City of Mount Dora
510 North Baker Street
Mount Dora, Florida 32757
352-735-7126

Mount Dora City Council

Mount Dora City Hall Board Room
510 North Baker Street, Mount Dora, Florida 32757
January 3, 2023, 6:00 PM

AGENDA

CALL TO ORDER

MOMENT OF SILENCE & PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENTATIONS

1. Mount Dora Fun Fact

PUBLIC COMMENTS

- This is the time for the public to come forward with any comments on any subject related to City business that is not listed on the Agenda.
- Please complete a speaker card and provide it to the City Clerk prior to the meeting.
- Please clearly state your name and address for the record. If you are part of a group, try to designate a speaker.
- Please address all comments to the Mayor.
- We will try to answer your questions at the time asked; however, there may be times we will need to conduct research prior to providing an answer.

APPROVAL OF AGENDA

BOARD APPOINTMENTS

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CONSENT AGENDA

1. Request Approval of Cost-Share Agreement between St. Johns River Water Management District and the City of Mount Dora for Wastewater Improvements at WWTP#1 7

2. Request Approval of Interlocal Agreement between Lake County and the City of Mount Dora for Use of Lake County Library Impact Fees for Manga Collection — 22

3. Request Approval of the Fourth Amendment to the Solid Waste Agreement between the City of Mount Dora and Waste Management Inc. of Florida — 36

4. Request Approval of Amendment to the Solar Power Sales Contract with Florida Municipal Power Agency and the City of Mount Dora — 62

5. Request Approval of Meeting Minutes — 269

    - December 20, 2022

ACTION ITEMS

1. Request Approval of Amendment 4 to the Lease Agreement between Nickmax Properties, LLC, and the City of Mount Dora for the Robie Street Property — 276

2. Approval of Amendment 3 to the Professional Services Agreement between the City of Mount Dora and ADG for Public Works Facility Phase 2 Design and Engineering Services — 322

3. Request Adoption of **Resolution No. 2023-02**, Budget Amendment for WWTP #1 Repairs and Approval of Task Authorization/GMP (Guaranteed Maximum Price) for WWTP# 1 Repairs (Faden Builders) — 390

4. Request Approval of Task Authorization/GMP (Guaranteed Maximum Price) for Pickleball Courts at Summerview Park (Faden) — 398

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

COMMUNICATIONS AND REPORTS

- Council Member Cal Rolfson
- Council Member Dennis Dawson

- Council Member Nate Walker
- Council Member Doug Bryant
- Council Member John Cataldo
- Vice-Mayor Marc Crail
- Mayor Crissy Stile

FUTURE MEETING DATES

- January 17, 2023, 6:00 PM, Regular Session
- February 7, 2023, 6:00 PM, Regular Session
- February 21, 2023, 6:00 PM, Regular Session
- March 7, 2023, 6:00 PM, Regular Session

ADJOURNMENT

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE AT THIS MEETING WITH RESPECT TO ANY MATTER CONSIDERED AT ANY MEETING OR HEARING, SUCH PERSON MAY NEED A RECORD OF THESE PROCEEDINGS FOR SUCH PURPOSE, A PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. VERBATIM RECORD WILL NOT BE PROVIDED BY THE CITY OF MOUNT DORA.

NOTICE: IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, PERSONS NEEDING A SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE CITY CLERK AT LEAST 48 HOURS PRIOR TO THE PROCEEDINGS. TELEPHONE (352) 735-7126 FOR ASSISTANCE. IF HEARING IMPAIRED, TELEPHONE THE FLORIDA RELAY SERVICE NUMBERS, (800) 955-8771 (TDD) OR (800) 955-8770 (VOICE) FOR ASSISTANCE.

510 N. Baker St.
Mount Dora, FL 32757
352-735-7126

DATE: January 3, 2023

TO: Honorable Mayor and City Council Members

FROM: Patrick C. Comiskey, City Manager Patrick C. Comiskey

SUBJECT: Adivsory Board Appointments

Introduction:
This is an opportunity for Councilmembers to appoint members to City advisory boards.

Discussion:
Pursuant to the City's Code of Ordinances, Advisory Board and Commission members serve two-year terms and may be reappointed for additional terms.

The following appointee is proposed for the District 3 seat on the CRA Advisory Committee: Karen Lawrence.

Budget Impact:
N/A

Strategic Impact:
N/A

Recommendation:
Council appoint proposed board members.

Attachment(s):
1. Application.Lawrence.Karen.CRA.Online Form Submittal_ Board Application

Prepared by: Jeanann Hand, City Clerk
Reviewed by:

ATTACHMENT #1

Print

Board Application - Submission #4795

Date Submitted: 12/19/2022

CITY OF MOUNT DORA™

City Clerk
510 North Baker Street

Mount Dora, FL 32757

(352) 735-7142 Office

Application to Serve as a Board or Committee Member for the City of Mount Dora
Please complete all of the date fields listed below.

First Name*
karen

Last Name*
lawrence

Address1*
200 AUGUST FERN LOOP

Address2

City*
MT DORA

State*
Florida

Zip*
32757

Phone Number*
7863333738

Email Address*
5771nw98ct@gmail.com

Provide a brief statement relating to your education, experience and reason for wishing to serve*

I have a BBA from University of Michigan. I am the owner of Lulu Candles in Eustis, but I also have a store front in Mt. Dora downtown. I love Mt. Dora and want to bring some new and fresh ideas to make Mt Dora a more exciting place, without taking away from it's historical charm.

Resume or additional attachments (not required)

Choose File No file chosen

Boards on which you wish to serve*

CRA BOARD

Upon Completion

This form will be submitted to the City Clerk's Office.

510 N. Baker St.
Mount Dora, FL 32757
352-735-7126

DATE: **January 3, 2023**

TO: **Honorable Mayor and City Council Members**

FROM: **Patrick C. Comiskey, City Manager** Patrick C. Comiskey

SUBJECT: Request Approval of Cost-Share Agreement between St. Johns River Water Management District and the City of Mount Dora for Wastewater Improvements at WWTP#1

Introduction:

This is a request for City Council to approve the cost-share agreement between SJRWMD and City of Mount Dora for up to $3,000,000.00 for the Wastewater Treatment Plant # 1 Rehab Project.

Discussion:

On February 1, 2022, City Council authorized staff to apply to St Johns River Water Management District (SJRWMD) for a Cost Share Agreement (Grant) with a cost share opportunity up to $3,000,000.00 to supplement planned rehabilitation improvements at the Wastewater # 1 treatment facility. SJRWMD advised the Board of Governors approved the City's cost-share grant application at their meeting on May 10, 2022.

SJRWMD awards funds to help alleviate the construction cost portion of the project that improves local water quality. The City's wastewater # 1 plant rehabilitation project meets the SJRWMD cost share criteria with its modern treatment improvements. The updated treatment and equipment will also be more efficient, reduce operational costs and provide additional capacity to meet future wastewater needs for years to come.

The Cost Share Grant will help offset the new high quality reclaimed water improvements. The current wastewater plant cannot achieve a high level of reclaimed treatment without modification. The proposed new treatment will reduce the phosphorus and nitrogen levels in the reclaimed water used for irrigation. The lower levels of phosphorus and nitrogen reduce the chance of algae plumes in our streams and lakes. The City has also been awarded a State Revolving Fund (SRF) loan in the amount of $12,000,000 for the base project needs. The SJRWMD cost share grant will reduce the burden on the City utility rate base for environmental improvements that benefit the customers and the environment.

CMAR contractor Wharton Smith is currently bidding the project and a Guaranteed Maximum Price (GMP) will be brought to City Council at a future date.

Budget Impact:

The cost share with St. Johns River Water Management District will provide up to $3,000,000 to offset the wastewater # 1 plant rehabilitation project.

Strategic Impact:

WWTP#1 Rehabilitation project and approval of the associated SJRWMD Cost-Share Agreement meets the City's Strategic Plan goals as follows:
GOAL 2: Infrastructure / Public Safety, Objective 2.4. Sustain City Infrastructure
GOAL 3: Fiscal Resources / Human Resources, Objective 3.1. Identify and seek funding sources, 3.1.1. Pursue federal, state, and local grants to fund city department technology, studies, and projects.

Recommendation:

City Council review approve the Cost-Share agreement between St. Johns River Water Management District with the Mayor being authorized to sign the agreement.

Attachment(s):

1. 38023 City Of Mount Dora Agreement 12.16.22

Prepared by:	Merry Lovern , Executive Assistant	
Reviewed by:	GEORGE MAREK, Interim Public Works Director	Approved - 12/21/2022
	Aneta Barton, Budget Director	Approved - 12/22/2022
	Sherry Sutphen, City Attorney	Approved - 12/27/2022
	Jeanann Hand, City Clerk	Approved - 12/27/2022
	Patrick Comiskey, City Manager	Final Approval - 12/28/2022

COST-SHARE AGREEMENT
BETWEEN THE
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
AND CITY OF MOUNT DORA

THIS AGREEMENT ("Agreement") is entered into by and between the GOVERNING BOARD of the ST. JOHNS RIVER WATER MANAGEMENT DISTRICT (the "District"), whose address is 4049 Reid Street, Palatka, Florida 32177, and CITY OF MOUNT DORA ("Recipient"), 510 North Baker Street, Mount Dora, Florida 32757-0176. All references to the parties hereto include the parties, their officers, employees, agents, successors, and assigns

RECITALS

The waters of the state of Florida are among its basic resources, and it has been declared to be the policy of the Legislature to promote the conservation, development, and proper utilization of surface and ground water. Pursuant to chapter 373, Fla. Stat., the District is responsible for the management of the water resources within its geographical area.

The District 2022-2023 cost-share funding program is designed to fund the construction of local stormwater management and alternative water supply projects as well as conservation implementation projects. Its goals are to contribute to: (1) reduction in water demand through indoor and outdoor conservation measures; (2) development of alternative or non-traditional water supply sources; such as reclaimed water, surface water, or seawater; (3) water quality improvements (for example, nutrient-loading reduction in springsheds or other surface-water systems); and (4) water resource development opportunities (for instance, increasing available source water through expansion or development of surface-water storage). The current cost-share funding program also recognizes the importance of providing funding opportunities for construction of flood protection and natural-systems restoration projects, which are important components of the District's core mission focus.

The District has determined that providing cost-share funding to Recipient for the purposes provided for herein will benefit the water resources and one or more of the District's missions and initiatives.

At its May 10, 2022 meeting, the Governing Board selected Recipient's proposal for cost-share funding. The parties have agreed to jointly fund the following project in accordance with the funding formula further described in the Statement of Work, Attachment A (hereafter the "Project"):

Mount Dora Wastewater Treatment Facility #1 Improvements Project

In consideration of the above recitals, and the funding assistance described below, Recipient agrees to perform and complete the activities provided for in the Statement of Work, Attachment A. Recipient shall complete the Project in conformity with the contract documents and all attachments and other items incorporated by reference herein. This Agreement consists of all of the following documents: (1) Agreement, (2) Attachment A — Statement of Work; and (3) all other attachments, if any. The parties hereby agree to the following terms and conditions.

1. **TERM; WITHDRAWAL OF OFFER**

   (a) The term of this Agreement is from the date upon which the last party has dated and executed the same ("Effective Date") until September 30, 2024 ("Completion Date"). Recipient shall not commence the Project until any required submittals are received and approved. Time is of the essence for every aspect of this Agreement, including any time extensions. Any request for an extension of time beyond the Completion Date must be made before July 1, 2024. Notwithstanding specific mention that certain provisions survive termination or expiration of this Agreement, all provisions of this Agreement that by their nature extend beyond the Completion Date survive termination or expiration hereof (e.g., delivery of a final report, will remain in full force and effect after the Completion Date as necessary to effect performance).

   (b) This Agreement constitutes an offer until authorized, signed and returned to the District by Recipient. This offer terminates 90 days after receipt by Recipient; provided, however, that Recipient may submit a written request for extension of this time limit to the District's Project Manager, stating the reason(s) therefor. Request for extension of time after the 90 days will be denied. The Project Manager shall notify Recipient in writing if an extension is granted or denied. If granted, this Agreement shall be deemed modified accordingly without any further action by the parties.

   (c) If the construction project, or the conservation project, which is eligible for District reimbursement, does not begin before June 30, 2023, the cost-share agreement will be subject to termination and the funds subject to reallocation.

2. **DELIVERABLES**. Recipient shall fully implement the Project, as described in the Statement of Work, Attachment A. Recipient is responsible for the professional quality, technical accuracy, and timely completion of the Project. Both workmanship and materials shall be of good quality. Unless otherwise specifically provided for herein, Recipient shall provide and pay for all materials, labor, and other facilities and equipment necessary to complete the Project. The District's Project Manager shall make a final acceptance inspection of the Project when completed and finished in all respects. Upon satisfactory completion of the Project, the District will provide Recipient a written statement indicating that the Project has been completed in accordance with this Agreement. Acceptance of the final payment by Recipient shall constitute a release in full of all claims against the District arising from or by reason of this Agreement.

3. **OWNERSHIP OF DELIVERABLES.** Unless otherwise provided herein, the District does not assert an ownership interest in any of the deliverables under this Agreement.

4. **AMOUNT OF FUNDING**

   (a) For satisfactory completion of the Project, the District shall pay Recipient 20% of the total construction cost of the Project, but in no event shall the District cost-share exceed $3,000,000. The District cost-share is not subject to modification based upon price escalation in implementing the Project during the term of this Agreement. Recipient shall be responsible for payment of all costs necessary to ensure completion of the Project. Recipient shall notify the District's Project Manager in writing upon receipt of any additional external funding for the Project not disclosed prior to execution of this Agreement.

   (b) "Construction cost" is defined to include actual costs of constructing Project facilities, including construction management. Land acquisition, engineering design, permitting, and solicitation costs are excluded. Construction cost does not include any costs incurred prior to the Effective Date, unless expressly authorized by the Statement of Work. Costs that are excluded will not be credited toward Recipient's cost-share.

   (c) Work performed or expenses incurred after the Completion Date are not eligible for Cost-Share reimbursement.

5. **PAYMENT OF INVOICES**

(a) Recipient shall submit itemized invoices as per the Statement of Work, Attachment A for reimbursable expenses by one of the following two methods: (1) by email to acctpay@sjrwmd.com (preferred) or (2) by mail to the St. Johns River Water Management District, Finance Director, 4049 Reid Street, Palatka, Florida 32177-2571. The invoices shall be submitted in detail sufficient for proper pre-audit and post-audit review. Invoices shall include a copy of contractor and supplier invoices to Recipient and proof of payment. Recipient shall be reimbursed for 20% of approved cost or the not-to-exceed sum of $3,000,000, whichever is less. The District shall not withhold any retainage from this reimbursement. District reimbursement is subject to annual budgetary limitation, if applicable, as provided in subsection (g). If necessary for audit purposes, Recipient shall provide additional supporting information as required to document invoices.

(b) **End of District Fiscal Year Reporting**. The District's fiscal year ends on September 30. Irrespective of the invoicing frequency, the District is required to account for all encumbered funds at that time. When authorized under the Agreement, submittal of an invoice for Work Completed as of September 30 satisfies this requirement. The invoice shall be submitted no later than October 30. If the Agreement does not authorize submittal of an invoice for Work completed as of September 30, Recipient shall submit, prior to October 30, a description of the additional work on the Project completed between the last invoice and September 30, and an estimate of the additional amount due as of September 30 for such Work. If there have been no prior invoices, Recipient shall submit a description of the work completed on the Project through September 30 and a statement estimating the dollar value of that work as of September 30.

(c) **Final Invoice**. The final invoice must be submitted no later than 45 days after the Completion Date; provided, however, that when the Completion Date corresponds with the end of the District's fiscal year (September 30), the final invoice must be submitted no later than 30 days after the Completion Date. **Final invoices that are submitted after the requisite date shall be subject to a penalty of ten percent of the invoice. This penalty may be waived by the District, in its sole judgment and discretion, upon a showing of special circumstances that prevent the timely submittal of the final invoice. Recipient must request approval for delayed submittal of the final invoice not later than ten days prior to the due date and state the basis for the delay.**

(d) All invoices shall include the following information: (1) District contract number; (2) Recipient's name, address, and authorization to directly deposit payment into Recipient's account (if Recipient has not yet provided the District with a completed Direct Deposit Authorization form; (3) Recipient's invoice number and date of invoice; (4) District Project Manager; (5) Recipient's Project Manager; (6) supporting documentation as to cost and/or Project completion (as per the cost schedule and other requirements of the Statement of Work); (7) Progress Report (if required); (8) Diversity Report (if otherwise required herein). Invoices that do not correspond with this paragraph shall be returned without action within 20 business days of receipt, stating the basis for rejection. Payments shall be made within 45 days of receipt of an approved invoice.

(e) **Travel expenses.** If the cost schedule for this Agreement includes a line item for travel expenses, travel expenses shall be drawn from the project budget and are not otherwise compensable. If travel expenses are not included in the cost schedule, they are a cost of providing the service that is borne by Recipient and are only compensable when specifically approved by the District as an authorized District traveler. In such instance, travel expenses must be submitted on District or State of Florida travel forms and shall be paid pursuant to District Administrative Directive 391.

(f) **Payments withheld.** The District may withhold or, on account of subsequently discovered evidence, nullify, in whole or in part, any payment to such an extent as may be necessary to protect the District from loss as a result of: (1) defective work not remedied; (2) failure to maintain adequate progress in the Project; (3) any other material breach of this Agreement. Amounts withheld shall not be considered due and shall not be paid until the ground(s) for withholding payment have been remedied.

(g) **Annual budgetary limitation.** For multi-fiscal year agreements, the District must budget the amount of funds that will be expended during each fiscal year as accurately as possible. The Statement of Work, Attachment A, includes the parties' current schedule for completion of the Work and projection of expenditures on a fiscal year basis (October 1 – September 30) ("Annual Spending Plan"). If Recipient anticipates that expenditures will exceed the budgeted amount during any fiscal year, Recipient shall promptly notify the District's Project Manager and provide a proposed revised work schedule and Annual Spending Plan that provides for completion of the Work without increasing the Total Compensation. The last date for the District to receive this request is August 1 of the then-current fiscal year. The District may in its sole discretion prepare a District Supplemental Instruction Form incorporating the revised work schedule and Annual Spending Plan during the then-current fiscal year or subsequent fiscal year(s).

6. **LIABILITY AND INSURANCE.** Each party is responsible for all personal injury and property damage attributable to the negligent acts or omissions of that party, its officers, employees and agents. Recipient accepts all risks arising from construction or operation of the Project. Nothing contained herein shall be construed or interpreted as denying to any party any remedy or defense available under the laws of the state of Florida, nor as a waiver of sovereign immunity of the state of Florida beyond the waiver provided for in §768.28, Fla. Stat., as amended. Each party shall acquire and maintain throughout the term of this Agreement such liability, workers' compensation, and automobile insurance as required by their current rules and regulations. If Florida Department of Environmental Protection ("FDEP") funds will be used to fund all of a portion of the Agreement, additional FDEP insurance requirements applicable to the Recipient are included in the insurance attachment to the Agreement.

