10.36.1. Definitions.

The following definitions shall apply throughout this article:

(a) "Awarding Authority" means the governing body, board, officer or employee of the City or City Financial Assistance Recipient authorized to award a Contract and shall include a department which



has control of its own funds if the department adopts policies consonant with the provisions of this article.

(b) “City” means the City of Los Angeles and all Awarding Authorities thereof.

(c) “City Financial Assistance Recipient” means any person who receives from the City in any 12-month period discrete financial assistance for economic development or job growth expressly articulated and identified by the City totaling at least \$100,000; ~~provided, however, that~~ corporations organized under Section 501(c)(3) of the United States Internal Revenue Code of 1954, 26 U.S.C. § 501(c)(3), with annual operating budgets of less than \$5,000,000, or that regularly employ homeless persons, persons who are chronically unemployed, or persons receiving public assistance, shall be exempt.

Categories of such assistance include, but are not limited to, bond financing, planning assistance, tax increment financing exclusively by the City, and tax credits, and shall not include assistance provided by the Community Development Bank. City staff assistance shall not be regarded as financial assistance for purposes of this article. A loan at market rate shall not be regarded as financial assistance. The forgiveness of a loan shall be regarded as financial assistance. A loan shall be regarded as financial assistance to the extent of any differential between the amount of the loan and the present value of the payments thereunder, discounted over the life of the loan by the applicable federal rate as used in 26 U.S.C. §§ 1274(d) and 7872(f). A recipient shall not be deemed to include lessees and sublessees. Contracts for economic development or job growth shall be deemed providing such assistance once the \$100,000 threshold is reached.

(d) “Contract” means:

(1) a contract let to a Contractor by the City or a City Financial Assistance Recipient primarily for the furnishing of services to or for the City or City Financial Assistance Recipient (as opposed to the purchase of goods or other property) and that involves an expenditure or receipt in excess of \$25,000 and a contract term of at least three months; or

(2) a Public Lease or License as those terms are defined in Los Angeles Administrative Code Section 10.37.1(k) but only if the lessee or

licensee is subject to the Living Wage Ordinance and not otherwise exempt from its provisions.

(e) “Contractor” means any person that enters into a Contract with the City or a City Financial Assistance Recipient. Governmental entities, including public educational institutions and public hospitals, are not Contractors and are not subject to this article.

(f) “Designated Administrative Agency (DAA)” means the Department of Public Works, Bureau of Contract Administration, which shall bear administrative responsibilities under this article.

(g) “Employee” means any person employed as an employee of a Contractor or Subcontractor earning no more than twice the hourly wage without health benefits available under the Living Wage Ordinance, Los Angeles Administrative Code Section 10.37 et seq., whose primary place of employment is in the City on or under the authority of a Contract. Examples of Employee includes: hotel Employees; restaurant, food service or banquet Employees; janitorial Employees; security guards; parking attendants; nonprofessional health care Employees; gardeners; waste management Employees; and clerical Employees. Employee does not include a person who is a managerial, supervisory or confidential Employee. An Employee must have been employed by a terminated Contractor for the preceding 12 months or longer.

(h) “Person” means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association or other entity that may employ individuals or enter into contracts.

(i) “Subcontractor” means any person not an Employee who enters into a contract with a Contractor to assist the Contractor in performing a Contract and who employs Employees for such purpose. A Subcontractor includes a sublessee or sublicensee.

(j) “Successor Contract” means a Contract where the service to be performed is substantially similar to the Contract recently terminated. The meaning also includes a Contract that is a Public Lease or License substantially similar to a Public Lease or License recently terminated. Termination includes, but is not limited to: (1) the completion of the Contract; (2) early termination of the Contract in whole or in part; or (3) an amendment that reduces

## EXHIBIT P

### Worker Retention Ordinance

services provided under the Contract, in whole or in part.

#### SECTION HISTORY

Added by Ord. No. 170,784, Eff. 1-13-96.

Amended by: Ord. No. 171,004, Eff. 5-18-96; Subsec. (c), Ord. No. 172,843, Eff. 11-4-99; Subsec. (j) added, Ord. No. 176,155, Eff. 9-22-04; Subsec. (j), Ord. No. 176,283, Eff. 12-25-04, Oper. 9-22-04; In Entirety, Ord. No. 184,293, Eff. 6-27-16; In Entirety, Ord. No. 185,356, Eff. 1-26-18.

#### Sec. 10.36.2. Transition Employment Period.

(a) Within ten days of learning that a Contract is to be terminated, the Contractor shall provide to the Successor Contractor, the Awarding Authority and the DAA, the name, address, date of hire, and employment occupation classification of each Employee of the terminated Contractor and Subcontractor working pursuant to the Contract. If the terminated Contractor has not learned the identity of the Successor Contractor, the Contractor shall request the identity from the Awarding Authority. If a Successor Contract has not been awarded by the end of the ten-day period, the Contractor shall provide the employment information referred to earlier in this subsection to the Awarding Authority and the DAA. Where only a subcontract of a Contract has been terminated, the terminated Subcontractor shall for purposes of this Article be deemed a terminated Contractor.

(1) If multiple Contracts providing similar services are terminated, the Awarding Authority shall consult with the DAA to determine whether to pool the Employees, ordered by seniority within job classification and provide a pool list to the Successor Contractor. The Successor Contractor shall provide written notice to the Awarding Authority and the DAA that the Awarding Authority's pool list will be used. The notice must include the following:

(A) the total number of Employees required under the Successor Contract;

(B) a breakdown of the number of Employees required within each job classification and seniority within each class; and

(C) an indication as to which Employees within each job classification shall be offered employment under this article.

The written notice must be provided no later than ten days after the Successor Contractor receives the listing of the terminated Contractor's Employees.

(2) Where the use of Subcontractors has occurred under the terminated Contract or where the use of Subcontractors is to be permitted under the Successor Contract, or where both circumstances arise, the Awarding Authority shall pool, when applicable, the Employees, ordered by seniority within job classification, under such prior Contracts or subcontracts where required by, and in accordance with, rules promulgated by the DAA. The Successor Contractor or Subcontractor shall provide written notice to the Awarding Authority and the DAA that the Awarding Authority's pool list will be used.

(b) If work-related requirements for a particular job classification under the Successor Contract differ from the terminated Contract, the Successor Contractor (or Subcontractor, where applicable) shall give notice to the Awarding Authority and the DAA and provide an explanation including:

(1) the different work-related requirements needed; and

(2) the reason why the different work-related requirements are necessary for the Successor Contract.

(c) Within ten days of receipt of the list of Employees from the terminated Contractor, the Successor Contractor shall make written offers for a 90-day transition employment period to the eligible Employees by letters sent certified mail. The letters shall ask an Employee to return the offers to the Successor Contractor with the Employee's signature indicating acceptance or rejection of the offer of employment. The letters shall state that if an Employee fails to return a written acceptance of the offer within ten days of the date of mailing of the Successor Contractor's certified letter, then the Employee will be presumed to have declined the offer.

The Successor Contractor shall provide copies of the letters offering employment to the Awarding Authority and proof of mailing.

(d) A Successor Contractor shall retain Employees for a 90-day transition employment period. Where pooling of Employees has occurred, the Successor Contractor shall draw from the pools in accordance with rules promulgated by the DAA. During such 90-day period, Employees so hired shall be employed under the terms and conditions established by the Successor Contractor (or Subcontractor) or as required by law.

#### EXHIBIT P

#### Worker Retention Ordinance

(e) If at any time the Successor Contractor determines that fewer Employees are required to perform the new Contract than were required by the terminated Contractor (and Subcontractors, if any), the Successor Contractor shall retain Employees by seniority within job classification. The Successor Contractor shall give notice to the Awarding Authority and the DAA and provide an explanation including:

- (1) the reason that fewer Employees will be needed;
- (2) the total number of Employees required under the Successor Contract;
- (3) a breakdown of the number of Employees required within each job classification;
- (4) a listing of the terminated Contractor's Employees by job classification and seniority within each class; and
- (5) an indication as to which Employees within each job classification will be offered employment under this article.