7. **FUNDING CONTINGENCY.** This Agreement is at all times contingent upon funding availability, which may include a single source or multiple sources, including, but not limited to: (1) ad valorem tax revenues appropriated by the District's Governing Board; (2) annual appropriations by the Florida Legislature, or (3) appropriations from other agencies or funding sources. Agreements that extend for a period of more than one Fiscal Year are subject to annual appropriation of funds in the sole discretion and judgment of the District's Governing Board for each succeeding Fiscal Year. Should the Project not be funded, in whole or in part, in the current Fiscal Year or succeeding Fiscal Years, the District shall so notify Recipient and this Agreement shall be deemed terminated for convenience five days after receipt of such notice, or within such additional time as the District may allow. For the purpose of this Agreement, "Fiscal Year" is defined as the period beginning on October 1 and ending on September 30.

8. **PROJECT MANAGEMENT**

(a) The Project Managers listed below shall be responsible for overall coordination and management of the Project. Either party may change its Project Manager upon three business days' prior written notice to the other party. Written notice of change of address shall be provided within five business days. All notices shall be in writing to the Project Managers at the addresses below and shall be sent by one of the following methods: (1) hand delivery; (2) U.S. certified mail; (3) national overnight courier; or (4) email. Notices via certified mail are deemed delivered upon receipt. Notices via overnight courier are deemed delivered one business day after having been deposited with the courier. Notices via e-mail are deemed delivered on the date transmitted and received.

DISTRICT
Sara Driggers, Project Manager
St. Johns River Water Management District
4049 Reid Street
Palatka, Florida 32177-2571
Phone: 386-312-2305
Email: sdrigger@sjrwmd.com

RECIPIENT
Patrick Comiskey, Project Manager
City of Mount Dora
510 North Baker Street
Mount Dora, Florida 32757-0176
Phone: 352-735-7126
Email: comiskeyp@cityofmountdora.com

(b) The District's Project Manager shall have sole responsibility for transmitting instructions, receiving information, and communicating District policies and decisions regarding all matters pertinent to performance of the Project. The District's Project Manager may issue a District Supplemental Instruction (DSI) form, Attachment C, to authorize minor adjustments to the Project that are consistent with the purpose of the Project. Both parties must sign the DSI. A DSI may not be used to change the District cost-share or percentage, quantity, quality or the Completion Date of the Project, or to change or modify the Agreement.

9. **PROGRESS REPORTS AND PERFORMANCE MONITORING.**

(a) **Progress Reports.** Recipient shall provide to the District quarterly Project update/status reports as provided in the Statement of Work. Reports will provide detail on progress of the Project and outline any potential issues affecting completion or the overall schedule. Recipient shall use the District's Project Progress Report form, Attachment B. Recipient shall submit the Project Progress Reports to the District's Project Manager and District's Budget Coordinator within 15 days after the closing date of each calendar quarter (March 31, June 30, September 30 and December 31).

(b) **Performance Monitoring.** For as long as the Project is operational, the District shall have the right to inspect the operation of the Project during normal business hours upon reasonable prior notice. Recipient shall make available to the District any data that is requested pertaining to performance of the Project.

10. **WAIVER.** The delay or failure by the District to exercise or enforce any of its rights under this Contract shall not constitute or be deemed a waiver of the District's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

11. **FAILURE TO COMPLETE PROJECT**

(a) Should Recipient fail to complete the Project, Recipient shall refund to the District all of the funds provided to Recipient pursuant to this Agreement. However, the District, in its sole judgment and discretion, may determine that Recipient has failed to complete the Project due to circumstances that are beyond Recipient's control, or due to a good faith determination that the Project is no longer environmentally or economically feasible. In such event, the District may excuse Recipient from the obligation to return funds provided hereunder. If the Project has not been completed within 30 days after the Completion Date, Recipient shall provide the District with notice regarding its intention as to completion of the Project. The parties shall discuss the status of the Project and may mutually agree to revise the time for Project completion or the scope of the Project. Failure to complete the Project within 90 days after the Completion Date shall be deemed to constitute failure to complete the Project for the purposes of this provision.

(b) In the event the Project constitutes a portion of the total functional project, this paragraph shall apply in the event the total functional project is not completed. In such event, the 90-day timeframe provided herein shall commence upon the date scheduled for completion of the total functional project at the time of execution of this Agreement, unless extended by mutual agreement of the parties. Paragraphs 11(a) and 11(b) shall survive the termination or expiration of this Agreement.

12. **TERMINATION.** If Recipient materially fails to fulfill its obligations under this Agreement, including any specific milestones established herein, the District may provide Recipient written notice of the deficiency by forwarding a Notice to Cure, citing the specific nature of the breach. Recipient shall have 30 days following receipt of the notice to cure the breach. If Recipient fails to cure the breach within the 30-day period, the District shall issue a Termination for Default Notice terminating this Agreement without further notice. In such event, Recipient shall refund to the District all funds provided to Recipient pursuant to this Agreement

within 30 days of such termination. The District may also terminate this Agreement upon ten days' written notice in the event of any material misrepresentations in the Project Proposal.

Delay or failure by the District to enforce any right, remedy or deadline hereunder shall not impair, or be deemed a waiver of, any such right, remedy or deadline, or impair the District's rights or remedies for any subsequent breach or continued breach of this Agreement.

ADDITIONAL PROVISIONS

13. **ASSIGNMENT.** Recipient shall not assign this Agreement, or any monies due hereunder, without the District's prior written consent. Recipient is solely responsible for fulfilling all work elements in any contracts awarded by Recipient and payment of all monies due. No provision of this Agreement shall create a contractual relationship between the District and any of Recipient's contractors or subcontractors.

14. **AUDIT; ACCESS TO RECORDS; REPAYMENT OF FUNDS**

    (a) **Maintenance of Records**. Recipient shall maintain its books and records such that receipt and expenditure of the funds provided hereunder are shown separately from other expenditures in a format that can be easily reviewed. Recipient shall keep the records of receipts and expenditures, copies of all reports submitted to the District, and copies of all invoices and supporting documentation for at least five years after expiration of this Agreement. In accordance with generally accepted governmental auditing standards, the District shall have access to and the right to examine any directly pertinent books and other records involving transactions related to this Agreement. In the event of an audit, Recipient shall maintain all required records until the audit is completed and all questions are resolved. Recipient will provide proper facilities for access to and inspection of all required records.

    (b) **Repayment of Funds.** District funding shall be subject to repayment after expiration of this Agreement if, upon audit examination, the District finds any of the following: (1) Recipient has spent funds for purposes other than as provided for herein, including but not limited to construction materials not used in the Project; (2) Recipient has failed to perform a continuing obligation of this Agreement; (3) Recipient has received duplicate funds from the District for the same purpose; (4) Recipient has been advanced or paid unobligated funds; (5) Recipient has been paid funds in excess of the amount Recipient is entitled to receive under the Agreement; and/or (6) Recipient has received more than 100% contributions through cumulative public agency cost-share funding.

15. **CIVIL RIGHTS.** Pursuant to chapter 760, Fla. Stat., Recipient shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, age, handicap, or marital status.

16. **COOPERATION WITH THE INSPECTOR GENERAL, PURSUANT TO §20.055(5) FLA. STAT.** Recipient and any subcontractors understand and will comply with their duty, pursuant to §20.055(5), Fla. Stat., to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing.

17. **DISPUTE RESOLUTION.** Recipient is under a duty to seek clarification and resolution of any issue, discrepancy, or dispute involving performance of this Agreement by submitting a written statement to the District's Project Manager no later than ten business days after the precipitating event. If not resolved by the Project Manager, the Project Manager shall forward the request to the District's Office of General Counsel, which shall issue a written decision within ten business days of receipt. This determination shall constitute final action of the District and shall then be subject to judicial review upon completion of the Project.

18. **DIVERSITY REPORTING.** The District is committed to the opportunity for diversity in the performance of all cost-sharing agreements, and encourages Recipient to make a good faith effort to ensure that women and minority-owned business enterprises (W/MBE) are given the opportunity for maximum participation as contractors. The District will assist Recipient by sharing information on W/MBEs. Recipient shall provide

with each invoice a report describing: (1) the company names for all W/MBEs; (2) the type of minority, and (3) the amounts spent with each during the invoicing period.

19. **GOVERNING LAW, VENUE, ATTORNEY'S FEES, WAIVER OF RIGHT TO JURY TRIAL.** This Agreement shall be construed according to the laws of Florida and shall not be construed more strictly against one party than against the other because it may have been drafted by one of the parties. As used herein, "shall" is always mandatory. In the event of any legal proceedings arising from or related to this Agreement: (1) venue for any state legal proceedings is Putnam County or federal legal proceedings shall be in Orange County (2) each party shall bear its own attorney's fees, including appeals; (3) for civil proceedings, the parties hereby consent to trial by the court and waive the right to jury trial.

20. **INDEPENDENT CONTRACTORS.** The parties to this Agreement, their employees and agents, are independent contractors and not employees or agents of each other. Nothing in this Agreement shall be interpreted to establish any relationship other than that of independent contractors during and after the term of this Agreement. Recipient is not a contractor of the District. The District is providing cost-share funding as a cooperating governmental entity to assist Recipient in accomplishing the Project. Recipient is solely responsible for accomplishing the Project and directs the means and methods by which the Project is accomplished. Recipient is solely responsible for compliance with all labor, health care, and tax laws pertaining to Recipient, its officers, agents, and employees.

21. **CONFLICTING INTEREST IN RECIPIENT.** Recipient certifies that no officer, agent, or employee of the District has any material interest, as defined in §112.312, Fla. Stat., either directly or indirectly, in the business of Recipient to be conducted hereby, and that no such person shall have any such interest at any time during the term of this Agreement.

22. **NON-LOBBYING.** Pursuant to §216.347, Fla. Stat., as amended, Recipient agrees that funds received from the District under this Agreement shall not be used for the purpose of lobbying the Legislature or any other state agency.

23. **PERMITS.** Recipient shall comply with all applicable federal, state and local laws and regulations in implementing the Project and shall include this requirement in all subcontracts pertaining to the Project. Recipient shall obtain any and all governmental permits necessary to implement the Project. Any activity not properly permitted prior to implementation or completed without proper permits does not comply with this Agreement and shall not be approved for cost-share funding.

24. **PUBLIC ENTITY CRIME.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in §287.017, Fla. Stat., for CATEGORY TWO ($35,000) for a period of 36 months following the date of being placed on the convicted vendor list.

25. **PUBLIC RECORDS.** Records of Recipient that are made or received in the course of performance of the Project may be public records that are subject to the requirements of chapter 119, Fla. Stat. If Recipient receives a public records request, Recipient shall promptly notify the District's Project Manager. Each party reserves the right to cancel this Agreement for refusal by the other party to allow public access to all documents, papers, letters, or other materials related hereto and subject to the provisions of chapter 119, Fla. Stat., as amended.

26. **ROYALTIES AND PATENTS.** Recipient certifies that the Project does not, to the best of its information and belief, infringe on any patent rights. Recipient shall pay all royalties and patent and license fees necessary for performance of the Project and shall defend all suits or claims for infringement of any patent rights and save and hold the District harmless from loss to the extent allowed by Florida law.

IN WITNESS WHEREOF, the St. Johns River Water Management District has caused this Agreement to be executed on the day and year written below in its name by its Executive Director, or duly authorized designee, and Recipient has caused this Agreement to be executed on the day and year written below in its name by its duly authorized representatives, and, if appropriate, has caused the seal of the corporation to be attached. This Agreement may be executed in separate counterparts, which shall not affect its validity. Upon execution, this Agreement constitutes the entire agreement of the parties, notwithstanding any stipulations, representations, agreements, or promises, oral or otherwise, not printed or inserted herein. This Agreement cannot be changed by any means other than written amendments referencing this Agreement and signed by all parties.

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT	CITY OF MOUNT DORA
By: ______________________	By: ______________________
Mary E. Winkler, Assistant Executive Director, or Designee	
	Crissy Stile, Mayor
	Typed Name and Title
Date: ______________________	Date: ______________________
	Attest: ______________________
	Jeanann Hand, City Clerk
	Typed Name and Title

Attachments:
Attachment A — Statement of Work
Attachment B — Project Progress Report Form
Attachment C — District Supplemental Instructions Form

ATTACHMENT A - STATEMENT OF WORK
MOUNT DORA WASTEWATER TREATMENT FACILITY #1 IMPROVEMENTS

I. INTRODUCTION/BACKGROUND

The St. Johns River Water Management District (District) is continuing its Cooperative Cost Share Initiative Program in Fiscal Year (FY) 2022-2023 to develop and implement resource and water supply development projects and promote conservation. On May 10, 2022, the District's Governing Board approved funding for Cooperative Cost Share projects. Each project selected for funding will have a positive benefit to one or more of the District's core missions; including water supply, water quality, natural systems or flood mitigation.

The City of Mount Dora (Recipient) requested funding for their Mount Dora Wastewater Treatment Facility #1 Improvements for the not to exceed amount of $3,000,000, towards the estimated construction cost of $15,000,000. This request was approved by the Governing Board. The Recipient is located in Lake County.

II. OBJECTIVES

The objective of this contract is to provide cost share dollars that will enable the Recipient to reduce nutrient loading within the Wekiwa springshed and Ocklawaha River Basin through improvements to the Recipient's existing Wastewater Treatment Facility (WWTF) #1.

III. SCOPE OF WORK

The project includes upgrading the existing WWTF to a four-stage biological nutrient removal process to achieve advanced wastewater treatment standards of effluent at the Mount Dora WWTF #1. The components being upgraded in this project are described as follows: 1) repurposing the existing oxidation ditch into a 4-stage BNR process including an Anaerobic/Anoxic Flow Equalization (EQ) Basin and a Reaeration Basin; 2) a new 60 ft Diameter Clarifier and RAS/WAS system with Piping; 3) an Internal Lift Station and gravity piping; 4) Digester PD Blowers; 5) Screw Press and Elevated Platform; 6) Two Disc Filtration Systems; 7) all associated electrical controls, instrumentation, and SCADA; 8) Influent Structure and Barscreen; 9) New Generator; and 10) rehabilitation of existing Clarifiers.

IV. PROJECT ADMINISTRATION AND DELIVERABLES

The Recipient shall be responsible for the following:

- Complete and obtain final project design, construction plans, and specifications;
- Obtain all required permits, including right of access to the project sites, related to project construction and subsequent operation and maintenance of the completed work;
- Assure compliance with all permits and permit conditions;
- Provide procurement for project construction;
- Perform supervision and inspection of construction;
- Perform construction contract administration;
- Assure compliance with cost accounting practices and procedures required for reimbursement of cost share funds expended.

The Recipient shall provide the following to the District's Project Manager:

- Bi-weekly informal project status updates;
- Timely invoices for actual construction costs in accordance with this cost share agreement (i.e. quarterly, with appropriate substantiation that demonstrates that the applicant has paid for the total work

cost and is seeking reimbursement up to the match amount) to enable proper review by the District's Project Manager prior to payment authorization. Deliverables to be submitted with invoices include (as applicable):

- Interim progress status summaries including inspections, meeting minutes and field notes and dated color photographs of the construction completed to include on-going work that represents the time-period being invoiced;
- Final invoice submittals for completed construction including inspections and dated color photographs of the construction site prior to, during and immediately following completion of the construction task;
- Construction plans, specifications, and contract documents for the site work must be made available upon request;
- Written verification that the record drawings and any required final inspection reports for the project are received;
- Engineer's certificate of completion for work completed for invoice period;

- Quarterly progress reports identifying project progress to date, key milestones reached, overall project schedule versus time for project completion, an updated spend-down plan, key issues to be resolved, project construction photos with dates. Quarterly reports shall also be emailed to the District's Budget Coordinator at hnbarber@sjrwmd.com.
- Certification of construction completion by a Professional Engineer registered in the state of Florida.

The Recipient shall ensure the task in the Task Identification section below is completed.

V. TASK IDENTIFICATION AND TIME FRAMES

The expiration date of this cost share agreement is September 30, 2024. The projected schedule is as follows:

Task Description	Anticipated Start Date	Anticipated Completion Date
Construction	February 28, 2023	September 30, 2024

VI. BUDGET/COST SCHEDULE

For satisfactory completion of the Project, the District shall pay Recipient twenty (20%) of the total construction cost of the Project, but in no event shall the District's cost-share exceed $3,000,000. It is anticipated that the FY breakdown will be $2,400,000 for FY 2023 and $600,000 FY 2024.

Recipient shall invoice the District quarterly with appropriate documentation. The District's Project Manager shall provide an invoice template that will be used. Invoices shall include a copy of the contractor's invoices submitted to the Recipient, proof of payment by Recipient, and other required supporting documentation for reimbursement up to match amount. For in-house expenses, Recipient shall provide copies of all receipts for materials and a system report showing documentation of staff time or other proof of staff time expenses for the Project. The final invoice shall be submitted with the final project report. If the total actual cost of this project is less than originally estimated, the District's cost-share amount shall be reduced accordingly. Recipient may invoice more frequently submitting all required documentation and include general status information. Recipient may invoice the District for Project construction work beginning October 1, 2022. The District will not reimburse for any expenses prior to October 1, 2022.

Recipient shall submit quarterly progress reports to the District's Project Manager and the District's Budget Coordinator within 15 days of the end of quarter for work accomplished during each quarter. The email address for the District's Budget Coordinator is hnbarber@sjrwmd.com. The Recipient shall submit a final project report within 15 days of Final Completion and acceptance detailing the Project's accomplishments and any issues resolved during the course of the work.

Estimated Cost Schedule for Reimbursement per fiscal year (all dollar amounts are approximate and may be reallocated between the construction tasks for the two FYs).

FY**23 (10/1/2022 – 9/30/2023)**

Description	**Estimated Task Amount**	**Estimated Reimbursement Amount**
Construction	$**12,000,000**	$**2,400,000**

FY**24 (10/1/2023 – 9/30/2024)**

Description	**Estimated Task Amount**	**Estimated Reimbursement Amount**
Construction	$**3,000,000**	$**600,000**

ATTACHMENT B
PROJECT PROGRESS REPORT

Contract #: 38023
Date:

St. Johns River Water Management District
Project Progress Report

Report Number:

Contract/Project Identification

Project Name:	Mount Dora Wastewater Treatment Facility #1 Improvements Project
Recipient:	City of Mount Dora

SJRWMD Contract Number:	38023	SJRWMD Project Manager:	Sara Driggers
		Recipient's Project Manager:	Patrick Comiskey

Construction Schedule

Construction Start Date:	
Construction Completion Date:	
Contract Expiration Date:	

Reporting Period

Beginning Date:	
Ending Date:	

Cost-Share Budget

Total Cost-Share Budget:		Cost-Share Amount Expended This Period:	
Cost-Share Amount Expended To-date:		Percent Cost-Share Budget Expended:	

Spend-Down Plan

Fiscal Year 1

Reimbursement #	Anticipated Amount	Anticipated Date
1		
2		
3		
4		

Fiscal Year 2

Reimbursement #	Anticipated Amount	Anticipated Date
1		
2		
3		
4		

Project Readiness and Schedule Tracking

Project Phase	% Complete Shown in Application	% Complete Currently	Start Date Shown in Application	Completion Date Shown in Application	Current Start Date	Current Completion Date	Notes: Explain anticipated deviations from schedule
Planning							
Design							
Permitting							
Bidding & Award							

SOW Construction Tasks/Milestones/Deliverables

Task Number	Tasks/Milestones/Deliverables	Total Construction % Complete	Start Date Shown in SOW	Completion Date Shown in SOW	Current Start Date	Current Completion Date
1						

Project update including problems, issues and solutions. Explain in detail.

Include digital photographs of work accomplished during reporting peroid. Attach an additional page of notes if necessary to explain reasons for lateness or unusual events or circumstances.

ATTACHMENT C — DISTRICT'S SUPPLEMENTAL INSTRUCTIONS (sample)

DISTRICT SUPPLEMENTAL INSTRUCTIONS #

DATE:

TO: Patrick Comiskey
City Of Mount Dora
510 NORTH BAKER STREET
MOUNT DORA, FL 32757-0176

FROM: Sara Driggers, Project Manager

CONTRACT NUMBER: 38023

CONTRACT TITLE: Mount Dora Wastewater Treatment Facility #1 Improvements

The Work shall be carried out in accordance with the following supplemental instruction issued in accordance with the Contract Documents without change in the Contract Sum or Contract Time. Prior to proceeding in accordance with these instructions, indicate your acceptance of these instructions for minor adjustments to the work as consistent with the Contract Documents and return to the District's Project Manager.

1. CITY'S SUPPLEMENTAL INSTRUCTIONS:

2. DESCRIPTION OF WORK TO BE CHANGED:

3. DESCRIPTION OF SUPPLEMENTAL INSTRUCTION REQUIREMENTS: .

City's approval: (choose one of the items below):

Approved: ______________________________ Date: ______________

(It is agreed that these instructions shall not result in a change in the Total Compensation or the Completion Date.)

Approved: ______________________________ Date: ______________

(City agrees to implement the Supplemental Instructions as requested but reserves the right to seek a Change Order in accordance with the requirements of the Agreement.)

Approved: ______________________________ Date: ______________
Sara Driggers, District Project Manager

Acknowledged: ______________________________ Date: ______________
Kendall Matott, District Senior Procurement Specialist

c: Contract file
Financial Services

510 N. Baker St.
Mount Dora, FL 32757
352-735-7126

DATE: January 3, 2023

TO: Honorable Mayor and City Council Members

FROM: Patrick C. Comiskey, City Manager *Patrick C. Comiskey*

SUBJECT: Request Approval of Interlocal Agreement between Lake County and the City of Mount Dora for Use of Lake County Library Impact Fees for Manga Collection

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Introduction:

This is a request for City Council to approve Interlocal Agreement Relating to Use of Library Impact Fees for the Manga Collection Expansion.

Discussion:

Library staff submitted an $11,000 funding request for Lake County Library Impact Fee funds to partially fund an expansion of the Mount Dora Library's manga collection (see Exhibit A of attached agreement). On October 25, 2022, the Lake Board of County Commissioners voted to approve this request. An Interlocal Agreement with Lake County is now required in order to proceed with the project.

Manga is a format of printed books that are based upon Japanese magazine series, translated into English. The W.T. Bland Public Library currently holds less than 100 manga titles, which are combined in its Graphic Novel collection. Staff submitted a grant application for the Lake County Library Impact Fee fund program proposing to establish a manga collection consisting of approximately 1,200 titles. The funding request was for $11,000, which was half the cost of the addition of 1,200 new manga titles, plus some minor new shelving adjustments, for a project total cost of $22,000.

The lack of a complete manga collection at the Mount Dora Library is a significant deficit. The Library's children's collection routinely circulates at the second highest level in Lake County, second only to Clermont, at approximately 3,000 to 7,000 checkouts per month. Manga is an important format to offer to tweens and teens. At libraries with manga collections, approximately 80% of the borrowers of this genre are between the ages of 10 and 19 years old. Offering a full collection of manga will benefit not only Mount Dora families but will also place an extensive new collection in the hands of all Lake County young readers.

Budget Impact:

The manga collection expansion will be evenly funded by the following funds:

$11,000 - Library Impact Fee fund - GL #310-5555-580.63-01-LI2305
$11,000 - Lake County Library Impact Fee funding - GL #001-1330-571.63-01

Strategic Impact:

As the city continues to grow, it is imperative that the Library's collection reflects the diversity and interests of our community.

Recommendation:

City Council approve Interlocal Agreement Relating to Use of Library Impact Fees for the Manga Collection Expansion.

Attachment(s):

1. Agreement for Library Impact Fees_Mount Dora_12.14.2022

Prepared by:	Cathy Lunday, Library Director	
Reviewed by:	Cathy Lunday, Library Director	Approved - 12/15/2022
	Aneta Barton, Budget Director	Approved - 12/20/2022
	Sherry Sutphen, City Attorney	Approved - 12/27/2022
	Jeanann Hand, City Clerk	Approved - 12/27/2022
	Patrick Comiskey, City Manager	Final Approval - 12/28/2022

INTERLOCAL AGREEMENT
RELATING TO
USE OF LIBRARY IMPACT FEES

THIS INTERLOCAL AGREEMENT is made by and between Lake County, Florida, a political subdivision of the State of Florida, hereinafter the "County," and the City of Mount Dora, Florida, a municipal corporation organized under the laws of the State of Florida, hereinafter the "City," for use of library impact fee monies for the W.T. Bland Public Library, located at 1995 N. Donnelly Street, Mount Dora, Florida 34757, hereinafter the "Library."

WHEREAS, Ordinance No. 2003-99, approved November 18, 2003, created a library impact fee for the purposes of providing a source of revenue to fund construction or improvement in the Lake County Library System necessitated due to growth; and

WHEREAS, Section 22-61, Lake County Code, states that library impact fee money shall be used solely for the purpose of constructing or improving the Lake County Library System, including, but not limited to, design and construction plan preparation, permitting and fees, land acquisition, construction and design of new facilities, and acquisition of collection items, public access computers and other capital equipment; and

WHEREAS, Policy LCC-7 sets forth the minimum guidelines for entry into the Lake County Library System as a member library; and

WHEREAS, Policy LCC-63 sets forth the process for distribution of funds from the Library Impact Fee Trust Fund; and

WHEREAS, in accordance with Policy LCC-63, the City has requested impact fee funds in the amount of $11,000.00 for the purchase of a new stand-alone manga collection which would expand the manga collection by approximately 1,200 items along with a shelving configuration to hold the items; and

WHEREAS, on October 25, 2022, the County voted to approve the above-referenced request for a total of $11,000.00 in impact fee funds.

NOW, THEREFORE, the parties hereby agree as follows:

1. Legal Findings. The foregoing recitals are hereby adopted as legislative findings of the Board of County Commissioners and are ratified and confirmed as being true and correct and are hereby made a specific part of this agreement upon adoption hereof.

2. County Obligations. The County agrees to provide funding in the maximum and total amount of **$11,000.00** to the City from the Library Impact Fee Trust Fund, to be used for the purchase of a new stand-alone manga collection and shelving which will add capacity to the current collection (hereinafter and collectively the "Collection"). The County will make payments on a reimbursement basis with the submittal of an invoice and proper documentation. Invoices shall be submitted to the Office of Library Services Director at P.O. Box 7800, Tavares, Florida 32778. Payments shall be made in accordance with Part VII, Chapter 218, Florida Statutes, known as the Florida Prompt Payment Act.

3. City Obligations.

A. The City will be solely responsible for the purchasing of the Collection. The City must comply with all applicable competitive procurement provisions contained within the Florida Statutes, including, if applicable, Section 255.0525, Section 255.20, and Section 287.055. If the competitive bidding/selection process is required for the completion of the Project, the County will have the right to review the competitive bidding/selection process used by the City and will have the right to review all solicitation responses received. In the event the County determines that the City's procurement process is insufficient, the County will require the City to reject all bids and re-bid the Project. If the City refuses to reject all bids and re-bid the Project, then the County will have the option to terminate this agreement and will receive a return of all payments made from the County to the City under this agreement, if any.

B. The City will remain a member of the Lake County Library System for a period of three years following the effective date of this agreement. In the event the City withdraws from the Lake County Library System or does not renew its membership in the Lake County Library System within that three-year period, the City must repay the money granted herein as follows: for each year the City maintains its member status, the amount to be repaid will be reduced by 33%. For example, if the City withdraws from the Lake County Library System after one year from the effective date of this agreement, the City must repay the County 66% of the funding contribution that has been made to that point; after two years, the City must repay 33% of the funding contribution, etc.

4. Allowable Uses of Impact Fee Money. The City must use the impact fee money granted herein for the purposes set forth in Section 22-61, Lake County Code. By executing this agreement, the City certifies that the Collection qualifies as an acquisition resulting from new growth or development and is not being purchased to remedy an existing deficiency in library services, as such terms are defined within the adopted Lake County Comprehensive Plan, Capital Improvements Element.

5. Indemnification. The City will, to the extent permitted by Florida law, protect, defend, indemnify, and hold the County, its officers, commissioners, employees and agents from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees, including a reasonable attorneys' fee or other expenses or liabilities, of every kind and character resulting from any error, omission, or negligent act of the City, its agents, employees, or representatives in the performance of the obligations under this agreement. Furthermore, nothing herein will be construed as a waiver of sovereign immunity on the part of the County.

6. Effective Date, Term and Termination. This agreement will become effective upon the day of the last signature of the parties and will remain in force until two years after the effective date. Either party has the right to terminate this agreement for cause with 30 days written notice to the other; provided, however, that in the event of termination by the County, the City will be entitled to reimbursement of purchases relating to the Collection up to and including the day of termination, as long as such purchases qualify for impact fee money. In the event that the purchase of the Collection has not been completed within two (2) years after the effective date of this agreement, the agreement shall be considered null and void.

7. Modifications. Unless otherwise specified herein, no modification, amendment, or alteration of the terms or conditions contained herein will be effective unless contained in a written document executed by the parties hereto, with the same formality and of equal dignity herewith.

8. Notices.

A. All notices, demands, or other writings required to be given or made or sent in this agreement, or which may be given or made or sent, by either party to the other, will be deemed to have been fully given or made or sent when in writing and addressed as follows:

COUNTY	CITY
Lake County Manager	City of Mount Dora
P.O. Box 7800	501 N. Baker Street
Tavares, Florida 32778	Mount Dora, Florida 32757

cc: Office of Library Services Director
P.O. Box 7800
Tavares, Florida 32778

B. All notices required, or which may be given hereunder, will be considered properly given if personally delivered, sent by certified United States mail, return receipt requested, or sent by Federal Express or other equivalent overnight letter delivery company.

C. The effective date of such notices shall be the date personally delivered, or if sent by certified mail, the date the notice was signed for, or if sent by overnight letter delivery company, the date the notice was delivered by the overnight letter delivery company.

D. Parties may designate other parties or addresses to which notice shall be sent by notifying, in writing, the other party in a manner designated for the filing of notice hereunder.

9. Incorporation. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the specific matters contained herein, and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this agreement that are not contained in this document.

10. **Severability.** If any provision of this agreement is found by a court of competent jurisdiction to be invalid, it will be considered deleted here from, and will not invalidate the remaining provisions.

IN WITNESS WHEREOF, the parties through their duly authorized representatives have signed this agreement on the dates under each signature.

CITY

ATTEST: CITY OF MOUNT DORA

______________________________ ____

Jeanann Hand, City Clerk Crissy Stile, Mayor

This ______ day of _________________________, 2022.

Approved as to form and legality:

____

Sherry G. Sutphen, City Attorney

COUNTY

LAKE COUNTY, FLORIDA through its
BOARD OF COUNTY COMMISSIONERS

____
____________________________________, Chairman

This ______ day of ______________________, 2022.

ATTEST:

____
Gary Cooney, Clerk
Board of County Commissioners
of Lake County, Florida

Approved as to Form & Legality:

____
Melanie Marsh, County Attorney

Exhibit A

Appendix A

Lake County Library Impact Fees
PROJECT APPLICATION
Application Deadline: March 1

1. APPLICANT INFORMATION

A. LEGAL NAME OF APPLICANT (Government)

City of Mount Dora Manga Collection

B. APPLICANT ADDRESS

Street 1995 N. Donnelly Street PO Box if applicable ______

City Mount Dora Zip Code 32757

C. APPLICATION REQUIREMENTS (Both 1 and 2 are required)

1. ___County library impact fee is assessed within municipality, or

_x_ municipality collects local library impact fee which is equal to or greater than county library impact fee, or

___municipality collects local library impact fee which is less than county library impact fee and remits the difference between local and county impact fee to county.

2. _x_ Municipality has a library which is a member of the Lake County Library System, or

___is a newly created library which has submitted a letter of intent for the municipality's library to become a Member of the LCLS in accordance with LCC-7.

D. APPROVAL TO SUBMIT APPLICATION (By library governing body or City Administrator)

Signature	Patrick Comiskey, City Manager Name and Title

2. LIBRARY INFORMATION

A. NAME OF LIBRARY W.T. Bland Public Library

B. LIBRARY ADDRESS _x_ Current ____ Future

Street 1995 N. Donnelly Street City Mount Dora Zip 32757

Appendix A
Lake County Library Impact Fees – PROJECT APPLICATION

C. Has the project previously received funding from library impact fees?

_____ Yes __x__ No

3. PROJECT MANAGER (Library Director)

A. Name __Cathy Lunday__ Telephone (352) 735-7180, ext. 3110

Fax ________ E-mail __lundayc@cityofmountdora.com__

4. TYPE OF PROJECT

A. ____ CONSTRUCTION

____ Design & Engineering _____ New Building __x__ Expansion

B. __x__ COLLECTIONS

C. ____ EQUIPMENT

____ Public Access Computers _____ Number

____ Other (describe)________

5. THIS PROJECT IS INCLUDED IN: (Maximum of 5 points) (Mark all that apply)

__x__ Master Facilities Plan for Lake County Library System
__x__ City or County Capital Improvement Plan
__x__ Lake County Library System Long Range Plan of Service
____ Lake County Library System Annual Plan of Service
____ Other (Describe)________

6. COST OF TOTAL PROJECT (Estimated) __$22,000__

7. AMOUNT REQUESTED (Maximum of 10 points) __$11,000 (50% of total)__

8. % OF PROJECT ELIGIBLE FOR IMPACT FEES __100%__

9. PRIMARY SOURCE OF IMPACT FEES: (Maximum of 10 points)

____Applicant contributes to countywide library impact fee fund (10 points)
__x__Applicant collects and retains impact fees locally (-10 points)

10. PROJECT HISTORY (Maximum of 5 points)

A. Is this a new project request:

__X__ Yes

2

Appendix A
Lake County Library Impact Fees – PROJECT APPLICATION

____ No Year of 1st Request ______

B. Has project previously received funding from library impact fees?

____ Yes ___x___ No

If Yes, was the project request ____ partially or ____ fully funded?

Year/s __________ Amount $________

11. PROJECT NARRATIVE – (No more than 3 pages, Maximum of 30 points)

a. Briefly describe project (0-5)
b. Include justification for use of impact fees (0-5)
c. Establish need for the project (0-5)
d. Describe how the project will benefit the local community (0-5)
e. Describe how the project will benefit county-wide library service (0-5)

The City of Mount Dora is requesting that Lake County Library Impact Fee monies contribute $11,000 toward the total project cost of $22,000, which is a 50% contribution, for a new stand-alone manga collection at the W.T. Bland Public Library. The Library's manga holdings are virtually non-existent, with approximately only 60 titles in Koha. This addition will expand the Library's manga inventory to approximately 1,200 items. This new collection size is more on par with the manga collections of Leesburg Public Library (969 volumes) and Cooper Memorial Library (1,355 volumes).

The W.T. Bland Public Library was built in 1995 and expanded from 15,000 sq. ft. to 22,666 sq. ft. in 2012. At the time of the expansion, a 500 sq. ft. Young Adult Room was added, which was an expansion from an alcove. A modest graphic collection was included on the shelving in this room, equaling about 100 volumes. The Young Adult Room was remodeled in 2015 and then again in 2021, but is at capacity, with no display room for a manga collection.

The Library's graphic novel collection was overhauled four years ago and was moved to two stand-alone displays outside the Young Adult room. This collection, which now numbers over 500 titles, has grown from approximately 50 circulations per month to over 200. There are approximately 60 manga titles in this collection, which will be moved to the new collection. The new collection will be housed on existing shelving needing minor reconfiguration, which will become vacant due to the Children's Library Expansion project.

Like all members of the Lake County Library System, the Mount Dora Library serves far more than just its city's residents. Of the over 12,000 holders of the Mount Dora (22083) library card, only 55% actually live in Mount Dora. For fiscal year 2020-21, nearly 48% of all Mount Dora's circulation was initiated by non-Mount Dora residents. This places a heavy burden on Mount Dora's collection and is the justification for this funding application.

The Library's juvenile manga collection consists of only 30 titles. It will be significantly expanded in 2021-22, thanks to the Children's Library Expansion project, which is partially funded by the

Appendix A
Lake County Library Impact Fees – PROJECT APPLICATION

Lake County Library Impact Fee funding program. The juvenile collection will remain separate from the proposed new manga collection.

The Library's children's collection routinely circulates at the second highest level in Lake County, second only to Clermont, at approximately 3,000 to 7,000 checkouts per month. Manga is an important format to offer to tweens and teens. At libraries with significant manga collections, approximately 80% of the borrowers of this genre are between the ages of 10 and 19 years old. Offering a full collection of manga will benefit not only Mount Dora families but will also place an extensive new collection in the hands of all Lake County young readers.

f. Provide an itemized cost estimate for equipment requests (0-5)

Manga Collection	Quantity	Price Per	Total
COLLECTION			
Approximately 1,100 managa titles	1,100	$ 19.00	$ 20,900
SHELVING			
Shelving configuration			$ 1,100
TOTAL PROJECT COST			**$ 22,000**
Mount Dora Library Impact Fee	50%		**$ 11,000**
LCLS Library Impact Grant Request	50%		**$ 11,000**

The application is requesting one-half the cost of the new 1,100 item collection ($10,450) and one-half the cost of the shelving configuration to house these items ($550), which are detailed on the above itemized cost estimate. The total project application requested amount is $11,000, which is 50% of the $22,000 project.

12. **APPLICANT PRIORITY RANKING** (If requesting more than one project) 1

13. **INITIAL YEAR OF PARTICIPATION** 1986

14. **COMPLETED BY:** Cathy Lunday **DATE:** 1-6-22

RETURN THIS FORM TO: DIRECTOR OF THE LAKE COUNTY OFFICE OF LIBRARY SERVICES
2401 Woodlea Road, Tavares, FL 32778

Staff Use Only

Project Rating ______________ Project Ranking ______________
Recommended Level of Funding ______________
Approved Level of Funding ______________

4

Appendix A
Lake County Library Impact Fees – PROJECT APPLICATION

Comments ____
____
____

CITY OF MOUNT DORA

Capital Improvement Project (CIP) Request Form

Priority #: ______

Department Division: ☐Multiple	Fiscal Year:	GL#:
Library - Leisure Services	2022-23	See cost allocation form

Project Title:

Manga Collection **PROPOSED CIP for 2022-23**

Type of Project: (Check all that apply)

☑New Project ☐Replacement ☐Project Continuation **Project #:** ______

Description, Objective and Benefits of Project:

Manga is a format of printed books with cartoon-style illustrations popular with readers ages 10-19 years old. The Library's collection currently only holds 60 manga titles, which is a significant deficit. Due to the Children's Library Expansion project in 2021-22, there will be 624 linear feet of shelving available for this collection. Since 48% of the Mount Dora Library's circulation is generated by patrons with non-Mount Dora zip codes, Lake County Library Impact Fee funding is being sought.

Needs Criteria: (Check all that apply and explain below)

☐Building ☐Imp. Other than Building ☐Machinery & Equipment ☐Land

Needs/Issues/Problems: What specific need, issue, or problem does this request address?

There is currently no manga collection at the Library. For comparison, Clermont's collection holds 1,355 titles and Leesburg holds 969 titles. If approved, this plan would result in an 1,200 volume manga collection at the Mount Dora Library.