The notice must be provided no later than ten days after the Successor Contractor receives the list of the terminated Contractor's Employees pursuant to Section 10.36.2(a).

Letters offering employment shall be made by seniority within each job classification. If an Employee in a job classification declines an offer of employment or fails to respond within ten days pursuant to Section 10.36.2(a), the Successor Contractor shall issue a letter offering employment to the next Employee in that job classification. The Successor Contractor shall continue to offer employment in this manner until all required positions are filled for the Successor Contract or until all Employees have been offered employment.

(f) During the 90-day transition employment period, the Successor Contractor (or Subcontractor, where applicable) shall maintain a preferential hiring list of eligible covered Employees not retained by the Successor Contractor (or Subcontractor) from which the successor Contractor (or Subcontractor) shall hire additional Employees, if needed.

(g) During the 90-day transition employment period, the Successor Contractor (or Subcontractor, where applicable) shall not discharge without cause an Employee retained pursuant to this article. "Cause" for this purpose

shall mean fair and honest reasons, regulated by good faith on the part of the Contractor or Subcontractor, that are not trivial, arbitrary or capricious, unrelated to business needs or goals, or pretextual.

(h) At the end of the 90-day transition employment period, the Successor Contractor (or Subcontractor, where applicable) shall perform a written performance evaluation for each Employee retained pursuant to this article. If the Employee's performance during the 90-day period is satisfactory, the Successor Contractor (or Subcontractor) shall offer the Employee continued employment under terms and conditions established by the Successor Contractor (or Subcontractor) or as required by law.

(i) If the City or a City Financial Assistance Recipient enters into a Contract for the performance of work that prior to the Contract was performed by the City's or the City Financial Assistance Recipient's own Employees, the City or the City Financial Assistance Recipient shall be deemed to be a terminated Contractor within the meaning of this article and the Contractor shall be deemed to be a Contractor with a Successor Contract within the meaning of this article.

#### SECTION HISTORY

Added by Ord. No. 170,784, Eff. 1-13-96.

Amended by: Ord. No. 171,004, Eff. 5-18-96; Subsec. (g) added, Ord. No. 172,349, Eff. 1-29-99; In Entirety, Ord. No. 184,293, Eff. 6-27-16; In Entirety, Ord. No. 185,356, Eff. 1-26-18.

#### Sec. 10.36.3. Enforcement.

(a) An Employee who has been discharged in violation of this article by a Successor Contractor or its Subcontractor may bring an action in the Superior Court of the State of California against the Successor Contractor and, where applicable, its Subcontractor, and may be awarded:

(1) Back pay for each day during which the violation continues, which shall be calculated at a rate of compensation not less than the higher of:

(A) The average regular rate of pay received by the Employee from the terminated Contractor during the last three years of the Employee's employment in the same occupation classification; or

(B) The final regular rate paid by the terminated Contractor to the Employee.

#### EXHIBIT P

#### Worker Retention Ordinance

(2) Costs of benefits the Successor Contractor would have incurred for the Employee under the successor Contractor's (or Subcontractor's, where applicable) benefit plan.

(b) If the Employee is the prevailing party in any such legal action, the court shall award reasonable attorney's fees and costs as part of the costs recoverable.

(c) Compliance with this article shall be required in all Contracts and shall provide that violation of this article shall entitle the City to terminate the Contract and pursue all legal remedies.

(d) If the DAA determines that a Contractor or Subcontractor violated this article, the DAA may recommend that the Awarding Authority take any or all of the following actions:

(1) Document the determination in the Awarding Authority's Contractor Evaluation required under Los Angeles Administrative Code Section 10.39, et seq.;

(2) Require that the Contractor or Subcontractor document the determination in each of the Contractor's or Subcontractor's subsequent Contractor Responsibility Questionnaires submitted under Los Angeles Administrative Section 10.40, et seq.;

(3) Terminate the Contract;

(4) Recommend to the Awarding Authority to withhold payments due to the Contractor or Subcontractor.

(e) Notwithstanding any provision of this Code or any other law to the contrary, no criminal penalties shall attach for any violation of this article.

#### SECTION HISTORY

Added by Ord. No. 170,784, Eff. 1-13-96.  
Amended by: Ord. No. 171,004, Eff. 5-18-96; In Entirety, Ord. No. 184,293, Eff. 6-27-16; In Entirety, Ord. No. 185,356, Eff. 1-26-18.

#### Sec. 10.36.4. Exemption for Contractor or Contractor's Prior Employees.

(a) An Awarding Authority may allow a Successor Contractor or Subcontractor to fill a position under a Contractor with a person who has been employed by the Contractor or Subcontractor continuously for at least 12 months prior to the commencement of the Successor

Contract working in a position similar to the position to be filled in the Successor Contract. The Successor Contractor or Subcontractor shall first obtain written approval of the Awarding Authority by demonstrating that: (a) the person would otherwise be laid off work; and (b) his or her retention would be helpful to the Contractor or Subcontractor in performing the Successor Contract.

(b) Nothing in this article shall limit the right of the DAA to waive the provisions herein with respect to a Contractor if it finds it is not in the best interest of the City.

#### SECTION HISTORY

Added by Ord. No. 170,784, Eff. 1-13-96.  
Amended by: Ord. No. 171,004, Eff. 5-18-96; In Entirety, Ord. No. 184,293, Eff. 6-27-16; In Entirety, Ord. No. 185,356, Eff. 1-26-18.

#### Sec. 10.36.5. Coexistence with Other Available Relief for Specific Deprivations of Protected Rights.

This article shall not be construed to limit an Employee's right to bring legal action for wrongful termination.

#### SECTION HISTORY

Added by Ord. No. 170,784, Eff. 1-13-96.  
Amended by: Ord. No. 171,004, Eff. 5-18-96; In Entirety, Ord. No. 184,293, Eff. 6-27-16; In Entirety, Ord. No. 185,356, Eff. 1-26-18.

#### Sec. 10.36.6. Expenditures Covered by this Article.

This article shall apply to the expenditure, whether through Contracts let by the City or by City Financial Assistance Recipients, of funds entirely within the City's control and to other funds, such as federal or state grant funds, where the application of this article is consonant with the laws authorizing the City to expend such other funds. City Financial Assistance Recipients shall apply this article to the expenditure of non-City funds for Contracts to be performed in the City by complying with Section 10.36.2(i) and by contractually requiring their Contractors with Contracts to comply with this article. Such requirement shall be imposed by the recipient until the City financial assistance has been fully expended.

#### SECTION HISTORY

Added by Ord. No. 171,004, Eff. 5-18-96.  
Amended by: Ord. No. 172,337, Eff. 1-14-99; Ord. No. 172,843, Eff. 11-4-99; In Entirety, Ord. No. 184,293, Eff. 6-27-16; In Entirety, Ord. No. 185,356, Eff. 1-26-18.

### EXHIBIT P

### Worker Retention Ordinance

**Sec. 10.36.7. Promulgation of Implementing Rules.**

The DAA shall promulgate rules for implementation of this article and otherwise coordinate administration of the requirements of this article.

**SECTION HISTORY**

Added by Ord. No. 171,004, Eff. 5-18-96.

Amended by: Ord. No. 176,155, Eff. 9-22-04; Ord. No. 176,283, Eff. 12-25-04, Oper. 9-22-04; In Entirety, Ord. No. 184,293, Eff. 6-27-16; In Entirety, Ord. No. 185,356, Eff. 1-26-18.

**Sec. 10.36.8. Severability.**

If any subsection, sentence, clause or phrase of this article is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this section, and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**SECTION HISTORY**

Added by Ord. No. 171,004, Eff. 5-18-96.

Amended by: In Entirety, Ord. No. 184,293, Eff. 6-27-16; In Entirety, Ord. No. 185,356, Eff. 1-26-18.