Alternatives: What alternative measures have been taken to address this need/issue/problem? Are there solutions other than adding a new project that have been utilized or considered?

For years the Library's patrons who enjoy this format either visit the libraries in Leesburg and Clermont or request transfers from them, which can be a cumbersome process.

Outcomes / Measurable Results: What specific outcomes are expected with this project? Describe in detail what performance measures will be used to measure the impact of the new project. How do the proposed measures compare to current measures, if different?

Once added, the manga collection is expected to generate between 50 and 100 circulations per month by the end of its first year on the shelves.

FY 2019-20

Funding Sources

Funding Sources: (Check all that apply)

- [ ] General Fund
- [ ] Water & WW Fund
- [ ] Stormwater Utility Fund
- [ ] Electric Utility Fund
- [ ] Northeast CRA
- [ ] Downtown CRA
- [ ] Debt (SRF loan, lease)
- [ ] Grant (federal, state, local)
- [x] Other Funds
- [ ] FDOT
- [ ] Donation/Contribution

Impact Fees: [ ] Wastewater [ ] Water [ ] Parks [ ] Fire [ ] Police [x] Library

Funding Sources	2022-23	2023-24	2024-25	2025-26	2026-27
Transfer between projects	$ -	$ -	$ -	$ -	$ -
Debt/Borrowed Funds	-	-	-	-	-
Library Impact Fee Fund	11,000		-	-	-
Parks Impact Fee Fund			-	-	-
Nonprofit	-		-	-	-
Lake County Library Impact Fee funding	11,000		-	-	-
Total	$ 22,000	$ -	$ -	$ -	$ -

Project Costs

Estimated Project Costs

Description	2022-23	2023-24	2024-25	2025-26	2026-27	Total 5 Year Cost
	Five Year Schedule					
Collection (capital)	$ 20,900	$ -	$ -	$ -	$ -	$ 20,900
Shelving configuration, signag	1,100	-	-	-	-	1,100
	-	-	-	-	-	-
	-	-	-	-	-	-
	-	-	-	-	-	-
	-	-	-	-	-	-
	-	-	-	-	-	-
	-	-	-	-	-	-
Total Capital Costs	$ 22,000	$ -	$ -	$ -	$ -	$ 22,000
Estimated Operating Costs [1]						
Equipment [2]	$ -	$ -	$ -	$ -	$ -	$ -
Utilities	-	-	-	-	-	-
Supplies	-	-	-	-	-	-
Additional Staff [3]	-	-	-	-	-	-
Other (describe below)	-	-	-	-	-	-
Total Operating Costs	$ -	$ -	$ -	$ -	$ -	$ -
Total Project Costs	$ 22,000	$ -	$ -	$ -	$ -	$ 22,000

Other Costs:

[1] Are the estimated operating costs listed above included in your budget? no

[2] Machinery & Equipment requests require Request Justification.

[3] New Staff positions require Personnel Requisition Form and must be submitted to Human Resources.

Finance Department Use Only

[ ] Approved [ ] Denied

Comments:

FY 2019-20

510 N. Baker St.
Mount Dora, FL 32757
352-735-7126

DATE: **January 3, 2023**

TO: **Honorable Mayor and City Council Members**

FROM: **Patrick C. Comiskey, City Manager** Patrick C. Comiskey

SUBJECT: Request Approval of the Fourth Amendment to the Solid Waste Agreement Between the City of Mount Dora and Waste Management Inc. of Florida

Introduction:

This is a request for City Council to approve the Fourth Amendment to the Solid Waste Agreement between the City of Mount Dora and Waste Management Inc. of Florida.

Discussion:

Waste Management is the City solid waste franchise provider for residential and commercial customers. Waste Management was awarded the franchise service in 2013. The agreement was amended in July 2018 with Resolution No. 2018-53 to change garbage pick up to once per week. The second amendment to the solid waste agreement was approved by the City Council on January 5, 2021 by Resolution 2021-02 to stop curbside recycling. The third amendment to the solid waste agreement was approved by the City Council on January 18, 2022. The current contract ends in 2027.

On December 13, 2022, the U.S. Bureau of Labor Statistics reported that the Consumer Price Index for All Urban Consumers rose 0.4 percent on a seasonally adjusted basis; rising 7.1 percent over the last 12 months, not seasonally adjusted.

Waste Management's residential and commercial charges for its services are provided as an attachment (Attachment #1). The City bills all solid waste franchise services except roll-off services. The City's billing fees are included in a separate City Fee Rate Resolution 2022-73 approved on December 5, 2022 (Attachment #2).

The proposed rate that Waste Management charges for both residential and commercial solid waste services to the City is projected to increase by 3.5 percent pursuant to the contract agreement. A one-time Inflation Recovery Request of 4.1 percent was submitted by Waste Management due to uncontrollable circumstances. After negotiations with Waste Management, the one-time Inflation Recovery Request was lowered to 2.2 percent.

Staff recommends the City Council to approve a one-time increase beyond 3.5 percent because of the unusual inflation over the last twelve months and take appropriate action to maintain contracted sanitation services.

Budget Impact:
The fee increase to Mount Dora utilities customers was included in the Master Fee Schedule adopted via Resolution No. 2022-73 on December 5, 2022.

Strategic Impact:
Fiscal Sustainability

Recommendation:
The City Council to approve the Fourth Amendment to the Solid Waste Agreement between the City of Mount Dora and Waste Management Inc. of Florida.

Attachment(s):
1. Waste Management Billing Rate Schedule for 2023
2. Reso No. 2022-73 Approving Master Fee Schedule
3. Fourth Amendment.Waste Management.SGS

Prepared by:	Aneta Barton, Budget Director	
Reviewed by:	GEORGE MAREK, Interim Public Works Director	Approved - 12/21/2022
	Sherry Sutphen, City Attorney	Approved - 12/28/2022
	Jeanann Hand, City Clerk	Approved - 12/28/2022
	Patrick Comiskey, City Manager	Final Approval - 12/28/2022

ATTACHMENT #1

SANITATION RATES		
SERVICE	**DESCRIPTION**	**WM Rate**
RESIDENTIAL FEES		
Sanitation - Recycling	SA-CANS RS/GN/MF	$ 16.75
COMMERCIAL FEES		
1 Toter x1/wk(Cans)	SA-TOTER 1X1	$ 21.11
1 Toter x2/wk	SA-TOTER 1X2	$ 42.87
1 Toter x3/wk	SA-TOTER 1X3	$ 64.63
2 Toter x1/wk	SA-TOTER 2X1	$ 42.66
2 Toter x2/wk	SA-TOTER 2X2	$ 86.18
2 Toter x5/wk	SA-TOTER 2X5	$ 216.73
3 Toter x1/wk	SA-TOTER 3X1	$ 64.20
3 Toter x2/wk	SA-TOTER 3X2	$ 129.47
4 Toter x1/wk	SA-TOTER 4X1	$ 85.50
7 Toter x1/wk	SA-TOTER 7X1	$ 150.10
Shared dumpster 8 yard x1/wk	SA-SH2	$ 49.04
Shared dumpster	SA-RTSU	$ 81.29
Shared dumpster 4 yard x2/wk	SA-SH3	$ 82.43
Shared dumpster 8 yard x2/wk	SA-SH1	$ 97.24
Shared dumpster	SA-REST	$ 234.89
Dumpster 2 yard x1/wk	SA- D 2X1	$ 83.71
Dumpster 2 yard x2/wk	SA- D 2X2	$ 164.22
Dumpster 2 yard x3/wk	SA- D 2X3	$ 242.32
Dumpster 2 yard x4/wk	SA- D 2X4	$ 303.51
Dumpster 2 yard x5/wk	SA- D 2X5	$ 373.19
Dumpster 2 yard x6/wk	SA- D 2X6	$ 433.21
Dumpster 3 yard x1/wk	SA- D 3X1	$ 125.12
Dumpster 3 yard x2/wk	SA - D 3X2	$ 249.56
Dumpster 3 yard x3/wk	SA - D 3X3	$ 373.96
Dumpster 3 yard x4/wk	SA - D 3X4	$ 498.33
Dumpster 3 yard x5/wk	SA - D 3X5	$ 622.44
Dumpster 3 yard x6/wk	SA - D 3X6	$ 747.17
Dumpster 4 yard x1/wk	SA - D 4X1	$ 161.76
Dumpster 4 yard x2/wk	SA - D 4X2	$ 318.02
Dumpster 4 yard x3/wk	SA - D 4X3	$ 469.41
Dumpster 4 yard x4/wk	SA - D 4X4	$ 606.35
Dumpster 4 yard x5/wk	SA - D 4X5	$ 733.65
Dumpster 4 yard x6/wk	SA - D 4X6	$ 851.25
DW- shared residential	SA- SHARED RS	$ 19.50
DW- shared commercial	SA- SHARED GN	$ 21.03
DW- restaurant A (1-49)	SA-RST1	$ 58.43
DW- restaurant B (50-99)	SA-RST2	$ 116.03
DW- restaurant C (over 100)	SA-RST3	$ 231.27
Dumpster 6 yard x1/wk	SA - D 6X1	$ 235.06
Dumpster 6 yard x2/wk	SA - D 6X2	$ 462.14
Dumpster 6 yard x3/wk	SA - D 6X3	$ 682.05
Dumpster 6 yard x4/wk	SA - D 6X4	$ 894.65
Dumpster 6 yard x5/wk	SA - D 6X5	$ 1,081.95
Dumpster 6 yard x6/wk	SA - D 6X6	$ 1,254.74

SANITATION RATES		
Dumpster 8 yard x1/wk	SA - D 8X1	$ 308.34
Dumpster 8 yard x2/wk	SA - D 8X2	$ 615.96
Dumpster 8 yard x3/wk	SA - D 8X3	$ 909.11
Dumpster 8 yard x4/wk	SA - D 8X4	$ 1,192.61
Dumpster 8 yard x5/wk	SA - D 8X5	$ 1,466.33
Dumpster 8 yard x6/wk	SA - D 8X6	$ 1,726.83
Dumpster 10 yard x1/wk	SA - D 10X1	$ 384.64
Dumpster 10 yard x2/wk	SA - D 10X2	$ 768.55
Dumpster 10 yard x3/wk	SA - D 10X3	$ 1,152.53
Dumpster 10 yard x4/wk	SA - D 10X4	$ 1,536.42
Dumpster 10 yard x5/wk	SA - D 10X5	$ 1,920.39
Dumpster 10 yard x6/wk	SA - D 10X6	$ 2,304.28
Dumpster lock	SA-LK GN	$ 9.00
Extra 2 yard pickup	SA-XTRA2PU	$ 32.81
Extra 3 yard pickup	SA-XTRA3PU	$ 43.31
Extra 4 yard pickup	SA-XTRA4PU	$ 57.73
Extra 6 yard pickup	SA-XTRA6PU	$ 86.57
Extra 8 yard pickup	SA-XTRA8PU	$ 115.47
Extra 10 yard pickup	SA-XTRA10PU	$ 144.31
1 Cart x2/wk	SA-CART1X2	$ 26.24
2 Carts x2/wk	SA-CART2X2	$ 52.49
4 Carts x2/wk	SA-CART4X2	$ 104.96
Compactor 3 yard x4/wk	SA-CO 3X4	$ 880.17
Compactor 4 yard x4/wk	SA-CO 4X4	$ 1,204.25
Front Load Compaction Equipment		
4 cubic yard Vertipak or Similar	SA-Vertipak - 4	$ 69.48
6 cubic yard Vertipak or Similar	SA-Vertipak - 6	$ 101.58
8 cubic yard Vertipak or Similar	SA-Vertipak - 8	$ 133.51

ATTACHMENT #2

RESOLUTION NO. 2022-73

A RESOLUTION OF THE CITY OF MOUNT DORA, FLORIDA, PERTAINING TO THE MASTER FEE SCHEDULE FOR THE CITY; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR REPEAL OF PRIOR FEE RESOLUTION; PROVIDING FOR APPROVAL OF MASTER FEE SCHEDULE; PROVIDING FOR THE IMPLEMENTATION OF ADMINISTRATIVE ACTIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, City's budget and financial policies require that to the extent possible and reasonable, City services should be supported by fees and charges in order to provide maximum flexibility in the use of general City taxes to provide for a broader public benefit; and

WHEREAS, the City of Mount Dora has enacted various codes and ordinances which provide for the creation and maintenance of a multitude of City programs and/or services, the nature of which require funding, at least in part, by user fees; and

WHEREAS, the City processes various land development, building and inspection permits, licenses, site plans, maps and administrative changes, the nature of which require funding, at least in part, by user fees; and

WHEREAS, the provisions of controlling Florida law provide authorization for a municipality to levy reasonable fees and charges commensurate with the cost of the activities, functions and programs which are funded by the City; and

WHEREAS, the City adopted its current Master Fee Schedule on January 18, 2022, under Resolution No.: 2022-03; and

WHEREAS, it is fiscally prudent and appropriate for the City, from time-to-time, to establish the reasonable fees and charges for administering the various programs and services provided by the City; and

WHEREAS, the City has determined that all of the fees ser forth hereafter are equitable and necessary for the program, service of function supported by the same; and

WHEREAS, the City finds that all conditions precedent and notices required by Florida law, which are necessary to accomplish the actions taken herein have been appropriately implemented.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF MOUNT DORA, FLORIDA, AS FOLLOWS:

SECTION 1. Legislative Findings and Intent. The City of Mount Dora has complied with all requirements and procedures of Florida law in processing this Resolution. The above recitals are hereby adopted.

SECTION 2. Repeal of Prior Fee Schedule Resolutions. City of Mount Dora Resolution No. 2021-068 is hereby repealed in its entirety.

SECTION 3. Adoption of Master Fee Schedules.

A. The schedule of all City collected fees attached hereto as **Exhibit "A"** is hereby approved and adopted for implementation.

SECTION 4. Implementation of Administrative Actions. The City Manager is hereby authorized and directed to take such action as may be deemed necessary and appropriate in order to implement the provisions of this Resolution. The City Manager may, as deemed appropriate, necessary and convenient, delegate the powers of implementation as herein set forth to such City employees as deemed effectual and prudent.

SECTION 5. Savings Clause. All prior actions of the City of Mount Dora pertaining to the adoption of the Fee Schedules for fees collected by the City, as well as any and all matters relating thereto, are hereby ratified and affirmed consistent with the provisions of this Resolution.

SECTION 6. Scrivener's Errors. Typographical errors and other matters of a similar nature that do not affect the intent of this Resolution, as determined by the City Clerk and City Attorney, may be corrected.

SECTION 7. Conflicts. All Resolutions or parts of Resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 8. Severability. If any Section or portion of a Section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Resolution.

SECTION 9. Effective Date. This Resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED this 5th day of December, 2022.

CRISSY STILE
MAYOR of the City of Mount Dora, Florida

ATTEST:

Jeanann Hand
City Clerk

For the use and reliance of City of Mount Dora only.
Approved as to form and legality.

Sherry G. Sutphen
City Attorney

Resolution No. 2022-73
Page 3 of 4

Exhibit "A"
Master Fee Schedule

Exhibit "A"

CITY OF MOUNT DORA CITY FEE SCHEDULE

Utility Rates

Miscellaneous	CURRENT
Account Setup Fee - Residential & Non-Residential Accounts	$ 30.00
Hydrant & Temporary Meter Account Setup Fee (Water)	$ 75.00
Credit for signing up for Auto Draft & Ebill - New & Existing Accounts	$ (25.00)
Late fee Penalty (3 Days past due)	
The 3% late fee will be added to accounts on the day after the due date plus 3 days from the invoice.	
Staff may waive late fee penalty charge once in a twelve month period if requested by the customer.	3%
Reconnection Charge (Business Hours) added to account when payment is not received by 5:00pm thr day before the cutoff date.	$45.00
Reconnection Charge (After Hours till 9 p.m.)	$100.00
Reconnection Charge (After Hours between 9 p.m. & 6 a.m.)	$250.00
Lock and Pull Meters	$30.00
Accounts that are not paid 5 to 7 business days after it has been turned off for non-payment, the City will either lock or pull those meters and an additional $30.00 service fee will be charged to the account. All past due fees and service fees will need to be paid in full before service is restored. This fee is non-waivable and applies to each meter.	
Water Meter Tampering (Unauthorized access to meters or systems) + cost	
1st Offense	$ 75.00
2nd Offense	$ 150.00
3rd and subsequent tampering	$ 250.00
Electric Meter Tampering (Unauthorized access to meters or systems) + cost	$ 250.00
Lien File Fees	$ 20.00
Lien Research Fee - Standard three (3) business days	$ 30.00
Lien Research Fee - Expedited one (1) business day	$ 50.00
Meter test charge if equipment determined not defective	$ 55.00
Regular Backflow Monitor and Test	$ 4.17
Fire Backflow Monitor and Test	$ 9.17
Manual Read - monthly required charge for all temporary Hydrant meters	$ 5.00
Disconnection Charge - if required by Ordinance not related to a delinquent account	$ 30.00
Garage Sale Permits	$ 5.00
Garage Sale Permits - Online	Free
Storage Fee - related to any item abandoned, found and/or located on City right-of-way or easement and stored	$ 10.00
by the City (doesn't not include forfeiture / impoundment fees) per day	
Digital Meter Opt-Out - non-refundable enrollment fee	$ 95.00
Digital Meter Opt-Out - monthly manual meter reading fee	$ 13.00
The Digital Meter Opt-Out was supported by the Public Service Commission under Docket No. 20180088-El	

Deposits

1. RESIDENTAL UTILITY DEPOSITS ARE BASED ON CREDIT SCORE AS VERIFIED BY APPROVED PROVIDER: IF CREDIT IS ACCEPTABLE - NO DEPOSIT REQUIRED
2. MULTI FAMILY & NON-RESIDENTIAL UTILITY DEPOSITS ARE BASED ON AN AMOUNT EQUAL TO TWICE THE ESTIMATED AVERAGE MONTHLY BILL ROUNDED UP TO THE NEAREST FIFTY DOLLAR INCREMENT FOR ALL REQUIRED UTILITIES.
3. ALL DEPOSITS ARE HELD IN A NON INTEREST BEARING ACCOUNT - THEREFORE NO INTEREST PAID ON ANY DEPOSITS HELD
4. RESIDENTIAL DEPOSITS MAY BE REFUNDED IF NO DELINQUENCY WITHIN A 24 MONTH PERIOD
5. IN THE EVENT THE UTILITY SERVICE IS DISCONNECTED 2 OR MORE TIMES FOR NON-PAYMENT OR HAS RECEIVED 2 OR MORE RETURNED CHECKS WITHIN A 12 MONTH PERIOD, OR INSUFFICIENT UTILITY CREDIT SCORE, THE CITY WILL REQUIRE A DEPOSIT(S) AS OUTLINED BELOW.

CITY OF MOUNT DORA CITY FEE SCHEDULE

Utility Rates

Water	CURRENT
Residential	$ 40.00
Temporary Hydrant Meter	$ 1,500.00
Wastewater	
Residential	$ 75.00
Irrigation	
Residential	$ 60.00
Reclaimed Water	
Residential	$ 60.00
Sanitation	
Residential	$ 25.00
Electric	
Residential	$ 240.00
Temporary Electric Meter	$ 250.00

UTILITY PAYMENT PLANS

At the discretion of the City a payment plan may be established for accounts that are currently disconnected or have a past due balance greater than three hundred dollars ($300.00). The monthly payment plan shall be for a period equal to the number of months in arrears but at no time longer than six months and will be in addition to the normal monthly utility bill. There will be no waiver/reduction of the accrued late fees and delinquency charges and an additional administration fee of $30.00 will be charged for setting up and administering the payment plan. Upon establishment of the payment plan, agreement by the customer and receipt of the first payment then service can be restored. If a customer fails to complete the payment plan in full, the City shall be entitled to take all legal action permissible, including but not limited to, delivering the underlying utility lien to the county court for enforcement and/or forwarding this matter to a collection agency to secure payment.

No more than one payment plan per rolling 12 month period.

WATER METERS INSTALLATION	CURRENT
¾ inch	$ 414.40
1 inch	$ 466.20
1 ½ inch	$ 802.90
2 inch	$ 906.50
4 inch	Cost + 10%
6 inch	Cost + 10%
Upgrades	Cost + 10%

UTILITY RATES - ALL RATE CLASSES - INSIDE CITY

Water	CURRENT
Availability Per Unit (not metered) - monthly	$ 11.77
Availability Per Unit (metered) - monthly	$ 8.23
0 to 8,977 (per 1,000 gallon) of Consumption	$ 2.05
8,977 - 17,953 (per 1,000 gallon) of Consumption	$ 4.11
17,953 - 26,930 (per 1,000 gallon) of Consumption	$ 6.16
26,930 and up (per 1,000 gallon) of Consumption	$ 8.21
Sewer	**CURRENT**
Availability Per Unit (not metered) - monthly	$ 31.83
Availability Per Unit (metered) - monthly	$ 22.29
All Consumption per 1,000 gallon	$ 6.51
- Residential Caps at 8,977 if no other meter	
- Commercial has no caps on consumption	
Irrigation	**CURRENT**
Availability Per Unit (not metered) - monthly	$ 11.77
0 to 17,953 (per 1,000 gallon) of Consumption	$ 4.11
17,953 - 26,930 (per 1,000 gallon) of Consumption	$ 6.16
26,930 and Up (per 1,000 gallon) of Consumption	$ 8.21
Reclaimed Water	**CURRENT**
Availability Per Unit (not metered) - monthly	$ 11.77
0 to 17,953 (per gallon) of Consumption	$ 0.00060440
17,953 - 26,930 (per gallon) of Consumption	$ 0.00090090
26,930 and Up (per gallon) of Consumption	$ 0.00119740

CITY OF MOUNT DORA CITY FEE SCHEDULE

Utility Rates

Stormwater	**CURRENT**
Stormwater fee - monthly	$ 15.50
UTILITY RATES - ALL RATE CLASSES - OUTSIDE CITY	
Water	**CURRENT**
Availability Per Unit (not metered) - monthly	$ 14.71
Availability Per Unit (metered) - monthly	$ 10.29
0 to 8,977 (per 1,000 gallon) of Consumption	$ 2.57
8,977 - 17,953 (per 1,000 gallon) of Consumption	$ 5.13
17,953 - 26,930 (per 1,000 gallon) of Consumption	$ 7.70
26,930 and up (per 1,000 gallon) of Consumption	$ 10.26
Sewer	**CURRENT**
Availability Per Unit (not metered) - monthly	$ 39.78
Availability Per Unit (metered) - monthly	$ 27.87
All Consumption per 1,000 gallon	$ 8.13
- Residential Caps at 8,977 if no other meter	
- Commercial has no caps on consumption	
Irrigation	**CURRENT**
Availability Per Unit (not metered) - monthly	$ 14.71
0 to 17,953 (per 1,000 gallon) of Consumption	$ 5.13
17,953 - 26,930 (per 1,000 gallon) of Consumption	$ 7.70
26,930 and Up (per 1,000 gallon) of Consumption	$ 10.26
Reclaimed Water	**CURRENT**
Availability Per Unit (not metered) - monthly	$ 14.71
0 to 17,953 (per gallon) of Consumption	$ 0.00075550
17,953 - 26,930 (per gallon) of Consumption	$ 0.00112612
26,930 and Up (per gallon) of Consumption	$ 0.00149674

CITY OF MOUNT DORA CITY FEE SCHEDULE

Sanitation Utility

SANITATION RATES		
SERVICE	**DESCRIPTION**	**CURRENT**
RESIDENTIAL FEES		
Sanitation - Recycling	SA-CANS RS/GN/MF	$ 22.11
COMMERCIAL FEES		
1 Toter x1/wk(Cans)	SA-TOTER 1X1	$ 27.87
1 Toter x2/wk	SA-TOTER 1X2	$ 56.59
1 Toter x3/wk	SA-TOTER 1X3	$ 85.31
2 Toter x1/wk	SA-TOTER 2X1	$ 56.31
2 Toter x2/wk	SA-TOTER 2X2	$ 113.76
2 Toter x5/wk	SA-TOTER 2X5	$ 286.08
3 Toter x1/wk	SA-TOTER 3X1	$ 84.74
3 Toter x2/wk	SA-TOTER 3X2	$ 170.90
4 Toter x1/wk	SA-TOTER 4X1	$ 112.86
7 Toter x1/wk	SA-TOTER 7X1	$ 198.13
Shared dumpster 8 yard x1/wk	SA-SH2	$ 64.73
Shared dumpster	SA-RTSU	$ 107.30
Shared dumpster 4 yard x2/wk	SA-SH3	$ 108.81
Shared dumpster 8 yard x2/wk	SA-SH1	$ 128.36
Shared dumpster	SA-REST	$ 310.05
Dumpster 2 yard x1/wk	SA- D 2X1	$ 110.50
Dumpster 2 yard x2/wk	SA- D 2X2	$ 216.77
Dumpster 2 yard x3/wk	SA- D 2X3	$ 319.86
Dumpster 2 yard x4/wk	SA- D 2X4	$ 400.63
Dumpster 2 yard x5/wk	SA- D 2X5	$ 460.61
Dumpster 2 yard x6/wk	SA- D 2X6	$ 571.84
Dumpster 3 yard x1/wk	SA- D 3X1	$ 165.16
Dumpster 3 yard x2/wk	SA - D 3X2	$ 329.42
Dumpster 3 yard x3/wk	SA - D 3X3	$ 493.63
Dumpster 3 yard x4/wk	SA - D 3X4	$ 657.80
Dumpster 3 yard x5/wk	SA - D 3X5	$ 821.62
Dumpster 3 yard x6/wk	SA - D 3X6	$ 986.26
Dumpster 4 yard x1/wk	SA - D 4X1	$ 213.52
Dumpster 4 yard x2/wk	SA - D 4X2	$ 419.79
Dumpster 4 yard x3/wk	SA - D 4X3	$ 619.62
Dumpster 4 yard x4/wk	SA - D 4X4	$ 800.38
Dumpster 4 yard x5/wk	SA - D 4X5	$ 968.42
Dumpster 4 yard x6/wk	SA - D 4X6	$ 1,123.65

CITY OF MOUNT DORA CITY FEE SCHEDULE

Sanitation Utility

SANITATION RATES		
DW- shared residential	SA- SHARED RS	$ 25.74
DW- shared commercial	SA- SHARED GN	$ 27.79
DW- restaurant A (1-49)	SA-RST1	$ 77.13
DW- restaurant B (50-99)	SA-RST2	$ 153.16
DW- restaurant C (over 100)	SA-RST3	$ 305.28
Dumpster 6 yard x1/wk	SA - D 6X1	$ 310.28
Dumpster 6 yard x2/wk	SA - D 6X2	$ 610.02
Dumpster 6 yard x3/wk	SA - D 6X3	$ 900.31
Dumpster 6 yard x4/wk	SA - D 6X4	$ 1,180.94
Dumpster 6 yard x5/wk	SA - D 6X5	$ 1,428.17
Dumpster 6 yard x6/wk	SA - D 6X6	$ 1,656.26
Dumpster 8 yard x1/wk	SA - D 8X1	$ 407.01
Dumpster 8 yard x2/wk	SA - D 8X2	$ 813.07
Dumpster 8 yard x3/wk	SA - D 8X3	$ 1,200.03
Dumpster 8 yard x4/wk	SA - D 8X4	$ 1,574.25
Dumpster 8 yard x5/wk	SA - D 8X5	$ 1,935.56
Dumpster 8 yard x6/wk	SA - D 8X6	$ 2,279.42
Dumpster 10 yard x1/wk	SA - D 10X1	$ 507.72
Dumpster 10 yard x2/wk	SA - D 10X2	$ 1,014.49
Dumpster 10 yard x3/wk	SA - D 10X3	$ 1,521.34
Dumpster 10 yard x4/wk	SA - D 10X4	$ 2,028.07
Dumpster 10 yard x5/wk	SA - D 10X5	$ 2,534.91
Dumpster 10 yard x6/wk	SA - D 10X6	$ 3,041.65
Dumpster lock	SA-LK GN	$ 11.88
Extra 2 yard pickup	SA-XTRA2PU	$ 43.31
Extra 3 yard pickup	SA-XTRA3PU	$ 57.17
Extra 4 yard pickup	SA-XTRA4PU	$ 76.20
Extra 6 yard pickup	SA-XTRA6PU	$ 114.27
Extra 8 yard pickup	SA-XTRA8PU	$ 152.42
Extra 10 yard pickup	SA-XTRA10PU	$ 190.49
1 Cart x2/wk	SA-CART1X2	34.64
2 Carts x2/wk	SA-CART2X2	69.29
4 Carts x2/wk	SA-CART4X2	138.55
Compactor 3 yard x4/wk	SA-CO 3X4	$ 1,161.82
Compactor 4 yard x4/wk	SA-CO 4X4	$ 1,589.61

CITY OF MOUNT DORA CITY FEE SCHEDULE

Sanitation Utility

SANITATION RATES			
Front Load Compaction Equipment			
4 cubic yard Vertipak or Similar	SA-Vertipak - 4	$	64.43
6 cubic yard Vertipak or Similar	SA-Vertipak - 6	$	94.20
8 cubic yard Vertipak or Similar	SA-Vertipak - 8	$	123.80
Roll offs are billed by Waste Management Directly*			
Roll off/Compactor 10 yard	SA-CO 10 - Load charge	$	199.95
Roll off/Compactor 20 yard	SA-CO 20 - Load charge	$	216.68
Roll off/Compactor 30 yard	SA-CO 30 - Load charge	$	249.99
Roll off/Compactor 40 yard	SA-CO 40 - Load charge	$	266.61
*Roll off fees above do not include disposal cost nor the $40/ton deduction from Covanta.			
Roll off/Compactor 10 yard	Delivery Charge	$	101.15
Roll off/Compactor 20 yard	Delivery Charge	$	101.15
Roll off/Compactor 30 yard	Delivery Charge	$	117.31
Roll off/Compactor 40 yard	Delivery Charge	$	117.31
Roll off/Compactor 10 yard	Monthly Rental	$	101.15
Roll off/Compactor 20 yard	Monthly Rental	$	101.15
Roll off/Compactor 30 yard	Monthly Rental	$	117.31
Roll off/Compactor 40 yard	Monthly Rental	$	117.31

CITY OF MOUNT DORA CITY FEE SCHEDULE

Electric Department

ELECTRIC UTILITY RATES	
Miscellaneous Rates	**Current**
Private Area Light	
Install light on existing Pole	$ 202.00
Install light on new wood Pole	$ 517.00
Permanent Single Phase	$ 100.00
Permanent Three Phase up to 200 amperes	$ 400.00
Permanent Three Phase over 200 amperes	$ 550.00
Overhead Service Drops	actual cost + 10%
All Other Overhead Service Drops,	actual cost + 10%
Underground Service	actual cost + 10%
Connection Charges	
Reconnection Charge if disconnected at pole + COST	$ 175.00
Temporary - Electric Meter	$ 100.00
Change over from one type of service to another	Subtract new service connection
Pole Attachment lease rate - cable	$ 14.30
Pole Attachment lease rate - telecom	$ 20.58
Electric Residential	**Current**
Customer Charge (per kw hour)	$ 11.02
Energy Charge (per kw hour)	$ 0.049640
Power Cost (per kw hour)	$ 0.112000
Gross Receipts Tax (percentage)	2.563%
General Service - Non Demand	**Current**
Single Phase (per month)	$11.02
Three Phase (per month)	$24.82
Energy Charge (per kw hour)	$0.049640
General Service - Demand	**Current**
Customer Charge (per month)	$24.92
Demand Charge (per kw hour-mo)	$6.05
Energy Charge (per kw hour)	$0.006910
Public Street & Highway Lighting Service	**Current**
175 Watt Mercury Vapor	$ 11.95
100 Watt High Pressure Sodium	$ 12.44
150 Watt High Pressure Sodium	$ 10.32
Antique Lights - Highland Phase 1 & 2	$ 12.44
Antique Lights - Community Development	$ 13.27
400 Watt High Pressure Sodium - Palm Island	$ 20.18
400 Watt High Pressure Sodium Cobra - Highway	$ 23.53
400 Watt MH Shoebox - FBC/FBF	$ 21.37
26 Watt FL Acorn	$ 12.64
40 Watt FL Acorn	$ 12.64
40 Watt LED Acorn - Corncob	$ 9.70
55 Watt LED Acorn - Retrofit	$ 11.32
66 Watt LED Acorn - Sternberg	$ 19.53
110 Watt LED Cobra - Street	$ 11.39
80 Watt LED Cobra - Street	$ 9.50
Private Area Lighting Service	**Current**
100 Watt High Pressure Sodium	$ 12.12
57 Watt LED Dusk to Dawn	$ 10.21
Power Cost	**Current**
Power Cost Charge (per kwh)	$ 0.1120000
Note: Actual Cost charges are to include a 10% administrative fee.	

CITY OF MOUNT DORA CITY FEE SCHEDULE

Building & Fire Services/Impact Fees

*****City Impact Fees are subject to change with Council approval.**

*****County Impact Fees are subject to change with notification from the County.**

Building Services/Permitting	
COMMERCIAL & MULTI FAMILY PERMIT FEES	**FEE SCHEDULE**
Commercial and Multi-Family New Construction, or Additons	$150.00 base fee; plus $8.00 per $1,000.00 or fraction thereof construction value.
Commercial and Multi-Family Alteration, In-ground Pools, or Spas	$75.00 base fee; plus $7.00 per $1,000.00 or fraction thereof of construction value.
Commercial and Multi-Family Sub-Contractors	$75.00 base fee; plus $7.00 per $1,000.00 or fraction thereof of construction value.
Commercial and Multi-Family Foundation Permit Fee *(All Impact Fees shall be paid prior to issuance of foundation permit.)*	$150.00
Commercial and Multi-Family stand-alone permits. Permit involving more than one trade shall be grouped as commercial alteration or addition	
Commercial and Multi-Family stand-alone permits: Mechanical, roofing, electrical, gas plumbing and sign….	$75.00 base fee; plus $7.00 per $1,000.00 or fraction thereof of construction value.
Change in Use is considered a commercial alteration and the applicable fees shall apply.	
RESIDENTIAL (ONE & TWO FAMILY) PERMIT FEES	
One-Two Family Dwellings new construction, or additions (fee includes first plan review, first listed inspections and sub contractor fees	ICC Value x sqft x 0.007
One-Two Family Dwellings Alterations or in ground pools	$75.00 base fee; plus $7.00 per $1,000.00 or fraction thereof of construction value
One-Two Family Dwellings Sub-Contractors	$75.00 base fee; plus $7.00 per $1,000.00 or fraction thereof of construction value
One-Two Family Dwellings Foundation Permit Fee	$75.00 (includes sub-contractors listed)
**Residential stand-alone permits. Permit involving more than one trade shall be grouped as a One-Two Family Dwellings alteration or addition	
Plumbing, re-pipe, or upgrade (including water heater replacement)	$50.00
Electrical, new service, or upgrade	$50.00
AC and heating unit replacement or upgrade	$50.00
Fences	$50.00
Stucco	$50.00
Siding	$50.00
Soffit and fascia	$50.00
Re-roofing	$50.00
One-Two Family Dwelling Flagpole over 20 feet in height	$50.00
Spa	$75.00
Private above-ground pool	$75.00
Windows and/or Doors	$50.00
**NOTE: One-Two Family Dwelling Permits are also subject to the following: State of Florida Building Surcharge, Lien Law Fees, and Plan Review Fees	
DEMOLITION OR MOVING A STRUCTURE PERMIT	
Permits for demolition of building or structures	$75/per structure
Moving a building or structure *(Additional permits shall be required for the foundation and reconnecting services to the building or structure.)*	$150/per structure
WORK WITHOUT A PERMIT	
Issuance of permit after construction has commenced	$150.00 or double amount or permit fee, whichever is greater
Release of Stop Work Order	$250.00
UNSAFE STRUCTURES	
Release of Unsafe designation	$250.00
RE-INSPECTION FEES	
Re-Inspection Fee	$50.00
USE OF A PRIVATE PROVIDER	
Use of a Private Provider Inspection Service	Reduction in Permit Fees by 25%
Use of a private provider for Plan Review services	Reduction in Permit Fees by 25%
Use of a Private Provider for Plan Review and Inspection services	Reduction in Permit Fees by 50%
OTHER INSPECTIONS	
Inspections during other than normal business hours	$55.00/hr with a three hour minimum
Inspections outside of enforcement of the Florida Building Code, including City Codes or Ordinances	$55.00/hr billable at 10 Minute intervals
CONSTRUCTION PLAN REVIEW	
Use of a private provider for Plan Review services	Reduction in Fees by 5%
COMMERCIAL/MULTI FAMILY PLAN REVIEW	
Construction Plan Review by the Building Official or Fire Official in conjunction with a building permit application	50% of the Building Permit Fee
Plan Review Fee for Re-Submittal	50% of the Plan Review Fee
Revision fee for Commercial & Multi-Family Plan Review	$50.00 plus $5.00 per page
Commercial and Multi-Family Fire Life Safety Plan Review	$.05 cents per square foot
RESIDENTIAL PLAN REVIEW	
Construction Plan Review by the Building Official or Fire Official in conjunction with a building permit application	10% of the Building Permit Fee
Plan Review Fee for Re-Submittal	50% of the Plan Review Fee
Revision fee for One & Two Family Dwellings	$50.00
Change of Model for One & Two Family Dwellings	10% of the permit fee