**EXHIBIT Q**  
**CONTRACTOR RESPONSIBILITY**  
**PROGRAM RULES AND REGULATIONS**



# **LOS ANGELES WORLD AIRPORTS**



## **CONTRACTOR RESPONSIBILITY PROGRAM**

### **RULES AND REGULATIONS**

**Effective date: August 23, 2011**

Procurement Services Division  
7301 World Way West, 4<sup>th</sup> Floor  
Los Angeles, CA 90045  
(424) 646-5380  
(424) 646-9262 (Fax)

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## EXHIBIT Q

### Contractor Responsibility Program (CRP) Rules & Regulation for Leases

These Rules and Regulations are promulgated pursuant to Board Resolution #21601, the Los Angeles World Airports Contractor Responsibility Program (CRP). Each Requesting LAWA Division shall cooperate to the fullest extent with the Executive Director in the administration of the CRP. The Executive Director may amend these Rules and Regulations from time to time as required for the implementation of the CRP.

## **A. DEFINITIONS**

1. **Adoption of CRP definitions:** For purposes of these Rules and Regulations, the definitions set forth in the Board Resolution are incorporated herein by reference, and include the following:

- a. **Board**
- b. **Executive Director**
- c. **Los Angeles World Airports (LAWA)**
- d. **"Contract"** means any agreement for the performance of any work or service, the provision of any goods, equipment, materials or supplies, or the rendition of any service to LAWA or to the public or the grant of a public lease, which is awarded or entered into by or on behalf of LAWA. These Rules and Regulations shall apply to the following contracts:
  - (1) Contracts for services that require Board approval.
  - (2) Contracts for purchasing goods and products that require Board approval.
  - (3) Construction contracts that require Board approval.
- e. **Contractor**
- f. **Subcontractor**
- g. **Bidder**
- h. **Bid**
- i. **Invitation for Bid ("IFB")**
- j. **Public Lease**

2. **New Definitions:**

- a. **"Awarding Authority"** means either the Executive Director or the Board of Airport Commissioners ("Board") or the Board's designee.
- b. **"CRP Questionnaire"** means the set of questions developed by Procurement Services Division (PSD) that will assist LAWA in determining a bidder or contractor's responsibility. Information solicited from the CRP Questionnaire may include but is not limited to: ownership and name changes, financial resources and responsibility, satisfactory performance of other contracts, satisfactory record of compliance with relevant laws and regulations, and satisfactory record of business integrity. PSD may amend the CRP Questionnaire from time to time.

## **EXHIBIT Q**

### **Contractor Responsibility Program (CRP) Rules & Regulation for Leases**

- c. **"CRP Pledge of Compliance"** means the CRP Pledge developed by PSD. The CRP Rules and Regulations may be updated from time to time by PSD. The CRP Pledge shall require contractors to sign under penalty of perjury that the contractor will:
- (1) Comply with all applicable Federal, State, and local laws and regulations during the performance of the contract, including but not limited to laws regarding health and safety, labor and employment, wage and hour, and licensing laws which affect employees.
  - (2) Notify LAWA within 30 calendar days after receiving notification that any government agency has initiated an investigation that may result in a finding that the contractor did not comply with subparagraph 2(c)(1) above in the performance of the contract.
  - (3) Notify LAWA within 30 calendar days of all findings by a government agency or court of competent jurisdiction that the contractor has violated subparagraph 2(c)(1) above in the performance of the contract.
  - (4) Provide LAWA within thirty (30) calendar days updated responses to the CRP Questionnaire if any change occurs which would change any response contained within the completed CRP Questionnaire. Note: This provision does not apply to amendments of contracts not subject to the CRP and to subcontractors not required to submit a Questionnaire.
  - (5) Ensure that subcontractors working on the LAWA contract shall complete, sign and submit a CRP Pledge of Compliance attesting under penalty of perjury to compliance with paragraphs 2(c)(1) through (4).
  - (6) Notify LAWA within thirty (30) days of becoming aware of an investigation, violation or finding of any applicable Federal, State, or local law involving the subcontractors in the performance of a LAWA contract.
  - (7) Cooperate fully with LAWA during an investigation and to respond to request(s) for information within ten (10) working days from the date of the Notice to Respond.
- d. **"Requesting Division"** means the LAWA division(s) which issued the Request For Bids ("RFB"), Request For Proposal ("RFP") or Request for Qualifications ("RFQ").
- e. **"Responsibility"** means possessing the necessary "trustworthiness" and "quality, fitness and capacity" to perform the work set forth in the contract.

## **B. SUBMISSION OF CRP QUESTIONNAIRES**

1. **Issuance of Invitation for Bids (IFB):** These include Request for Bids (RFB), Request for Proposals (RFP), and Request for Qualifications (RFQ). Unless otherwise exempt from the CRP, if a proposed contract meets the definition of a contract subject to the CRP as

defined in the Resolution and these Rules and Regulations, LAWA shall include in the IFB:

- a. Language informing potential bidders of the CRP;
- b. The CRP Questionnaire that bidders submit with their bid; and
- c. The CRP Pledge of Compliance that bidders submit with their bid.

**2. Submission of CRP Questionnaires with Bids:**

- a. All bid and proposal submissions are required to contain a completed and signed CRP Questionnaire and a signed CRP Pledge of Compliance.
- b. Failure to submit a CRP Questionnaire and a CRP Pledge of Compliance in accordance with the IFB procedures may make the bidder non-responsive and disqualified from the bidding process.
- c. Submitted CRP Questionnaires and CRP Pledge of Compliance become public records, and information contained therein will be available for public review, except to the extent that such information is exempt from disclosure pursuant to applicable law.

**3. Use of a non-competitive process to procure the proposed contract:** If a non-competitive process is used by LAWA Divisions to procure the proposed contract, the proposed contractor is required to submit the completed CRP Questionnaire and a signed CRP Pledge of Compliance to LAWA for determination of contractor responsibility prior to execution of the contract.

**4. Subcontractors:** The list of subcontractors shall be submitted with the bid and will be made available for public review along with the bidder's Questionnaire. For construction contracts, bidders must list a subcontractor proposed to be used on the City contract if the subcontractor will be performing work on the construction contract in an amount in excess of \$10,000 or in excess of one-half of one percent of the total bid amount, whichever is greater. For service contracts, bidders must list subcontractors as required by the IFB.

**EXHIBIT Q**

**Contractor Responsibility Program (CRP) Rules & Regulation for Leases**

### **C. LAWA REVIEW OF SUBMITTED CRP QUESTIONNAIRES**

- 1. Departmental Review of submitted bids:** As part of the determination of a bidder's responsiveness, PSD will review the bid submissions to determine whether a completed CRP Questionnaire, signed under penalty of perjury, has been included with the bid. If a completed Questionnaire has not been included with the bid as required by the IFB procedures, the bidder may be deemed to be non-responsive and may be disqualified from the bidding process.
- 2. Posting of CRP Questionnaires and Subcontractor List:** Requesting Divisions will forward to PSD the completed CRP Questionnaires and subcontractor list(s), if any, submitted by the responsive bidders to make available for public review as follows:
  - a. If a contract is to be awarded pursuant to a competitive bid process, the CRP Questionnaires for the three lowest responsive bidders and their list of proposed subcontractors, if any, will be forwarded to PSD to make them available for public review for a minimum period of 14 calendar days.
  - b. If a contract is to be awarded pursuant to a proposal (RFP) or qualifications (RFQ) and award is not based on the lowest submitted bid price, the CRP Questionnaires for the short-listed proposers and their list of proposed subcontractors, if any, will be forwarded to PSD to make them available for public review for a minimum period of 14 calendar days. If no short-listing procedure is used, the CRP Questionnaire for the prospective contractor shall be made available for public review for a minimum period of 14 calendar days.
  - c. If a contract is to be awarded to a Sole Source, the CRP Questionnaire for the proposed contractor and their list of proposed subcontractors, if any, will be forwarded to PSD to make it available for public review for a period of 14 calendar days.
  - d. No contract shall be awarded to any bidder until at least 14 calendar days after the CRP Questionnaire has been made available for public review. If administrative or technical errors prevent or delay the posting of the CRP Questionnaire, the posting period will be extended by the amount of time that the CRP Questionnaire was not available for public review.
  - e. The CRP Questionnaire of the bidder/proposer awarded the contract will be retained by the Requesting Division as part of the contract file. The CRP Questionnaires for the bidders/proposers not awarded the contract will be retained in the customary manner by the Requesting Division.
- 3. Claims Resulting from Public Review:**
  - a. Claims regarding a bidder or contractor's responsibility should be submitted to PSD in writing. However, PSD may investigate a claim regarding a bidder's or a contractor's responsibility, whether or not it is submitted in writing, if PSD in its discretion

#### **EXHIBIT Q**

#### **Contractor Responsibility Program (CRP) Rules & Regulation for Leases**



determines that the claim calls into question the bidder's, the proposer's or the contractor's responsibility.