CITY OF MOUNT DORA CITY FEE SCHEDULE

Building & Fire Services/Impact Fees

*****City Impact Fees are subject to change with Council approval.**

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MASTER FILE FEES	
Master filing review and approval for: Single Family Residents/Swimming Pools/Screen Enclosures/Boat Docks/Sheds/Solar Panels/HVAC Tie-Downs/Pre-Engineered Fire Suppression Systems. Master filing is active until code change or plan change.	$50.00
REJECTION OF PLANS	
Rejection of the design documents based on Florida Building codes three or more times for failture to correct a code violation which was specifically and continuously noted in each rejection per FS 553.80	4X the amount of the plans review fee assessed on the permit
Rejection of an inspection based on Florida Building codes three or more times for failture to correct a code violation which was specifically and continuously noted in each rejection per FS 553.80	4X the amount of the re-inspection fee
PERMIT SERVICES	
Change of Primary Contractor	$50.00
Change of Subcontractor	$30.00
OTHER PERMIT RELATED FEES	
Temporary or conditional certificate of occupancy	$110.00
Replacement of building permit card	$5.00
Extension of Permit	$50.00 or 10% of original permit fee whichever is greater.
PERMIT RENEWALS (ON EXPIRED PERMITS)	
No inspections conducted	100% of Original Fee
Slab inspection approved, slab poured	80% of Original Fee
Rough all inspections approved	50% of Original Fee
Insulation inspection approved	30% of Original Fee
Pending final inspection only	10% of Original Fee
MISCELLANEOUS	
Local Product Approval (per hour - 1 Hour Minimum)	$65.00
Evaluation of Alternative Material and Methods (When required by the Building Official to be reviewed by a 3rd 1 hour minimum) party the expenses, will be paid by applicant.)	$65/hour with 1 hour minimum
Flood Determination Letter	$50.00
State of Florida Building Surcharge	3.0% of Permit Fee/Min. Amount $4.00
Lien Law Fee	$5.00
Rental License & Inspection	$80.00
Rental Re-Inspections	$50.00
Administrative Charge for Processing of Lake County Impact Fees	$100.00 or 3%, whichever is less
Notary for business other than Building Deparment business	$5.00
Lien Search	$25.00
Calculation of Occupant Load - existing buildings	$100.00
Technology Fee per permit (Pass through fee)	$5.00
FIRE INSPECTIONS, PLAN REVIEW AND PERMITTING (NEW CONSTRUCTION AND RENOVATIONS)	
FIRE INSPECTION FEES	
Fire Alarm Inspection	$70.00 plus $1.50 per device after six
Fire Sprinkler Inspection	$70.00 plus $1.50 per head after six
Plus,(if applicable)* Standpipe Inspection	$50.00
Plus,(if applicable)* Fire Pump Inspection	$50.00
*Plus, *(if applicable) 24 hour air test*	$50.00
Underground Fire Inspection	$70.00
Hood Inspection	$70.00
Fire Suppression System Inspection	$50.00
Commercial and Multi-Family (except one and two family dwellings) Fire Final (Life Safety Inspection) Inspection	$50.00
Request for building or hydrant flow	$50.00
The inspection of non-cooking vendors/booths less than 200 square feet vender/booth individual area, that are entirely within a primary building, will be inspected as part of that building. Businesses with cooking facilities will be charged standard fire inspection fee. Additionally, in the event multiple businesses are registered as having the same physical address, the fire inspection fees shall be charged only to the property owner and not to each tenant.	
FIRE SYSTEMS PERMITS FEES	
Fire alarm, sprinkler, underground, suppression, hood, etc...	$75.00 base fee; plus $7.00 per $1,000 or fraction thereof construction value
FIRE SYSTEMS PLAN REVIEW	
Fire alarm, sprinkler, underground, suppression, hood, etc	$75.00
FIRE DEPARTMENT FEES	
FIRE DEPARTMENT FEES	
Authorized Burn	$125.00
Firework/Pyrotechnic Display - includes inspection	$300.00
Sparkler Sales	$75.00
Fire Watch - Fire Personnel	Actual Cost + 10% administrative fee
Fire watch - Equipment	$100.00 per vehicles, per day
Tent with occupancy load over 30 persons or those used for assembly	$25.00
Food Truck Inspection	$30.00 for 6 months
Routine Fire inspections up to 2,000 sq ft	$50.00
Routine Fire inspections from 2,001 sq ft to 4,000 sq ft	$125.00
Routine Fire inspections from 4,001 sq ft to 7,500 sq ft	$150.00
Routine Fire inspections from 7,501 sq ft to 15,000 sq ft	$200.00
Routine Fire inspections over 15,001 sq ft	$250.00
Re-inspections (1st Reinspection is included)	$50.00

CITY OF MOUNT DORA CITY FEE SCHEDULE

Building & Fire Services/Impact Fees

***City Impact Fees are subject to change with Council approval.

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IMPACT FEES

WATER IMPACT FEES

	Inside City	Outside City	
Single Family	$ 1,340.00	$ 1,675.00	
Duplex (1-2 Bedrooms)	$ 1,116.22	$ 1,395.28	
Duplex (3+ Bedrooms)	$ 1,340.00	$ 1,675.00	
Multi Family (1-2 Bedrooms)	$ 1,116.22	$ 1,395.28	
Multi Family (3+ Bedrooms)	$ 1,340.00	$ 1,675.00	
Mobile Home (1-2 Bedroom)	$ 893.78	$ 1,117.23	
Mobile Home (3+ Bedroom)	$ 1,116.22	$ 1,395.28	
Multifamily Apartment Assisted Living (per unit)	$ 893.78	$ 1,117.23	
**Note: For all establishments not listed in the table, the total value (ERU) shall be determined by multyplying the number of fixture units by twenty five (25) and divide the numerator by 300 GPD/ERU, then multiple by $2,526.82 (inside City) or $3,158.52 (outside the City)			**Note: For all establishments not listed in the table, the total value (ERU) shall be determined by multiplying the number of fixture units by twenty-five (25) and divide the numerator by 300 GPD/ERU, then multiply by $1,340.00 (inside City). Connection for buildings outside City Limits will increase impact fees by 25%.

SEWER IMPACT FEES

	Inside City	Outside City	
Single Family	$4,215.00	$5,268.75	
Duplex (1-2 Bedrooms)	$3,511.00	$4,388.75	
Duplex (3+ Bedrooms)	$4,215.00	$5,268.75	
Multi Family (1-2 Bedrooms)	$3,511.00	$4,388.75	
Multi Family (3+ Bedrooms)	$4,215.00	$5,268.75	
Mobile Home (1-2 Bedroom)	$2,811.40	$3,514.25	
Mobile Home (3+ Bedroom)	$3,511.10	$4,388.88	
Multifamily Apartment Assisted Living (per unit)	$2,811.40	$3,514.25	
**Note: For all establishments not listed in the table, the total value (ERU) shall be determined by multyplying the number of fixture units by twenty five (25) and divide the numerator by 300 GPD/ERU, then multiple by $2,526.82 (inside City) or $3,158.52 (outside the City)			**Note: For all establishments not listed in the table, the total value (ERU) shall be determined by multiplying the number of fixture units by twenty-five (25) and divide the numerator by 300 GPD/ERU, then multiply by $4,215.00 (inside City). Connection for buildings outside City Limits will increase impact fees by 25%.

RECLAIMED WATER IMPACT FEES

	Inside City	Outside City	
Single Family (400 GPD) - 0.12 acres	**$500.00**	$625.00	
Duplex 0.06 acres or less	$250.00	$312.50	
Multifamily Apartment Assisted Living	$333.50	$416.88	
Mobile Home - 0.10 acres or less	$333.50	$416.88	
Commercial - billed at 1ERU per 0.12 acres of greenspace/landscaping area	$500.00	$625.00	
**Note: For all establishments not listed in the table, the total value (ERU) shall be determined by multyplying the number of fixture units by twenty five (25) and divide the numerator by 300 GPD/ERU, then multiple by $2,526.82 (inside City) or $3,158.52 (outside the City)			**Note: For all establishments not listed in the table, the total value (ERU) shall be determined by multiplying the number of fixture units by twenty-five (25) and divide the numerator by 300 GPD/ERU, then multiply by $4,215.00 (inside City). Connection for buildings outside City Limits will increase impact fees by 25%.

CITY IMPACT FEES

Residential	TOTAL	PARKS & RECS	PUBLIC LIBRARY	POLICE	FIRE/EMS
Single Family	$5,055.38	$2,814.64	$1,498.41	$298.52	$443.81
Multi-Family	$3,169.14	$1,412.45	$751.92	$776.14	$228.63
Non-Residential					
Commercial (per 1000 Sq Feet)	$1,409.43	$0.00	$0.00	$1,032.87	$376.56
Office (per 1000 Sq Feet)	$421.29	$0.00	$0.00	$71.64	$349.65
Institutional (per 1000 Sq Feet)	$2,344.47	$0.00	$0.00	$71.64	$2,272.83
Industrial (per 1000 Sq Feet)	$321.51	$0.00	$0.00	$240.81	$80.70
Warehouse (per 1000 Sq Feet)	$283.62	$0.00	$0.00	$256.72	$26.90

CITY OF MOUNT DORA CITY FEE SCHEDULE
Planning & Development Department

Development Applications	
Annexation (Voluntary) Petition*:	
One single-family residence	$500.00
All Others	$2,000.00
***The City has an Annexation Incentive program that allows for these fees to be waived..**	
As-Built Drawings:	
Projects 9.99 acres in land area or less	$200.00
Projects 10.00 to 99.99 acres in land area	$500.00
Projects greater than 100.00 acres in land area	$750.00
Appeals (All Decisions)	$200.00
Comprehensive Plan:	
Text Amendment	$4,000.00
Future Land Use Large-Scale Map Amendment	$4,000.00
Future Land Use Small-Scale Map Amendment	$2,500.00
Concurrency Reviews	$500.00
Conditional Use Permit	$1,000.00
Development Agreements (Includes Amendments)	$500.00
Development Plan (Final)	$2,000.00
Duplex Division	$500.00
Minor Subdivisions	$1,500.00
Mural Permit	$100.00
Outdoor Amplified Sound Permit	$100.00
Plan and Plats:	
Preliminary Plat (Land Subdivision)	$2,500.00
Final Plat	$1,500.00
Final Construction Plan	$2,500.00
Replat	$1,500.00
Plan and Plat For Utilities (Outside City); Plus Pass-Through Fees listed herein	$1,000.00
Planned Unit Develoment (PUD):	
Preliminary PUD	$2,500.00
Final PUD	$3,500.00
PUD Amendment	$3,000.00
Rezoning to Mixed Use (MU-1 and MU-2 Zoning)	$3,000.00
Rezoning All Classifcations (Not PUD)	$3,000.00
Site Plans:	
Site Plan Multi Family, Commercial, Office or Non-Residential	$2,500.00
Minor Site Plan	$1,500.00
Site Development Permit (In City)	2.5% of Total Construction Value
Site Development Permit for Outside City Utility Services	2.5% of for Total Utility Construction Value Only
Variance	
Non-Residential	$1,000.00
Existing single-family dwelling unit	$250.00
Vacate rights-of-way, alleyways, easements, or plats	$1,500.00
Pass Through fees shall be collected for any and all of the development applications	Section 2.7.4 of the City's Land Development Code
More than two reviews by the development review committee staff for any development applications, PUD master plan, rezoning, and land use shall be considered a new application and, therefore, require an original application fee per each subsequent submital.	Orginal Planning and Development Fee
*Resubmital Fee: If substantial revisions are required as determined by the development review staff, all planning, zoning, and development applications shall be submitted within 60 days from the development review comment report at which the recommendations were made. After the 60 day time-frame a new application fee is required prior to any further city reviews.	Orginal Planning and Development Fee

CITY OF MOUNT DORA CITY FEE SCHEDULE
Planning & Development Department

Zoning	
Addressing	
City Initiated	Free
Addressing Assignments - 0-99	Free
Addressing Assignments - 100 or greater numbers	$1.00 per address number, maximum fee of $500.00
Business Tax Reciepts	
Home Based	See Chapter 40 of the City Code of Ordinances
Zoning Review (Home Based Businesses Only)	$25.00
Commercial	See Chapter 40 of the City Code of Ordinances
Dog-Friendly Dining Permit	$100.00
Electric Carriage Permit (Semi-Annually)	$100.00
Horse-Drawn Vehicle Inspection and Permit (Annual)	$100.00
Outdoor Amplified Sound Permit	$100.00
Sandwich Board Permit	$75.00
Sidewalks Café	$100.00
Zoning Permit	$75.00
Zoning Verification or determinations letter	$75.00
Zoning Review (All Building Permits which require Zoning approval)	
Residential	$75.00
Accessory Structure	$50.00
Commercial	$100.00
Zoning Inspection	
Zoning Inspection (All Building Permits which require Zoning approval)	Free
Zoning Re-Inspection	$50.00
Landscape Inspection (includes new home)	Free
Landscape Re-Inspection	$50.00
Public Notice Fees	
Advertisments	At Cost
Mailings to abutting property owners	At Cost
*Resubmital Fee: If substantial revisions are required as determined by the development review staff, all planning, zoning, and development applications shall be submitted within 60 days from the development review comment report at which the recommendations were made. After the 60 day time-frame a new application fee is required prior to any further city reviews.	Orginal Planning and Development Fee
Historic	
Minor Historic Certificate of Appropriateness (includes extensions)	$100.00
Major Historic Certificate of Appropriateness	$150.00
Historic Marker or Plaque	Actual Production Cost
Other Services	
Notary seal for non-city business	Free
Pass Through Fees	
Pass Through-Fees: The City is hereby authorized to assess and collect fees, cost, and expenses relating to the review, inspection, appeal, regulation and defense of development activities pursuant to this Section.The Complete Pass Through Fees regulations are as contained in Section 3.7.4 of the City's Land Development Code	

CITY OF MOUNT DORA CITY FEE SCHEDULE
Library Services

Library Fees	
	Current Fees
Library Services	**US Dollars**
***Library Membership Fee* (outside Lake County)**	
Annual	$40.00
Six Months	$20.00
Library Card Replacement Fee	
One Time	Free
Additional Replacements	$2.00
Overdue Fines	
Books/CDs/DVDs/DADs (Per Day)	$0.10
Computer Games/Cake Pans/Ukuleles (Per Day)	$1.00
Processing Fee for Materials Not Returned	$5.00
Max. on the $.10 fine item is $2.90 (After 29 Days, the Full Replacement Cost of the Item is Charged)	$2.90
Replacement Cost for Missing/Damaged Parts	
DVD Artwork	$5.00
Plastic Browser Sleeve	$3.00
Facility and Equipment Use Fees	
Mount Dora Nonprofit Civic/Educational/Intellectual Organization	Free
Non-Local Nonprofit Civic/Educational/Intellectural Organization	$40.00
Individuals/Homeowners Associations	$15.00 per hour (min. 2 hours)
Business and Commercial Meetings, Seminars, Etc.	$75.00
Printing & Copying	
Per Page from Public Computer B&W	$0.10
Per Page from Public Computer Color	$0.30
Per Page from Public Computer Legal Size	$0.30
Per Page from Photocopier	$0.15
Faxing Per Page - Outgoing Only	$1.00
Food for Fines (each item donated must equal a dollar)	$1.00
Equipment Purchases	
USB Drives	$3.00
Headphones	$1.00

The Fees for the Library are per an Interlocal Agreement with Lake County.

CITY OF MOUNT DORA CITY FEE SCHEDULE

<u>Parks & Recreation Department</u>

Definitions:

Resident: Incorporated Mount Dora residents may rent facilities for social and private functions. This includes weddings, banquets, birthday celebrations, anniversary parties, retirement parties, recognition parties, and meetings. Additional fees for personnel may apply. Proof of residence (e.g., driver's license, utility bill, property tax statement) is required.

Non-Resident: Any user that resides outside of Mount Dora proper. The purpose of the rental is for private functions that include parties, ceremonies, and meeting space. Additional fees for personnel may apply.

Commercial: Any user with the intent of charging ticketed fees or promoting enterprise for monetary gain.
Different fees may be established by executed contract.

Cemetery	**Resident**	**Non-Resident**	**Commercial**
Burial Space	$ 1,200.00	$ 1,800.00	N/A
Niche Space	$ 800.00	$ 1,200.00	N/A
Niche Engraving	Cost + 10%	Cost + 10%	N/A
Additional Internment Right (Additional Cremation Burial Right, up to 4)	$ 200.00	$ 400.00	N/A
Administration Fee (Transfer of Ownership, Grave Marking, Cremation Opening/Closing	$ 200.00	$ 200.00	N/A
After Hours Administration Fee (Cremation Opening/Closing on Evenings/Weekends)	$ 300.00	$ 300.00	N/A

Miscellaneous Fees		**Current**	
Memorial Bench & Plaque (Standard) - Includes all cost to install plus a 10% administrative fee		Cost + 10%	
Tree Donation (Standard Crepe Myrtle) - Includes all cost to install plus a 10% administrative fee		Cost + 10%	
Registration Processing Fee (Non-Refundable)		$ 20.00	

Facility Rentals	**Resident**	**Non-Resident**	**Commercial**
Facility Rental Deposits (Refundable less $5 non-refundable administrative fee)	$ 100.00	$ 100.00	$ 100.00
Donnelly Park (Building, & Deck) per hour			
Hourly Rate	$ 30.00	$ 50.00	$ 70.00
Daily Rate	$ 300.00	$ 500.00	$ 700.00
Community Building Auditorium (Upper Level, Theatre w/ Stage)			
Hourly Rate	$ 55.00	$ 60.00	$ 65.00
Daily Rate	$ 550.00	$ 600.00	$ 650.00
Community Building (Lobby - Upper Level)			
Hourly Rate	$ 40.00	$ 45.00	$ 50.00
Daily Rate	$ 400.00	$ 450.00	$ 500.00
Community Building (Green Room - Lower Level)			
Hourly Rate	$ 20.00	$ 25.00	$ 30.00
Daily Rate	$ 200.00	$ 250.00	$ 300.00
Community Building (Entire Building)			
Hourly Rate	$ 115.00	$ 115.00	$ 115.00
Daily Rate	$ 1,150.00	$ 1,150.00	$ 1,150.00
The City reserves the right to reschedule any reservation to accommodate a Community Building production or special event that serves the			
Martin Luther King Jr. Center (per Hour)			
Hourly Rate	$ 20.00	$ 40.00	$ 80.00
Daily Rate	$ 200.00	$ 400.00	$ 800.00
Gilbert Park Pavilion 1 (Large 30x30) (per Hour)			
Hourly Rate	$ 10.00	$ 20.00	$ 40.00
Daily Rate	$ 100.00	$ 200.00	$ 400.00
Gilbert Park Pavilion 2 (Large 24x24)(per Hour)			
Hourly Rate	$ 5.00	$ 10.00	$ 20.00
Daily Rate	$ 50.00	$ 100.00	$ 200.00
Forres Park Pavilion (small, no seating) (per Hour)			
Hourly Rate	$ 5.00	$ 10.00	$ 20.00
Daily Rate	$ 50.00	$ 100.00	$ 200.00

CITY OF MOUNT DORA CITY FEE SCHEDULE
Parks & Recreation Department

Facility Rentals cont'd.	**Resident / Non-Profit**	**Non-Resident**	**Commercial**
Evans Park Pad (per Hour)			
Hourly Rate	$ 30.00	$ 40.00	$ 50.00
Daily Rate	$ 300.00	$ 400.00	$ 500.00
Sunset Park Pad (per Hour)			
Hourly Rate	$ 15.00	$ 20.00	$ 25.00
Daily Rate	$ 150.00	$ 200.00	$ 250.00
Cauley Lott Park Pavilion (per Hour)			
Hourly Rate	$ 10.00	$ 20.00	$ 40.00
Daily Rate	$ 100.00	$ 200.00	$ 400.00
Frank Brown Sports Complex Pavilion (per Hour)			
Hourly Rate	$ 5.00	$ 10.00	$ 20.00
Daily Rate	$ 50.00	$ 100.00	$ 200.00
Frank Brown Sports Complex Concession Stand			
Hourly Rate	$ 15.00	$ 30.00	$ 60.00
Daily Rate	$ 150.00	$ 300.00	$ 600.00
Frank Brown Sports Complex Athletic Fields (Softball & Multipurpose)			
Field Rental (Each) per Hour	$ 10.00	$ 20.00	$ 40.00
Field Rental (Each) per Day	$ 100.00	$ 200.00	$ 400.00
Dragging & Lining per Field	$ 20.00	$ 20.00	$ 20.00
Lighting per Hour	$ 40.00	$ 40.00	$ 40.00
Lincoln City Sports Complex Conession Stand			
Hourly Rate	$ 15.00	$ 30.00	$ 60.00
Daily Rate	$ 150.00	$ 300.00	$ 600.00
Lincoln City Sports Complex Athletic Fields (Softball & Baseball)			
Field Rental (Each) per Hour	$ 10.00	$ 20.00	$ 40.00
Field Rental (Each Per Day	$ 100.00	$ 200.00	$ 400.00
Dragging & Lining per Field	$ 20.00	$ 20.00	$ 20.00
Lighting per Hour	$ 40.00	$ 40.00	$ 40.00
Outdoor Courts per Hour (basketball, tennis, pickleball, racquetball)			
Hourly Rate	$ 5.00	$ 10.00	$ 20.00
Daily Rate	$ 50.00	$ 100.00	$ 200.00
Lincoln Avenue Pool			
Swimming Pool per Hour	$ 25.00	$ 50.00	$ 100.00
Lifeguards - 2 Guard Minimum per Hour	$ 15.00	$ 15.00	$ 15.00
All rentals require a 2 hour minimum. Rental fees for community outreach events may be waived per the discretion of the Parks&Recreation Director with approval of the City Manager.			
After School Care			**Current**
Registration Fee			$ 25.00
3 Day Rates			
Morning Only			$ 12.00
Afternoon Only			$ 30.00
Both			$ 40.00
Full Week Rates			
Morning Only			$ 20.00
Afternoon Only			$ 45.00
Both			$ 60.00
Teacher Work Day (Teacher In Service)			$ 5.00
Late Fee - 1 day late			$ 10.00

CITY OF MOUNT DORA CITY FEE SCHEDULE

Parks & Recreation Department

Clubs, Camps & Sports			**Current**
Senior Club			Free
Archery			$ 40.00
Softball & Kickball (per Team)			$ 275.00
Softball & Kickball (per Player)			$ 25.00
Youth Soccer (each)			$ 75.00
Youth Soccer (Pee Wee)			$ 65.00
Youth Flag Football			$ 80.00
Youth Basketball (each)			$ 75.00
Camps (per week) (non-specialty)1% discount per week when purchased in bulk (3-10 weeks/3-10%)			$ 110.00
Specialty Camps (per week)			$140-$220
Camp Snack Fee (per week)			$ 15.00
T-Shirt Fee			$ 10.00
Swim Team (per month)			$ 50.00
Triathlon			$ 65.00
Virtual 5K			$ 25.00
Classes			**Current**
Group Swim Lessons (8 lessons)			$ 45.00
Private Swim Lessons (5 lessons)			$ 150.00
Semi Private Swim Lessons (2 swimmers) (5 lessons)			$ 75.00
Lap Swim per visit			$ 2.00
Open Swim per visit			$ 2.00
Lifeguard Certification			$ 150.00
Water Safety Instructor Certification			$ 300.00
Fitness Class (per visit)			$ 3.00
Passes			**Current**
Monthly Group Fitness Pass (Aquatic & Land)			$ 24.00
Annual Aquatic & Fitness Pass			$ 225.00
Monthly Family Aquatic Pass (Family up to 5)			$ 50.00
Special Event			**Current**
Special Event Application fee is comprised of the following: administrative processing, use of traffic and pedestrian control devices (signage & barricades), use of public right of way and associated parks within the event footprint.			
Significant Event (150,000 + Attendance)			$ 650.00
Large Event (50,000 + Attendance)			$ 425.00
Medium Event (25,000+ Attendance)			$ 300.00
Small Event (5,000+ Attendance)			$ 125.00
Community Event (500+ Attendance)			$ 75.00
Vendor Fees			$50-$250

Recreation programs excluding specialty camps & private lessons offer 25% and 50% discount scholarships approved by application, a 25% discount for City employees, and a $5 sibling discount excluding Before / After School Care Program. Additional fees may be discounted or waived per the discretion of the Parks&Recreation Director with approval of the City Manager.

FOURTH AMENDMENT
TO SOLID WASTE AGREEMENT BETWEEN
THE CITY OF MOUNT DORA, FLORIDA AND
WASTE MANAGEMENT INC. OF FLORIDA

THIS FOURTH AMENDMENT is made by and between the City of Mount Dora, Florida ("City") and Waste Management Inc. of Florida ("Contractor").

WITNESSETH:

WHEREAS, the City and Contractor are parties to a Solid Waste Agreement dated June 19, 2013, which was amended on July 17, 2018 through Amendment 1, amended again on January 5, 2021, through Amendment 2, amended again on January 18, 2022, through Amendment 3 (collectively referred to as the "Agreement") whereby the Contractor exclusively provides certain solid waste services to the City; and

WHEREAS, the Contractor has requested rate increases which are permitted pursuant to the Agreement and which shall commence on January 1, 2023.

NOW, THEREFORE, in consideration of the mutual covenants herein and for other good and valuable consideration, the parties agree as follows:

1. Pursuant to the terms and conditions of the Agreement, the Contractor has provided the City with the calculation of new rates for all services that it provides in the City, as set forth in **Exhibit "A"** attached hereto, which shall take effect on January 1, 2023. Such rates shall supersede any and all prior rates approved by the parties.

2. All other terms and conditions of the Agreement shall remain in full force and effect, and to the extent of any conflict between this Amendment and the Agreement, including any Amendments thereto, this Amendment shall prevail.

(Signatures on the following page)

IN WITNESS WHEREOF, the parties have executed this Third Amendment intending to be bound thereby dated this __ day of ________________, 2023.

CITY OF MOUNT DORA

____
CRISSY STILE
MAYOR of the City of Mount Dora, Florida

ATTEST:

____
Jeanann Hand, City Clerk

For the use and reliance of City of Mount Dora only.
Approved as to form and legality.

____
Sherry G. Sutphen City Attorney

WASTE MANAGEMENT INC. OF FLORIDA

David M. Myhan

Print: David M. Myhan

Title: President

STATE OF FLORIDA
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me by means of [X] physical presence or [ ] online notarization of David M. Myhan, as President, of Waste Management Inc. of Florida, who personally swore or affirmed that he/she is authorized to execute this Agreement and thereby bind the Contractor, and who is personally known to me or who produced ______________________ as identification, and who did/did not take an oath this 28 day of December, 2022.

(stamp)

COLEEN T. HOULIHAN
MY COMMISSION # HH 004070
EXPIRES: August 2, 2024
Bonded Thru Notary Public Underwriters

Coleen T. Houlihan
NOTARY PUBLIC, State of Florida

Page **2** of **2**

510 N. Baker St.
Mount Dora, FL 32757
352-735-7126

DATE: **January 3, 2023**

TO: **Honorable Mayor and City Council Members**

FROM: **Patrick C. Comiskey, City Manager** Patrick C. Comiskey

SUBJECT: Request Approval of Amendment to the Solar Power Sales Contract with Florida Municipal Power Agency and the City of Mount Dora

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Introduction:
This request is for City Council to acknowledge Amendment Number One to the Renewable Energy Power Purchase Agreement (REPPA) between Florida Municipal Power Agency (FMPA) and Florida Solar 7, LLC and Florida Solar 8, LLC, dated as of December 12, 2019 and approval of amendment to the Solar Power Sales Contract with FMPA.

Discussion:
On December 3, 2019, City Council approved Resolution 2019-180, the Solar Power Sales Contract between FMPA and the City of Mount Dora to purchase up to 2 MW of solar power. FMPA in turn has a Purchase Power Agreement with Florida Solar 7, LLC and Florida Solar 8, LLC which will construct, maintain, and operate two photovoltaic electric generating facilities with a capacity of 149 MW in North Central Florida. The FMPA Solar II project has participation from thirteen (13) municipalities across the state of Florida, providing a means for Florida municipal utilities to cooperate on a basis of mutual advantage in the generation of renewable energy.

Due to unforeseen market conditions, namely inflation, regulatory, and supply chain issues, the viability of the project was threatened. FMPA and Origis Energy (the parent company of Florida Solar 7, LLC and Florida Solar 8, LLC) agreed to, in principle, certain amendments to the REPPAs regarding the purchase price of energy to be delivered. This new pricing is subject to approval by the FMPA Board of Directors and the solar project participants. The FMPA Board of Directors approved the revised pricing terms, and granted FMPA's General Manager & CEO the authority to execute revised REPPAs

Since Mount Dora is a solar project participant, approval of the attached letter will provide approval of the new pricing by the City of Mount Dora and amend Attachment A to the Power

Sales Contract between FMPA and The City of Mount Dora, replacing Exhibit A with the revised Exhibit A (revised pricing sheets).

Budget Impact:

The new power cost associated with this amendment will be part of the 2023-2024 and future fiscal year budgets. The City will not be expected to spend any money until that time. Even with this price increase, it is still less than the present natural gas cost.

Strategic Impact:

Goal 2 Infrastructure.
By amending this agreement, it will allow the City of Mount Dora to maintain and operate a sustainable city that will ensure its longevity.

Recommendation:

Authorize the Mayor to sign the letter amending the Solar Power Sales Contract with FMPA.

Attachment(s):

1. EXECUTED Reso No. 2019-180 SolarProject Power Sales Contract
2. Mount Dora FMPA Letter Acknowledging Amendments - FL Solar 7 8_Dec 20 2022 REDACTED

Prepared by:	Steve Langley, Electric Utility Director	
Reviewed by:	Steve Langley, Electric Utility Director	Approved - 12/22/2022
	Aneta Barton, Budget Director	Approved - 12/22/2022
	Sherry Sutphen, City Attorney	Approved - 12/28/2022
	Jeanann Hand, City Clerk	Approved - 12/28/2022
	Patrick Comiskey, City Manager	Final Approval - 12/28/2022

RESOLUTION NO. 2019-180

A RESOLUTION OF THE CITY OF MOUNT DORA, FLORIDA, PERTAINING TO THE SOLAR II PROJECT, POWER SALES CONTRACT WITH FLORIDA MUNICIPAL POWER AGENCY; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR APPROVAL OF AGREEMENT AND AUTHORIZATION TO EXECUTE; PROVIDING FOR THE IMPLEMENTATION OF ADMINISTRATIVE ACTIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Mount Dora owns, operates and maintains an electric utility for the health, safety and welfare of its residential and business customers; and

WHEREAS, Florida Municipal Power Agency (FMPA) was created to, among other things, provide a means for Florida municipal corporations and other entities which are members of FMPA to cooperate with each other on a basis of mutual advantage in the generation of Electric Energy; and

WHEREAS, FMPA has entered into Power Purchase Agreements with Origis Energy to purchase and receive a portion of the as-available net Electric Energy output and associated Renewable Energy Attributes and Facility Attributes produced by the Origis Energy Solar Facility for the benefit of certain participating members of FMPA; and

WHEREAS, the City's Electric Utility Department has determined that it is in the best interest of the City of Mount Dora to participate in the FMPA Solar II Project.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF MOUNT DORA, FLORIDA, AS FOLLOWS:

SECTION 1. Legislative Findings and Intent. The City of Mount Dora has complied with all requirements and procedures of Florida law in processing this Resolution. The above recitals are hereby adopted.

SECTION 2. Approval of and Authorization to Execute Agreement.

A. The Agreement with Florida Municipal Power Agency, attached hereto as **Exhibit A**, is hereby approved with the understanding that certain dates and values may need to be adjusted pursuant to the final program approvals authorized by FMPA.

B. The Mayor or a designee thereof is hereby authorized to execute the Agreement on behalf of the City upon verification by the City Attorney of the final Agreement terms.

SECTION 3. Implementing Administrative Actions. The City Manager is hereby authorized and directed to take such action as may be deemed necessary and appropriate in order to implement the provisions of this Resolution. The City Manager may, as deemed appropriate, necessary and convenient, delegate the powers of implementation as herein set forth to such City employees as deemed effectual and prudent.

SECTION 4. Savings Clause. All prior actions of the City of Mount Dora pertaining to the Agreement with FMPA related to the Solar II Project, as well as any and all matters relating thereto, are hereby ratified and affirmed consistent with the provisions of this Resolution.

SECTION 5. Scrivener's Errors. Typographical errors and other matters of a similar nature that do not affect the intent of this Resolution, as determined by the City Clerk and City Attorney, may be corrected.

SECTION 6. Conflicts. All Resolutions or parts of Resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 7. Severability. If any Section or portion of a Section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Resolution.

SECTION 8. Effective Date. This Resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED this 3rd day of December, 2019.

Catherine T. Hoechst

CATHERINE T. HOECHST
MAYOR of the City of Mount Dora, Florida

ATTEST:

Gwen Keough-Johns

GWEN KEOUGH-JOHNS, MMC
CITY CLERK

For the use and reliance of City of Mount Dora only
Approved as to form and legal sufficiency

S. G. Sutphen

Sherry G. Sutphen, City Attorney

Resolution No. 2019-180
Page 2 of 3

Exhibit "A"
Agreement with Florida Municipal Power Agency

Solar II Project

Power Sales Contract

Between

Florida Municipal Power Agency,
Solar II Power Project

and

The City of Mount Dora, Florida

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SOLAR II PROJECT

POWER SALES CONTRACT

This POWER SALES CONTRACT is made and entered into as of December 12, 2019, by and between FLORIDA MUNICIPAL POWER AGENCY, a legal entity organized under the laws of the State of Florida ("FMPA") and the City of Mount Dora, Florida, a public agency of the State of Florida and a member of FMPA (the "Project Participant").

WITNESSETH:

WHEREAS, FMPA was created to, among other things, provide a means for the Florida municipal corporations and other entities which are members of FMPA to cooperate with each other on a basis of mutual advantage in the generation of Electric Energy; and

WHEREAS, FMPA is authorized and empowered, among other things, (i) to plan, finance, acquire, construct, reconstruct, own, lease, operate, maintain, repair, improve, extend or otherwise participate jointly in one or more electric projects; (ii) to issue its bonds, notes or other evidences of indebtedness to pay all or part of the costs of acquiring such electric projects; and (iii) to exercise all other powers which may be necessary and proper to further the purposes of FMPA which have been or may be granted to FMPA under the laws of the State of Florida; and;

WHEREAS, Origis Energy, including its successors or assigns, ("Seller") is developing solar photovoltaic single-axis tracking electric generating facilities having nameplate capacities of 74.9 MW alternating current ("ac"), which will be designed, financed, constructed and operated by Seller in Alachua and Putnam Counties, Florida ("Solar Facility"); and

WHEREAS, FMPA has entered into Power Purchase Agreements between Seller and FMPA on behalf of the Solar II Project ("Solar PPA"), a copies of which are attached to this Power Sales Contract as "Attachment A," and FMPA will purchase and receive a portion of the as-available net Electric Energy output and associated Renewable Energy Attributes and Facility Attributes produced by Solar Facility (referred to cumulatively in this Power Sales Contract as the "Solar Product"); and

WHEREAS, FMPA will take or cause to be taken all steps necessary for delivery to Project Participant and the other Project Participants of their respective share of the Solar Product produced from or attributable to the Solar Facility and delivered to FMPA under the Solar PPA, and will sell the Solar Product from the Solar Facility pursuant to this Power Sales Contract and pursuant to contracts substantially similar to this contract with such other Project Participants; and

WHEREAS, the execution of the Solar PPA for the supply of Solar Product produced by or attributable to the Solar Facility to the Project Participant and the other Project Participants contracting with FMPA therefore is authorized by the Interlocal Agreement creating the Florida Municipal Power Agency FMPA, as amended to date and as such Interlocal Agreement has been supplemented by a resolution adopted by the Board of FMPA at a meeting duly called and duly held on December 12, 2019, which Interlocal Agreement, as so amended and supplemented, constitutes "an agreement to implement a project" and a "joint power agreement" for the Solar II Project, as such terms are used in Chapter 361, Part II, Florida Statutes, as amended; and

WHEREAS, in order to pay the cost of acquiring the Solar Product produced by or attributable to the Solar Facility under the Solar PPA, it is necessary for FMPA to have substantially similar binding contracts with the Project Participant and such other Project Participants purchasing Solar Product produced by or attributable to the Solar Facility.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, it is agreed by and between the parties hereto as follows:

SECTION 1. Definitions and Explanations of Terms. As used herein:

Allocable A&G Costs shall mean administrative and general costs incurred by FMPA that have been allocated to the Solar II Project by the FMPA Board of Directors. The initial allocation of Allocable A&G Costs is attached to this Power Sales Contract as "Attachment B," as it may be amended from time to time at the discretion of the FMPA Board of Directors.

Annual Budget means the budget adopted by the Board of FMPA pursuant to paragraph (a) of SECTION 4 hereof which itemizes the estimated Monthly Energy Costs and Project Related Costs for the following Contract Year, or, in the case of an amended Annual Budget adopted by the Board of FMPA, during the remainder of a Contract Year, and the Project Participant's share, if any, of each.

Board shall mean the Board of Directors of FMPA, or if said Board shall be abolished, the board, body, commission or agency succeeding to the principal functions thereof.

Contract Year shall mean the twelve (12) month period commencing at 12:01 a.m. on October 1 of each year, except that the first Contract Year shall commence on 12:01 a.m. on December 12, 2019, and shall expire at 12:00 a.m. the next succeeding October 1.

Discretionary Term Decision shall have the meaning set forth in SECTION 7(a) of this Power Sales Contract.

Downgrade Event shall have the meaning set forth in the Solar PPA.

Effective Date shall have the meaning set forth in SECTION 2 of this Power Sales Contract.

Electric Energy shall mean kilowatt hours (kWh).

Energy Price means the price ($/MWh) to be paid by FMPA under the Solar PPA for Solar Product produced by the Solar Facility and delivered by Seller to FMPA.

Energy Share shall mean FMPA's 53.55 MW share under the Solar PPA in the Solar Product produced by or associated with the Solar Facility.

Facility Attributes has the meaning given in the Solar PPA.

Initial Energy Delivery Date shall have the meaning provided for in the Solar PPA.

Interlocal Agreement means the Interlocal Agreement creating the Florida Municipal Power Agency, as amended and supplemented to date, and as the same may be amended or supplemented in the future.

Month shall mean a calendar month.

Monthly Energy Costs shall mean, with respect to each Month of each Contract Year, the product of (i) the Energy Price and (ii) the quantity of Solar Product delivered by Seller to FMPA.

Point of Delivery shall mean the high side of the generator step-up transformer of the Solar Facility.

Power Sales Contracts shall mean this Power Sales Contract and the other Power Sales Contracts, dated the date hereof, between FMPA and the other Project Participants, all relating to the Solar PPA and Solar Facility, as the same may be amended from time to time, and any substantially similar contract entered into by FMPA in connection with any transfer or assignment in accordance with this Power Sales Contract.

Project Development Fund Costs shall mean those costs incurred by FMPA and funded by the FMPA Project Development Fund used for the establishment of the FMPA Solar II Project. The Project

Development Fund Costs as of the Effective Date are set forth in "Attachment D" of this Power Sales Contract.

Project Related Costs shall mean the costs incurred under the Solar PPA other than Monthly Energy Costs, as well as any other costs incurred by FMPA directly attributable to the Solar II Project, including, without limitation, Allocable A&G Costs, any amounts to reimburse FMPA Project Development Fund Costs, a Working Capital Allowance, any costs associated with real-time monitoring of the output from the Solar Facility to facilitate Project Participants' transmission scheduling requirements, any credit or payment assurance amounts that may be required under the Solar PPA due to a Downgrade Event, as such term is defined in the Solar PPA, among others.