- b. If PSD receives information which calls into question a bidder's responsibility, and the information was received **before** the contract has been executed, PSD shall:
  - (1) Notify the Requesting Division in writing that no contract shall be awarded until PSD has completed investigation into the matter.
  - (2) Investigate the matter as required in Section G, "LAWA INVESTIGATION" to determine its validity.
  - (3) Upon completion of the investigation, PSD shall notify the Requesting Division and the Awarding Authority in writing of the result of the investigation.
  - (4) No contract may be awarded to any bidder until after the investigation has been completed and the Requesting Division and the Awarding Authority have received written notification that the investigation has been completed.
  - (5) Findings from the PSD investigation received by the Awarding Authority will be considered by the Awarding Authority as part of the determination of the bidder's responsibility.
- c. If PSD receives written information that calls into question a contractor's responsibility, and the information was received **after** the contract has been executed, PSD shall investigate the matter as required in Section G, LAWA INVESTIGATION.

#### **D. AWARD AND EXECUTION OF CONTRACTS**

##### **1. Departmental Determination of Responsibility and Award of Contract:**

- a. Requesting Division and the Awarding Authority shall determine whether a bidder/contractor is a responsible bidder, proposer or contractor with the necessary trustworthiness, quality, fitness and capacity to perform the work set forth in the proposed contract by considering the following:
  - (1) Information contained in the CRP Questionnaire;
  - (2) Information and documentation from PSD's investigation;
  - (3) Information regarding the bidder's, proposer's or contractor's past performance that may be contained in the City of Los Angeles' Contractor Evaluation Database.
  - (4) Information that may be available from any compliance or regulatory governmental agency, and
  - (5) Any other reliable information that may be available, including but not limited to information from any individual or any other governmental agency.

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- b. The Board may award and the Executive Director may execute a contract with a bidder or proposer only if:
  - (1) The bidder's or proposer's CRP Questionnaire has been made available for public review for at least 14 calendar days unless otherwise exempted from the posting requirement by the CRP;
  - (2) The bidder or proposer is not being investigated by PSD pursuant to the CRP;
  - (3) The bidder or proposer has not been found to be a non-responsible bidder/proposer pursuant to the CRP;
  - (4) The bidder or proposer does not appear on any City list of debarred bidders or contractors; and
  - (5) The bidder or proposer has met all other applicable City requirements.

## **2. Submission of Pledge of Compliance:**

- a. Unless otherwise exempt from the CRP, all bid/proposal submissions (RFBs, RFPs and RFQs) are required to contain a Pledge of Compliance with the CRP signed under penalty of perjury. Failure to submit a CRP Pledge of Compliance with the bid/proposal may make the bidder non-responsive and disqualified from the bidding process.
- b. Within 10 calendar days of execution of a contract with LAWA, the contractor shall submit to LAWA a signed CRP Pledge of Compliance from each subcontractor listed as performing work on the contract.

## **3. Subcontractor Responsibility:**

- a. Contractors shall ensure that their subcontractors meet the criteria for responsibility set forth in the CRP and these Rules and Regulations unless the subcontract is not subject to the CRP.
- b. Contractors shall ensure that subcontractors working on the LAWA agreement shall complete and submit a signed CRP Pledge of Compliance.
- c. Contractors shall not use in any capacity any subcontractor that has been determined or found to be a non-responsible contractor by LAWA or the City.
- d. Subject to approval by the Requesting Division, contractors may substitute a non-responsible subcontractor with another, responsible subcontractor with no changes in bid amounts.

#### **4. Execution of Contracts:**

- a. Unless exempt from the CRP, all contracts shall contain language obligating the contractor to comply with the CRP.
- b. No contract may be executed unless:
  - (1) The proposed contractor has submitted a signed Pledge of Compliance with the CRP.
  - (2) The proposed contractor's CRP Questionnaire, unless otherwise exempt, has been made available for public review for at least 14 calendar days in accordance with these Rules and Regulations.

#### **E. CONTRACT AMENDMENTS**

- 1. Compliance with the CRP, except for the requirement to submit a CRP Questionnaire, is required in contract amendments if the initial contract was not subject to the CRP, but the total term and amount of the contract, inclusive of all amendments, would make the contract subject to the CRP.
  - a. A contractor subject to the CRP because of an amendment shall submit a CRP Pledge of Compliance to the Requesting Division before the contract amendment can be executed.
  - b. Unless exempt from the CRP, all contract amendments shall contain contract language obligating the contractor to comply with the CRP.

#### **F. CONTRACTOR NOTIFICATION OF INVESTIGATIONS AND UPDATE OF INFORMATION**

- 1. **Notification of Investigations:** Contractors shall:
  - a. Notify the Requesting Division and PSD within 30 calendar days of receiving notice of any findings by a government agency or court of competent jurisdiction that the contractor violated any applicable Federal, State, or local law in the performance of a LAWA, City of Los Angeles, County of Los Angeles, State of California, Federal Government or other government contract, including but not limited to laws regarding health and safety, labor and employment, wage and hour, and licensing laws which affect employees.
  - b. Notify the Requesting Division and PSD within 30 calendar days of becoming aware of a violation or finding of violation of any applicable federal, state, or local law involving its subcontractors or sub-sub-contractors at any level in the performance of a LAWA contract.
- 2. **Update of CRP Questionnaire Information:**

#### **EXHIBIT Q**

#### **Contractor Responsibility Program (CRP) Rules & Regulation for Leases**

- a. Updates of information contained in the contractor's responses to the CRP Questionnaire shall be submitted to the Requesting Division and PSD within 30 days of any changes to the responses if the change would affect the contractor's responsibility or ability to continue performing the contract.
  - b. PSD or the Requesting Division shall determine whether a contractor in a specific situation should have provided information or updated information.
    - (1) If PSD or the Requesting Division becomes aware of new information concerning a contractor and determines that the contractor should have provided information or updated LAWA with such information, but the contractor has not done so, PSD shall issue a written notice to the contractor requiring the contractor to submit the required information within 10 calendar days.
    - (2) If PSD or the Requesting Division becomes aware of new information concerning a subcontractor and determines that the subcontractor should have provided information or updated LAWA of such information, but the subcontractor has not done so, PSD shall issue a written notice to the contractor requiring the subcontractor to submit the required information within 10 calendar days.
  - c. Contractor's failure to provide information or updated information when required by LAWA, the CRP or these Rules and Regulations may be considered a material breach of the contract, and, additionally, may result in the initiation of a non-responsibility hearing pursuant to Section I of these Rules and Regulations.
- 3. Contractors shall ensure that subcontractors provide information and updates.** Contractors shall ensure that subcontractors performing work on their LAWA contract abide by these same updating requirements, including the requirement to:
- a. Notify the Requesting Division and PSD within 30 calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that the subcontractor did not comply with any applicable Federal, State, or local law in the performance of the LAWA or City contract, including but not limited to laws regarding health and safety, labor and employment, wage and hour, and licensing laws which affect employees
  - b. Notify the Requesting Division and PSD within 30 calendar days of all findings by a government agency or court of competent jurisdiction that the subcontractor violated any applicable Federal, State, or local law in the performance of a LAWA or City of Los Angeles contract, including but not limited to laws regarding health and safety, labor and employment, wage and hour, and licensing laws which affect employees.
- 4. Submission of CRP Questionnaires and Updates of CRP Questionnaire Is Not Applicable to Subcontractors:** The requirement that contractors submit to LAWA CRP Questionnaires and updates to the CRP Questionnaire responses does not apply to subcontractors.

## **G. LAWA INVESTIGATION**

- 1. Reporting of Alleged Violations:** Allegations of violations of the CRP or these Rules and Regulations shall be reported to PSD. Complaints regarding a bidder's, proposer's or contractor's responsibility should be submitted to PSD in writing. However, PSD may investigate any claim or complaint regarding a bidder's, proposer's or a contractor's responsibility, whether or not it is submitted in writing. Whether based on a written complaint or otherwise, PSD shall be responsible for investigating such alleged violations.
- 2. Process:**
  - a. Upon receipt of a complaint or upon initiation of an investigation, PSD shall notify the Requesting Division, the Awarding Authority and the bidder, proposer or contractor in writing that an investigation has been initiated.
  - b. The bidder, proposer or contractor shall cooperate fully with PSD in providing information. If the bidder/proposer or contractor fails to cooperate with PSD's investigation or fails to timely respond to PSD's requests for information, LAWA may initiate a non-responsibility hearing as set forth in Section I of these Rules and Regulations. A contractor's failure to cooperate may be deemed a material breach of the contract, and the City may pursue all available remedies.
  - c. To the extent permissible, PSD shall maintain the identity of the complainant, if any, confidential.
  - d. Upon completion of the investigation, PSD shall prepare a written report of the findings and notify the Requesting Division, the Awarding Authority and the bidder, proposer or contractor of the results.
- 3. Results of Investigation:**
  - a. When an investigation is completed before the contract is awarded, PSD shall notify the Requesting Division and the Awarding Authority of the results, and Requesting Division and the Awarding Authority will consider the information as part of the determination of a bidder's responsibility during the bid/proposal review process.

### **EXHIBIT Q**

#### **Contractor Responsibility Program (CRP) Rules & Regulation for Leases**

b. When an investigation is completed after the execution of a contract:

- (1) If violations of the CRP are found, PSD shall notify the Requesting Division and contractor of the violation and require the contractor to make corrections or take reasonable measures within 10 calendar days.
- (2) If the contractor fails to make corrections as required, PSD shall notify the Requesting Division and the Awarding Authority and may recommend that the Awarding Authority:
  - (i) Terminate the contract.
  - (ii) Initiate a hearing to declare the contractor a non-responsible contractor.

#### **H. VIOLATIONS OF THE CRP OR THESE RULES AND REGULATIONS**

1. Violations of the CRP or of these Rules and Regulations may be considered a material breach of the contract and may entitle LAWA or the City to terminate the contract.
2. Alleged violations of the CRP or of these Rules and Regulations shall be reported to the PSD which will investigate all such complaints.
3. When a violation of the CRP or of these Rules and Regulations is found, PSD shall notify the contractor and the Awarding Authority of the violation. PSD shall require the contractor to correct the violation within 10 calendar days. Failure to correct violations or take reasonable measures to correct violations within 10 calendar days may result in PSD:
  - a. Recommending that the Awarding Authority declare a material breach of the contract and that the Awarding Authority exercise all contractual and legal remedies available, including but not limited to termination of the contract, and/or
  - b. Recommending that the Awarding Authority declare the contractor a non-responsible contractor by initiating, within 30 calendar days or as soon as practicable, a non-responsibility hearing in accordance with Section I of these Rules and Regulations.

#### **I. NON-RESPONSIBILITY HEARING**

1. The process of declaring a bidder or contractor a non-responsible bidder or contractor shall be initiated by the Awarding Authority after consultation with the City Attorney's Office.
2. Before a bidder, proposer or contractor may be declared non-responsible, the bidder, proposer or contractor shall be notified of the proposed determination of non-responsibility and provided with an opportunity for a hearing.



3. The Awarding Authority or the Executive Director's designee shall preside over the non-responsibility hearing and shall provide the bidder, proposer or contractor with the following:
  - a. The bidder, proposer or contractor shall be provided with written Notice of intent to declare the bidder, proposer or contractor non-responsible ("Notice") which shall state that the Awarding Authority intends to declare the bidder, proposer or contractor a non-responsible bidder or contractor.
  - b. The Notice shall provide the bidder, proposer or contractor with the following information:
    - (1) That the Awarding Authority intends to declare the bidder or contractor a non-responsible bidder, proposer or contractor.
    - (2) A summary of the information upon which the Awarding Authority is relying.
    - (3) That the bidder, proposer or contractor has a right to respond to the information by requesting a hearing to rebut adverse information and to present evidence of its necessary trustworthiness, quality, fitness and capacity to perform the work required under the contract.
    - (4) That the bidder, proposer or contractor must exercise the right to a hearing by submitting to the Awarding Authority a **written request** for a hearing **within 10 working days** of the date of the Notice.
    - (5) That failure to submit a written request for hearing within 10 working days of the date of the Notice shall be considered a waiver of the right to a hearing that allows the Awarding Authority to proceed with the determination of non-responsibility.
  - c. If the bidder or contractor submits a written request for a hearing, the hearing may be held by the Awarding Authority for recommendation to the Board, which shall make the final decision.
  - d. The hearing must allow the bidder, proposer or contractor an opportunity to address the issues contained in the Notice of Intent to declare the bidder, proposer or contractor non-responsible.
  - e. The Awarding Authority may determine that the bidder, proposer or contractor:
    - (1) Does not possess the necessary trustworthiness, quality, fitness, or capacity to perform the work set forth in the proposed contract, should be declared a non-responsible bidder, proposer or contractor, and recommend to the Board invocation of the remedies set forth in Section J of these Rules and Regulations.
    - (2) Should not be declared a non-responsible bidder or contractor.
  - f. The Board's determination shall be final and constitute exhaustion of administrative remedies.
  - g. The Board's final decision shall be in writing and shall be provided to the bidder,

#### EXHIBIT Q

#### Contractor Responsibility Program (CRP) Rules & Regulation for Leases

proposer or contractor, the Requesting Division and to PSD. If the bidder, proposer or contractor is declared to be non-responsible, a copy of the final decision shall also be provided to the CAO.

## **J. NON-RESPONSIBILITY SANCTIONS**

1. A **bidder/proposer** found non-responsible by LAWA shall be disqualified from:
  - a. award of the proposed contract or,
  - b. participating, in any way, in the proposed contract.

Such non-responsible bidder or proposer shall not perform any work in the proposed contract, whether as a prime contractor, a subcontractor, a partner in a partnership, a participant in a joint venture, a member of a consortium or in any other capacity.

2. An existing **contractor** found non-responsible by LAWA may be declared to have a material breach of contract, and LAWA may exercise its contractual and legal remedies thereunder, which are to include, but are not limited to termination of the contract.
3. Upon final determination of a bidder, proposer or contractor as non-responsible, PSD shall provide the Requesting Division and the bidder, proposer or contractor with a written notice summarizing the Awarding Authority's findings and sanctions.
4. PSD shall maintain a listing of bidders/proposers and contractors who have been found non-responsible by LAWA pursuant to the CRP.

## **K. EXEMPTIONS**

1. **Categorical Exemption:** The following types of contracts are categorically exempt from the CRP and these Rules and Regulations:
  - a. Contracts with a governmental entity such as the United States of America, the State of California, a county, city or public agency of such entities, or a public or quasi-public corporation located therein and declared by law to have such status.
  - b. Contracts for the investment of trust moneys or agreements relating to the management of trust assets.
  - c. Banking contracts entered into by the Treasurer pursuant to California Government Code Section 53630 et seq.

**Board approval required for CRP Exemptions:** The following types of contracts are exempt from the requirement to submit a Questionnaire but remain subject to the requirement that the contractor submit a Pledge of Compliance and notify the Awarding Authority within 30 days of any information regarding investigations or the results of investigations by any governmental agency into the contractor's compliance with applicable laws.

## **EXHIBIT Q**

### **Contractor Responsibility Program (CRP) Rules & Regulation for Leases**

- a. Contracts awarded on the basis of exigent circumstances when the Awarding Authority finds the City would suffer a financial loss or that City operations would be adversely impacted.
  - (1) This exemption is subject to approval by PSD.
  - (2) The Awarding Authority shall submit a request to PSD for waiver along with written certification that the required conditions exist.
  - (3) No contract may be exempted under this provision unless PSD has granted written approval of the waiver.
- b. Contracts where the goods or services are proprietary or available from only one source.
  - (1) This exemption is subject to approval by PSD.
  - (2) The Awarding Authority shall submit a request to PSD for waiver along with written certification that the required conditions exist.
  - (3) No contract may be exempted under this provision unless PSD has granted written approval of the waiver.
- c. Contracts awarded in accordance with Charter Section 371(e)(5). The Awarding Authority must certify in writing that award is based on urgent necessity in accordance with Charter Section 371(e)(5).
- d. Contracts entered into based on, Charter Section 371(e)(6), (7) or (8). The Awarding Authority must certify in writing that the contract is entered into in accordance with Charter Section 371(e)(6), (7) or (8).

**EXHIBIT Q**

**Contractor Responsibility Program (CRP) Rules & Regulation for Leases**

#### **L. EFFECTIVE DATE OF RULES AND REGULATIONS**

1. These Rules and Regulations apply to IFB's issued after the Executive Director has approved these Rules and Regulations.
2. These Rules and Regulations apply to contracts entered into by LAWA after the Executive Director has approved these Rules and Regulations.
3. Contracts amended after these Rules and Regulations are approved by the Executive Director will become subject to CRP and these Rules and Regulations if they meet definitions contained in the CRP and these Rules and Regulations.

#### **M. CONSISTENCY WITH FEDERAL AND STATE LAW**

The CRP and these Rules and Regulations do not apply in instances where application would be prohibited by Federal and State law or where the application would violate or be inconsistent with the terms and conditions of a grant or contract with the Federal or State agency.

#### **N. SEVERABILITY**

If any provision of the CRP or these Rules and Regulations are declared legally invalid by any court of competent jurisdiction, the remaining provisions remain in full force and effect.

**LOS ANGELES WORLD AIRPORTS  
CONTRACTOR RESPONSIBILITY PROGRAM  
PLEDGE OF COMPLIANCE**

The Los Angeles World Airports (LAWA) Contractor Responsibility Program (Board Resolution #21601) provides that, unless specifically exempted, LAWA contractors working under contracts for services, for purchases, for construction, LAWA licensees with licenses, agreements or permits issued under the Certified Service Provider Program, and LAWA tenants with leases, that require the Board of Airport Commissioners' approval shall comply with all applicable provisions of the LAWA Contractor Responsibility Program. Bidders and proposers are required to complete and submit this Pledge of Compliance with the bid or proposal or with an amendment of a contract subject to the CRP. In addition, within 10 days of execution of any subcontract, the contractor shall submit to LAWA this Pledge of Compliance from each subcontractor who has been listed as performing work on the contract.

The contractor agrees to comply with the Contractor Responsibility Program and the following provisions:

- (a) To comply with all applicable Federal, state, and local laws in the performance of the contract, including but not limited to, laws regarding health and safety, labor and employment, wage and hours, and licensing laws which affect employees.
- (b) To notify LAWA within thirty (30) calendar days after receiving notification that any government agency has initiated an investigation that may result in a finding that the contractor is not in compliance with paragraph (a).
- (c) To notify LAWA within thirty (30) calendar days of all findings by a government agency or court of competent jurisdiction that the contractor has violated paragraph (a).
- (d) To provide LAWA within thirty (30) calendar days updated responses to the CRP Questionnaire if any change occurs which would change any response contained within the completed CRP Questionnaire. Note: This provision does not apply to amendments of contracts not subject to the CRP and to subcontractors not required to submit a CRP Questionnaire.
- (e) To ensure that subcontractors working on the LAWA contract shall complete and sign a Pledge of Compliance attesting under penalty of perjury to compliance with paragraphs (a) through (c) herein. To submit to LAWA the completed Pledges.
- (f) To notify LAWA within thirty (30) days of becoming aware of an investigation, violation or finding of any applicable federal, state, or local law involving the subcontractors in the performance of a LAWA contract.
- (g) To cooperate fully with LAWA during an investigation and to respond to request(s) for information within ten (10) working days from the date of the Notice to Respond.

Failure to sign and submit this form to LAWA with the bid/proposal may make the bid/proposal non-responsive.

\_\_\_\_\_  
Company Name, Address and Phone Number

\_\_\_\_\_  
Signature of Officer or Authorized Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name and Title of Officer or Authorized Representative

\_\_\_\_\_  
Project Title

**EXHIBIT Q**

**Contractor Responsibility Program (CRP) Rules & Regulation for Leases**

**EXHIBIT R**  
**CHILD SUPPORT**



# LOS ANGELES ADMINISTRATIVE CODE

## Div. 10, Ch. 1, Art. 1

### CHILD SUPPORT

#### Sec. 10.10. Child Support Assignment Orders.

##### a. Definitions.

1. **Awarding Authority** means a subordinate or component entity or person of the City (such as a City department or Board of Commissioners) that has the authority to enter into a contract or agreement for the provision of goods or services on behalf of the City of Los Angeles.

2. **Contract** means any agreement, franchise, lease or concession including an agreement for any occasional professional or technical personal services, the performance of any work or service, the provision of any materials or supplies, or the rendering of any service to the City of Los Angeles or to the public which is let, awarded or entered into with, or on behalf of, the City of Los Angeles or any awarding authority thereof.

3. **Contractor** means any person, firm, corporation, partnership or any combination thereof which submits a bid or proposal or enters into a contract with any awarding authority of the City of Los Angeles.

4. **Subcontractor** means any person, firm, corporation, partnership or any combination thereof who enters into a contract with a contractor to perform or provide a portion of any contract with the City.

5. **Principal Owner** means any person who owns an interest of 10 percent or more in a contractor or subcontractor as defined herein.

##### b. Mandatory Contract Provisions.

Every contract that is let, awarded or entered into with or on behalf of the City of Los Angeles shall contain a provision obligating the contractor or subcontractor to fully comply with all applicable State and Federal employment reporting requirements for the contractor or subcontractor's employees. The contractor or subcontractor will also be required to certify that the principal owner(s) thereof are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally, that the contractor or subcontractor will

fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments in accordance with California Family Code §§ 5230 *et seq.* and that the contractor or subcontractor will maintain such compliance throughout the term of the contract.

Failure of a contractor or subcontractor to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignments or Notices of Assignment applicable to them personally shall constitute a default under the contract. Failure of the contractor or subcontractor or principal owner thereof to cure the default within 90 days of notice of such default by the City shall subject the contract to termination.

##### c. Notice to Bidders.

Each awarding authority shall be responsible for giving notice of the provisions of this ordinance to those who bid on, or submit proposals for, prospective contracts with the City.

##### d. Current Contractor Compliance.

Within 30 days of the operative date of this ordinance, the City, through its operating departments, shall serve upon existing contractors a written request that they and their subcontractors (if any) comply with all applicable State and Federal employment reporting requirements for the contractor and subcontractor's employees, that they certify that the principal owner(s) of the contractor and any subcontractor are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally, that the contractor and subcontractor will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments in accordance with California Family Code § 5230 *et seq.* and that the contractor and subcontractor will maintain such compliance throughout the term of the contract.

##### e. City's Compliance with California Family Code.

The City shall maintain its compliance with the provisions of California Family Code §§ 5230 *et*

*seq.* and all other applicable law regarding its obligations as an employer to implement lawfully served Wage and Earnings Assignments and Notices of Assignment.

f. Report of Employees' Names to District Attorney.

1. The City shall maintain its current practice of assisting the District Attorney's support enforcement activities by annually reporting to the Los Angeles County District Attorney the names of all of its employees and retirees so that the District Attorney may identify those employees and retirees subject to Wage and Earnings Assignment Orders and Notices of Assignment and may establish court orders for support, where appropriate. Should the District Attorney so request it, the City will provide such information on a more frequent basis.

2. All applicants for employment with the City of Los Angeles will be asked to acknowledge their responsibility to comply with any court ordered support obligations and will be advised of the City's practice of assisting the District Attorney as described in the provisions of Subsection f.1., above.

**SECTION HISTORY**

*Added by Ord. No. 172,401, Eff. 2-13-99.*

**EXHIBIT S**  
**GUARANTY**

**GUARANTY AGREEMENT BETWEEN THE CITY  
OF LOS ANGELES, DEPARTMENT OF AIRPORTS  
AND CURRENT ENERGY, LLC COVERING THE OPERATING  
AGREEMENT FOR THE ROOFTOP PV SYSTEM AT VAN NUYS  
AIRPORT**

This **GUARANTY AGREEMENT** (“**Guaranty**”) is made and entered into as of \_\_\_\_\_, 2024, in Los Angeles, California, by and between the **CITY OF LOS ANGELES**, municipal corporation (“**CITY**” or “**LAWA**”), acting by order of and through its Board of Airport Commissioners (“**Board**”), and **CURRENT ENERGY, LLC**, a California limited liability company (“**Guarantor**”) with respect to that certain Operating Agreement dated \_\_\_\_\_, 2024 entered into between CITY and CURRENT ENERGY, LLC (“**Operating Agreement**”).

The parties hereto, for and in consideration of the covenants and conditions hereinafter contained to be kept and performed, DO HEREBY AGREE AS FOLLOWS:

1. Guarantor unconditionally guaranties to CITY performance of all financial obligations under the Operating Agreement including, but not limited to, the prompt payment when due of the rent, additional rent and all other charges payable by Current Energy, LLC, a California limited liability company, Aviation Plaza FIT, LLC, a California limited liability company, or any other assignee or transferee of Current Energy, LLC or Aviation Plaza FIT, LLC (collectively, “**Operator**”), under the Operating Agreement for the Site Location at Van Nuys Airport, as provided in Exhibit A of the Operating Agreement, and full and faithful performance of the other financial covenants (including, without limitation, the indemnities contained in the Operating Agreement); and Guarantor unconditionally covenants to CITY that if:

(a) default or breach shall at any time be made by Operator in the covenants to pay rent and additional rent or any other charges payable under the Operating Agreement or in the performance of any of the other covenants (including but not limited to completion of all Improvements) and (b) notice of any such default or breach shall have been given by CITY to Operator and Operator shall not have cured such default or breach after the expiration of applicable notice and grace periods, if any, provided for in the Operating Agreement (except that the foregoing clause (b) shall be inapplicable if Operator shall be bankrupt or insolvent), then Guarantor shall well and truly perform (or cause to be performed) the covenants, and pay (or cause to be paid) said rent, additional rent or other charges or arrears thereof that may remain due thereon to CITY, and also all damages that may arise directly from the non-performance of the financial covenants, or any of them. Guarantor shall pay to CITY, within fifteen (15) business days after written notice, all expenses (including, without limitation, reasonable attorneys’ fees and disbursements) incurred by CITY in connection with the enforcement or protection of CITY’s rights hereunder or under the Operating Agreement. This Guaranty is a guaranty including but not limited to payment, not collection.

2. The liability of Guarantor hereunder shall not be impaired, abated, deferred, diminished, modified, released, terminated or discharged, in whole or in part, or otherwise affected, by any event, condition, occurrence, circumstance, proceeding, action or failure to act, with or without notice to, or the knowledge or consent of, Guarantor, including, without limitation:

(a) any amendment, modification or extension of the Operating Agreement;

(b) any extension of time for performance, whether in whole or in part, of any covenant given prior to or after default under the Operating Agreement;

(c) any exchange, surrender or release, in whole or in part, of any security which may be held by CITY at any time for or under the Operating Agreement;

(d) any waiver of or assertion or enforcement or failure or refusal to assert or enforce, in whole or in part, any covenant, claim, cause of action, right or remedy which CITY may, at any time, have under the Operating Agreement or with respect to any guaranty or any security which may be held by CITY at any time for or under the Operating Agreement or with respect to Operator;

(e) the release of any other guarantor from liability for the performance or observance of any covenant, whether by operation of law or otherwise;

(f) CITY's consent to any assignment or subletting or the assignment or successive assignments of the Operating Agreement by Operator, or any subletting of all or any portion of the Site Location indicated in the Operating Agreement by Operator;

(g) the failure to give Guarantor any notice whatsoever, other than any notice that CITY is required to give pursuant to this Guaranty and pursuant to the Operating Agreement;

(h) any right to require City to proceed against Operator or any other person or any security now or hereafter held by City or to pursue any other remedy whatsoever;

(i) any assignment, conveyance, mortgage, merger or other transfer, voluntary or involuntary (whether by operation of law or otherwise), of all or any part of Operator's interest in the Operating Agreement;

(j) any assignment, conveyance, mortgage, merger or other transfer, voluntary or involuntary (whether by operation of law or otherwise) of all or part of the interest or rights of CITY under the Operating Agreement; or

(k) the bankruptcy or insolvency of Operator.

3. To charge Guarantor under this Guaranty no demand shall be required (other than the fifteen (15) business days' notice required under Section 1), Guarantor hereby expressly waiving any such demand. CITY shall have the right to enforce this Guaranty without pursuing any right or remedy of CITY against Operator or any other party, or any security CITY may hold. CITY may commence any action or proceeding based upon this Guaranty directly against Guarantor without making Operator or anyone else a party defendant in such action or proceeding. Any one or more successive and/or concurrent actions may be brought hereon against Guarantor either in the same action, if any, brought against Operator and/or any other party or in separate actions, as often as CITY, in its sole discretion, may deem advisable.

4. This Guaranty shall be binding upon Guarantor and its heirs, successors and assigns, and shall inure to the benefit of, be binding upon and may be enforced by the successors and assigns of CITY or by any party to whom CITY's interest in the Operating Agreement or any



part thereof, including the rents, may be assigned whether by way of mortgage or otherwise. Wherever in this Guaranty reference is made to either CITY or Operator, the same shall be deemed to refer also to the then successor or assign of CITY or Operator.

5. Guarantor hereby expressly waives and releases (a) notice of the acceptance of this Guaranty and notice of any change in Operator's financial condition; (b) the right to interpose any substantive or procedural defense of the law of guaranty, indemnification or suretyship, except the defenses of prior payment or prior performance (whether before, during or after any applicable notice and grace periods) by Operator (of the obligations which Guarantor is called upon to pay or perform under this Guaranty); (c) any other rights and defenses that are or may become available to Guarantor by reason of Sections 2787 through 2855 of the California Civil Code, except that Guarantor does not waive any rights or defenses available under California Civil Code Section 2809; (d) the right to trial by jury, in any action or proceeding of any kind arising on, under, out of, or by reason of or relating, in any way, to this Guaranty or the interpretation, breach or enforcement thereof; (e) the right to interpose any defense (except as allowed under (b) above), set off or counterclaim of any nature or description in any action or proceeding; and (f) any right or claim of right to cause a marshalling of Operator's assets or to cause CITY to proceed against Operator and/or any collateral held by CITY at any time or in any particular order. Guarantor hereby agrees that this Guaranty constitutes a written consent to waiver of trial by jury pursuant to the provisions of California Code of Civil Procedure Section 631, and Guarantor does hereby authorize and empower CITY, in the name, place and stead of Guarantor, to file this Guaranty with the clerk or judge of any court of competent jurisdiction as a statutory written consent to waiver of trial by jury at CITY's sole discretion.

6. Without limiting Guarantor's obligations elsewhere under this Guaranty, if Operator, or Operator's trustee, receiver or other officer with similar powers with respect to Operator, rejects, disaffirms or otherwise terminates the Operating Agreement pursuant to any bankruptcy, insolvency, reorganization, moratorium or any other law affecting creditors' rights generally, Guarantor shall automatically be deemed to have assumed, from and after the date such rejection, disaffirmance or other termination of the Operating Agreement is deemed effective, all obligations and liabilities of Operator under the Operating Agreement to the same extent as if Guarantor had been originally named instead of Operator as a party to the Operating Agreement and the Operating Agreement had never been so rejected, disaffirmed or otherwise terminated and shall be entitled to all benefits of Operator under the Operating Agreement. Guarantor, upon such assumption, shall be obligated to perform and observe all of the covenants whether theretofore accrued or thereafter accruing, and Guarantor shall be subject to any rights or remedies of CITY which may have theretofore accrued or which may thereafter accrue against Operator on account of any default under the Operating Agreement, notwithstanding that such defaults existed prior to the date Guarantor was deemed to have automatically assumed the Operating Agreement or that such rights or remedies are unenforceable against Operator by reason of such rejection, disaffirmance or other termination, provided that Guarantor shall have a reasonable time after such assumption to cure non-monetary defaults existing as of the date of such assumption. Guarantor shall confirm such assumption at the request of CITY upon or after such rejection, disaffirmance or other termination, but the failure to do so shall not affect such assumption. Guarantor, upon the assumption of the Operating Agreement, shall have all of the rights of Operator under the Operating Agreement (to the extent permitted by law). Neither Guarantor's obligation including but not limited to payment in accordance with this Guaranty nor



any remedy for the enforcement thereof shall be impaired, modified, changed, stayed, released or limited in any manner by any impairment, modification, change, release, limitation or stay of the liability of Operator or its estate in bankruptcy or any remedy for the enforcement thereof, resulting from the operation of any present or future provision of the Bankruptcy Code of the United States or other statute or from the decision of any court interpreting any of the same, and Guarantor shall be obligated under this Guaranty as if no such impairment, stay, modification, change, release or limitation had occurred.

7. This Guaranty and all rights, obligations and liabilities arising hereunder shall be construed according to the substantive laws of California without reference to choice of law principles. Venue shall lie in the appropriate court located in Los Angeles County, California.

8. Until such time as all of Guarantor's obligations have been paid or performed, Guarantor hereby waives any and all rights of subrogation (if any) which it may have against Operator as a result of actions taken or amounts paid in connection with or relating to this Guaranty or to the Operating Agreement.

9. Guarantor represents and warrants to CITY that as of the date hereof:

(a) This Guaranty constitutes the legal, valid and binding obligation of Guarantor, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, and other laws affecting creditors' rights generally, to moratorium laws from time to time in effect and to general principles of equity (regardless of whether enforceability is considered in a proceeding in equity or at law).

(b) No action, suit or proceeding is pending or, to Guarantor's actual knowledge, threatened against Guarantor that would materially affect Guarantor's ability to fully perform its obligations under this Guaranty.

10. If CITY shall be obligated by reason of any bankruptcy, insolvency or other legal proceeding to pay or repay to Operator or to Guarantor or to any trustee, receiver or other representative of either of them, any amounts previously paid by Operator or Guarantor pursuant to the Operating Agreement or this Guaranty, Guarantor shall reimburse CITY for any such payment or repayment and this Guaranty shall extend to the extent of such payment or repayment made by CITY, except to the extent, if any, that such payment or repayment is prohibited by law or that such payment or repayment constitutes merely a reimbursement of any overpayment. CITY shall not be required to litigate or otherwise dispute its obligation or make such payment or repayment if in good faith and on written advice of counsel reasonably acceptable to Guarantor CITY believes that such obligation exists.

11. CITY and Guarantor shall each, not more than once per calendar year and within ten (10) business days following request by the other, execute, acknowledge and deliver to the other a statement certifying that this Guaranty is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating such modifications) and that to the certifying party's actual knowledge, Guarantor is not in default hereunder (or if there is such a default, describing such default in reasonable detail).

12. All remedies afforded to CITY by reason of this Guaranty or the Operating Agreement, or otherwise available at law or in equity, are separate and cumulative remedies, and it is stipulated that no one remedy, whether or not exercised by CITY, shall be deemed to be in exclusion of any other remedy available to CITY and shall not limit or prejudice any other legal or equitable remedy which CITY may have.

13. If any term, covenant, condition or provision of this Guaranty or the application thereof to any circumstance or to Guarantor shall be invalid or unenforceable to any extent, the remaining terms, covenants, conditions and provisions of this Guaranty or the application thereof to any circumstances, or to Guarantor other than those as to which any term, covenant, condition or provision is held invalid or unenforceable, shall not be affected thereby and each remaining term, covenant, condition and provision of this Guaranty shall be valid and shall be enforceable to the fullest extent permitted by law.

14. Written notices to City hereunder shall be sent to the Chief Executive Officer with a copy sent to the City Attorney of the City of Los Angeles and addressed to said parties at:

Chief Executive Officer  
Department of Airports  
1 World Way  
Post Office Box 92216  
Los Angeles, CA 90009-2216

City Attorney  
Department of Airports  
1 World Way  
Post Office Box 92216  
Los Angeles, CA 90009-2216

or to such other address as these parties may designate by written notice to Guarantor.

Written notices to Guarantor hereunder shall be sent and addressed to:

Current Energy LLC  
Attn: Legal Department  
230 Park Avenue, Suite 845  
New York, NY 10169

25876 The Old Road #418  
Stevenson Ranch, CA 91381

or to such other address as Guarantor may designate by written notice to City.

15. All notices, demands, and other communications which are required or may be permitted to be given to CITY or Guarantor by the other hereunder shall be in writing and shall be sent by United States mail, postage prepaid, certified, or by personal delivery or nationally recognized overnight courier, addressed to the addresses set forth in this Guaranty, or to such other place as either party may from time to time designate in a notice to the other party given as provided herein. Notice shall be deemed given upon actual receipt (or attempted delivery if delivery is refused), if personally delivered, or one (1) business day following deposit with a reputable overnight courier that provides a receipt, or on the fifth (5th) day following deposit in the United States mail in the manner described above.

16. This Guaranty shall be entered into in consideration of the execution of the

Operating Agreement. The Operating Agreement is further subject to Board and Los Angeles City Council approval. Execution of this Guaranty by CITY shall not ensure such approval.

17. This Guaranty shall continue in full force and effect until all of Operator's remaining financial obligations set forth in the Operating Agreement are met, notwithstanding the termination or earlier expiration of the Operating Agreement.

IN WITNESS WHEREOF, City has caused this Guaranty to be executed on its behalf by Chief Executive Officer and Guarantor has caused the same to be executed by its duly authorized officers and its corporate seal to be hereunto affixed, all as of the day and year first above written.

**APPROVED AS TO FORM:**  
**Hydee Feldstein Soto, City Attorney**

**CITY OF LOS ANGELES**  
**By signing below, the signatory attests**  
**that they have no personal, financial,**  
**beneficial, or familial interest in this**  
**Contract.**

Date \_\_\_\_\_

By \_\_\_\_\_

Deputy/Assistant City Attorney

By \_\_\_\_\_

Chief Executive Officer  
Department of Airports

**ATTEST:**

**CURRENT ENERGY, LLC**

By: \_\_\_\_\_  
Secretary (Signature)

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

\_\_\_\_\_  
Print Title

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Title