Project Participants shall mean the parties, including the Project Participant, other than FMPA, to Power Sales Contracts substantially similar hereto.

Renewable Attributes has the meaning given in the Solar PPA.

Schedule of Project Participants shall mean the Schedule of Project Participants contained in Schedule 1 attached hereto, as the same may be amended or supplemented from time to time in accordance with the provisions hereof.

Seller shall have the meaning set forth in the Recitals of this Power Sales Contract.

Solar Entitlement Share shall mean, with respect to each project Participant, that percentage of FMPA's Energy Share from the Solar Facility shown opposite the name of such Project Participant in the Schedule of Project Participants as the same may be adjusted from time to time in accordance with the provisions hereof.

Solar II Project shall mean the contractual arrangements and agreements for the purchase of Solar Product by FMPA pursuant to the Solar PPA and sale of the Solar Product to Project Participant pursuant to this Power Sales Contract.

Solar II Project Committee has the meaning set forth in SECTION 7 of this Power Sales Contract.

Solar Facility shall have the meaning set forth in the recitals of this Power Sales Contract.

Solar Product shall have the meaning set forth in the recitals of this Power Sales Contract.

Solar PPA shall have the meaning set forth in the recitals of this Power Sales Contract.

Transmission Service Provider shall mean the transmission service provider(s) to which the Solar Facility is interconnected.

Uniform System of Accounts shall mean the Federal Energy Regulatory Commission (or its successor in function) Uniform Systems of Accounts prescribed for Class A and Class B Public Utilities and Licensees, as the same may be modified, amended or supplemented from time to time.

Working Capital Allowance shall mean funds acquired by the Solar II Project in such amounts as shall be deemed reasonably necessary by the FMPA Board of Directors to provide for any working capital needs, including providing for the Solar II Project's ability to pay the Seller in the event of non-payment by one or more Project Participants. The initial Working Capital Allowance and the method of funding is described in "Attachment C" to this Power Sales Contract.

SECTION 2. Term & Termination.

(a) Effective Date. This Power Sales Contract shall become effective upon the last date of execution and delivery of all Power Sales Contracts by all Project Participants originally listed in the Schedule of Project Participants and by FMPA (the "Effective Date") and shall, unless this Power Sales

Contract is terminated early pursuant hereto, continue until the expiration or earlier termination of the Solar PPA. Unless a Project Participant terminates this Agreement pursuant to Section 19(a) by paying all stranded cost obligations, neither termination nor expiration of this Power Sales Contract shall affect any accrued liability or obligation hereunder. Notwithstanding the foregoing, in the event it is ultimately determined that any other Project Participant failed to duly and validly execute and deliver its Power Sales Contract, or if any other Power Sales Contract, or any portion thereof, shall be deemed invalid or unenforceable for any other reason whatsoever, such determination shall in no way affect the commencement, term or enforceability of this Power Sales Contract or the Project Participant's obligations hereunder.

(b) Early Termination. Project Participant may terminate this Power Sales Contract pursuant to SECTION 19 of this Power Sales Contract.

SECTION 3. Sale and Purchase.

Commencing on the Initial Energy Delivery Date of the Solar Facility, FMPA shall purchase from Seller in accordance with the terms and conditions of the Solar PPA, and FMPA agrees to and does sell, and the Project Participant agrees to and does hereby purchase, the Project Participant's Solar Entitlement Share. The Project Participant shall, in accordance with and subject to the provisions of SECTION 5 hereof, pay FMPA (i) for its Solar Entitlement Share, an amount determined by multiplying Monthly Energy Costs by the Project Participant's Solar Entitlement Share, and (ii) for its share of monthly Project Related Costs, an amount determined by multiplying the Project Related Costs for such Month by Project Participant's Solar Entitlement Share. FMPA shall provide documentation evidencing the conveyance of the Renewable Attributes associated with the Solar Product to Project Participant in a form acceptable to FMPA and Project Participant.

SECTION 4. Project Budget.

(a) In accordance with the FMPA Board of Directors' annual schedule for budget development, the Solar II Project Committee shall develop and approve a budget for the Solar II Project and submit the same to the FMPA Board of Directors for approval. As part of the budget process, the Solar II Project Committee will review Project Related Costs, including the Allocable A&G and the Working Capital Allowance, to ensure the appropriate amount of resources are allocated the Solar II Project.

(b) On or before August 1, 2020, and on or before August 1 prior to the beginning of each Contract Year thereafter, the Board of FMPA shall review the proposed Solar II Project budget submitted by the Solar II Project Committee, and shall adopt and submit to the Project Participant an Annual Budget for the following Contract Year which shall provide an estimate of the Project Participant's monthly payments hereunder and serve as a basis for Project Participants' payments hereunder for Monthly Energy Costs and Project Related Costs for such Contract Year.

(c) During each Contract Year, the Solar II Project Committee or Board may review its Annual Budget for the remainder of the Contract Year at any time as it shall deem desirable. In the event such or any other review indicates that such Annual Budget will not substantially correspond with actual Monthly Energy Costs, or actual Project Related Costs, or if at any time during such Contract Year there are or are expected to be extraordinary receipts, credits or costs substantially affecting the Monthly Energy Costs, or Project Related Costs, the Solar II Project Committee shall recommend and the Board of FMPA shall adopt and submit to each Project Participant an amended Annual Budget applicable to the remainder of such Contract Year which shall provide an estimate of the Project Participant's monthly payments hereunder for the remainder of such Contract Year and serve as the basis for the Project Participant's monthly payments for Monthly Energy Costs and Project Related Costs hereunder for the remainder of such Contract Year.

SECTION 5. Billing, Payment, Disputed Amounts.

(a) On or before the 10th day of each Month beginning with the second Month of the first Contract Year following the Effective Date, FMPA shall render to the Project Participant a monthly statement showing, in each case with respect to the prior Month, the amount of energy delivered for each hour and the amounts payable by Project Participant in respect of the following (i) the Monthly Energy Costs; (ii) the Project Related Costs; and (iii) any amount, if any, to be credited to or paid by the Project Participant pursuant to the terms of this Power Sales Contract.

(b) Monthly payments required to be paid to FMPA pursuant to this SECTION 5SECTION 4 shall be due and payable to FMPA on the 25th day of the Month in which the monthly statement was rendered. The Project Participant shall make payment to FMPA by the transfer of funds from the Project Participant's bank account, using an ACH Push or domestic Wire Transfer, through instructions to be provided by FMPA to the Project Participant.

(c) If payment in full is not made on or before the close of business on the due date, a delayed payment charge on the unpaid amount due for each day overdue will be imposed at a rate equal to the annual percentage prime rate of interest plus 5%, or the maximum rate lawfully payable by the Project Participant, whichever is less. If said due date is Saturday, Sunday or a holiday, the next following business day shall be the last day on which payment may be made without the addition of the delayed payment charge.

(d) In the event of any dispute that is known by Project Participant, or should have reasonably been known, as to any portion of any monthly statement, the Project Participant shall nevertheless pay the full amount of such disputed charges when due and shall give written notice of such dispute to FMPA not later than the date such payment is due. Such notice shall identify the disputed bill, state the amount in dispute and set forth a full statement of the grounds on which such dispute is based. No adjustment shall be considered or made for disputed charges unless notice is given as aforesaid. FMPA shall give consideration to such dispute and shall advise the Project Participant with regard to its position relative thereto within thirty (30) days following receipt of such written notice. Upon final determination (whether by agreement, adjudication or otherwise) of the correct amount, any difference between such correct amount and such full amount shall be properly reflected in the statement next submitted to the Project Participant after such determination. If it is determined that the disputed amount is in the favor of the Participant, to the extent that FMPA earned any interest on the amount withheld, then interest actually earned shall be applied to the overpaid amount.

(e) The obligation of the Project Participant to make the payments under this SECTION 5 shall constitute an obligation of the Project Participant payable as an operating expense of the Project Participant's electric utility system solely from the revenues and other available funds of the electric utility system. The obligation of the Project Participant to make payments under this Power Sales Contract shall not be subject to any reduction, whether by offset, counterclaim, or otherwise, and shall not be otherwise conditioned upon performance of FMPA or Seller under the Solar PPA or the performance by FMPA under this or any other agreement or instrument or the validity or enforceability of any other Power Sales Contract or any other agreement between FMPA and any other Project Participant; provided, however, that the Monthly Energy Costs payable by Project Participant shall reflect the Project Participant's Solar Entitlement Share of the quantity of Solar Product made available by the Seller at the Point of Delivery, and payable by FMPA under the Solar PPA, during that month. The obligation of the Project Participant to make payments under this SECTION 5SECTION 4 shall not constitute a debt of the Project Participant within the meaning of any constitutional or statutory provision or limitation or a general obligation of or pledge of the full faith and credit of the Project Participant, and neither the Project Participant nor the State of Florida or any agency or political subdivision thereof shall ever be obligated or compelled to levy ad valorem taxes to make the revenues provided for in this SECTION 5, and the obligation of the Project

Participant to make payments pursuant to this SECTION 5 shall not give rise to or constitute a lien upon any property of the Project Participant or any property located within its boundaries or service area.

SECTION 6. Scheduling of Deliveries; Transmission.

(a) FMPA shall cause Seller, or Seller's agent, to schedule and deliver FMPA's Energy Share to the Point(s) of Delivery in accordance with standard scheduling and dispatching procedures. Unless otherwise agreed to in writing by FMPA and Project Participant, Project Participant shall be responsible for scheduling the delivery of its Solar Entitlement Share of Electric Energy, as well as the associated transmission service, from the Point(s) of Delivery to Project Participant's electric system. Upon request, FMPA, or its agent, shall provide such Project Participant with the Seller's daily forecasted output of the Solar Facility as provided by Seller pursuant to the Solar PPA. FMPA, or its agent, shall maintain communication with the Project Participant regarding Solar Facility forecasts and real-time output in order to enable Project Participant to modify its transmission schedules with its transmission service provider to align with the Solar Facility's actual output.

(b) Project Participant shall be responsible for securing transmission service necessary to deliver the Solar Energy from the Point of Delivery to Project Participant's electric system. To the extent this transmission service requires upgrades to Project Participant's transmission service provider's transmission system, Project Participant shall be responsible for ensuring all upgrades are complete and Project Participant is able to receive its Solar Entitlement Share prior to the Initial Energy Delivery Date, as defined in the Solar PPA, or otherwise arrange for alternative transmission arrangement for, or disposal of, its Solar Entitlement Share until such time as Project Participant can receive it. Project Participant shall be responsible for enforcing its rights under its transmission service agreement(s) and its transmission service provider's Open Access Transmission Tariff ("OATT") regarding the transmission service provider's obligation to make such upgrades.

(c) All of the provisions of this SECTION 6 are subject to the provisions of the Solar PPA, and in the event of any inconsistencies between this SECTION 6 and the provisions of the Solar PPA governing scheduling, the terms of the Solar PPA shall govern.

SECTION 7. Solar PPA Early Termination and Term Extension, other Solar PPA Business Matters, and Solar II Project Committee.

(a) The Solar PPA includes several provisions that allow the Solar II Project to exercise discretion regarding whether to extend the Term of the Solar PPA or to continue the existing Term of the Solar PPA despite a triggering event under the terms of the Solar PPA that permit early termination (hereinafter referred to as "Discretionary Term Decisions"). Such Discretionary Term Decisions may include, for example but without limitation, options for extension of the Term of the Solar PPA beyond the Initial Term, options for continuing or terminating obligations related to portions of the solar capacity that do not make commercial operation deadlines, and options for early termination of the Solar PPA if certain conditions precedent are not met. Project Participant and all other Project Participants will each designate a representative to serve on the Solar II Project Committee. The Committee will meet in advance of any Discretionary Term Decisions provided for under the Solar PPA, and as FMPA or any Project Participant may request, with 30 day advance Notice (or less if the matter at hand so requires). The Solar II Project Committee shall meet not less than 180 days prior to the expiration of the Initial Term or a Renewal Term, as defined in the Solar PPA, if any, to decide whether to extend the Term of the Solar PPA. In making any Discretionary Term Decision, the Solar II Project Committee will vote on the matter. If the Solar II Project Committee unanimously decides to exercise a Discretionary Term Decision, then such unanimous consent shall be presented to the FMPA Board of Directors as a recommendation for action on the matter. If one or more Solar II Project Participants do not wish to exercise a Discretionary Term Decision, then the other Solar II Project Participants may elect to assume the Solar Entitlement Share of those Project Participant(s) that do not wish to exercise the Discretionary Term Decision. In such event, the non-exercising Project Participant(s)' Solar II Project Power Sales Contract shall be terminated, and the Power Sales Contract of the assuming Project Participant(s)' shall be amended to reflect the revised Solar Entitlement Shares. In the event that the Project Participant(s) that wish to exercise the Discretionary Term Decision cannot agree to assume 100% of the terminating Project Participant(s)' Solar Entitlement Share, then the Discretionary Term Decision shall not be exercised.

(b) All other, non-Discretionary Term Decisions made by the Solar II Project Committee shall be by a simple majority, with each Project Participant having one equally-weighted vote on Solar II Project matters. After formation of the Solar II Project, each Project Participant shall designate a representative to serve on the Solar II Project Committee. The Solar II Project Committee shall develop a Solar II Project Committee Charter for review and approval of the Board of Directors.

SECTION 8. Availability of Entitlement Shares.

Except as provided otherwise by this Power Sales Contract, and subject to the provisions of the Solar PPA, the Project Participant's Solar Entitlement Share shall be made available for delivery to each Project Participant by FMPA in accordance with this Power Sales Contract during the term of this Power Sales Contract; provided, however, that, regardless of the amount of Solar Product actually delivered in any given month, Project Participant shall be obligated to make its payments under SECTION 5 hereof all for non-energy related Project Related Costs.

SECTION 9. Accounting.

(a) FMPA agrees to keep accurate records and accounts relating to the Solar II Project and relating to Monthly Energy Costs, and Project Related Costs, in accordance with the Uniform System of Accounts, separate and distinct from its other records and accounts. Said accounts shall be audited annually, which audit may be conducted as part of and in connection with the normal year-end audit of FMPA, by a firm of certified public accountants, experienced in public finance and electric utility accounting and of national reputation, to be employed by FMPA. A copy of each annual audit, including all written comments and recommendations of such accountants, shall be furnished by FMPA to the Project Participant not later than 120 days after the end of each Contract Year.

(b) The Project Participant shall supply to FMPA upon request a copy of the Project Participant's annual financial audit. Project Participant shall notify FMPA in writing immediately upon becoming aware of any event that may negatively affect the Project Participant's credit rating or cause a Downgrade Event, as defined in the Solar PPA.

SECTION 10. Information to be Made Available.

(a) Based, in each case, upon the data most recently available to FMPA pursuant to the Solar PPA, at intervals requested by Project Participant, FMPA will prepare and issue to the Project Participant the following reports:

(1) status of the Solar II Project annual budget,

(2) status of construction of the Solar Facility during construction, as received from Seller, and

(3) operating statistics relating to Solar II Project, as received from Seller

(b) Upon request, FMPA shall furnish or otherwise make available to the Project Participant all other information which FMPA receives from Seller pursuant to the Solar PPA.

(c) FMPA shall promptly provide Project Participant copies of any notices made or received by FMPA pursuant to the Solar PPA.

(d) Project Participant shall, upon request, furnish to FMPA all such information as is reasonably required by FMPA to carry out its obligations under this Power Sales Contract and the Solar PPA. As the Solar II Project is obligated to demonstrate creditworthiness as a requirement of the Solar PPA and report to Seller any Downgrade Event, Project Participants will cooperate with FMPA and will promptly notify FMPA of any event experienced by Project Participant that may cause or contribute to a Downgrade Event.

SECTION 11. Covenants.

(a) Project Participant Covenants. Project Participant agrees (1) to maintain its electric utility system in good repair and operating condition; (2) to cooperate with FMPA in the performance of the respective obligations of such Project Participant and FMPA under this Power Sales Contract; (3) to establish, levy and collect rents, rates and other charges for the products and services provided by its electric utility system, which rents, rates, and other charges shall be at least sufficient (i) to meet the operation and maintenance expenses of such electric utility system, (ii) to comply with all covenants pertaining thereto contained in, and all other provisions of, any resolution, trust indenture, or other security agreement relating to any bonds or other evidences of indebtedness issued or to be issued by the Project Participant, (iii) to generate funds sufficient to fulfill the terms of all other contracts and agreements made by the Project Participant, including, without limitation, this Power Sales Contract, and (iv) to pay all other amounts payable from or constituting a lien or charge on the revenues of its electric utility system; and (4) take such action and execute and deliver all documents and information reasonably necessary to enable FMPA to perform its obligations under the Solar PPA.

Project Participant agrees that any power purchase agreement entered into by Project Participant after the Effective Date of this Power Sales Contract, including, without limitation, any full-requirements power supply agreement, with any third party shall permit Project Participant to purchase and receive Solar Product pursuant to this Power Sales Contract.

(b) FMPA Covenants. FMPA covenants that it shall administer and enforce against the Seller the terms and conditions of the Solar PPA, including complying with any covenants required therein, as advised by the Solar II Project Committee and directed by the FMPA Board of Directors.

SECTION 12. Event of Default – Project Participant.

(a) Failure of the Project Participant to make to FMPA when due any of the payments for which provision is made in this Power Sales Contract shall constitute an immediate default on the part of the Project Participant.

(b) Continuing Obligation, Right to Discontinue Service. In the event of any default referred to in this SECTION 12 hereof, the Project Participant shall not be relieved of its liability for payment of the amounts in default, plus reasonable attorney's fees and costs, and FMPA shall have the right to recover from the Project Participant any amount in default. In enforcement of any such right of recovery, FMPA may bring any suit, action, or proceeding in law or in equity, including mandamus, injunction, specific performance, declaratory judgment, or any combination thereof, as may be necessary or appropriate to enforce any covenant, agreement or obligation to make any payment for which provision is made in this Power Sales Contract against the Project Participant, and FMPA shall, upon ten (10) days written notice to the Project Participant, cease and discontinue, either permanently or on a temporary basis, providing all or any portion of the Project Participant's Solar Entitlement Share, at the discretion of the Solar II Project Committee.

(c) Transfer of Solar Entitlement Shares Following Default. In the event of a default by any Project Participant and permanent discontinuance of service pursuant to this SECTION 12 of such Project Participant's Power Sales Contract, FMPA is hereby appointed the agent of such Project Participant for the purpose of disposing of such Project Participant's Solar Entitlement Share and as such agent, FMPA shall proceed to dispose of such defaulting Project Participant's Solar Entitlement Share as follows:

(1) FMPA shall first offer to transfer to all other non-defaulting Project Participants a pro rata portion of the defaulting Project Participant's Solar Entitlement Share which shall have been discontinued by reason of such default. Any part of such Solar Entitlement Share of a defaulting Project Participant which shall be declined by any non-defaulting Project Participant shall be reoffered pro rata to the non-defaulting Project Participants which have accepted in full the first such offer; such reoffering shall be repeated until such defaulting Project Participant's Solar Entitlement Share has been reallocated in full or until all non-defaulting Project Participants have declined to take any portion or additional portion of such defaulting Project Participant's Solar Entitlement Share.

(2) In the event less than all of a defaulting Project Participant's Solar Entitlement Share shall be accepted by the other non-defaulting Project Participants pursuant to clause (1), FMPA shall, to the extent permitted by law, use commercially reasonable efforts to sell the remaining portion of a defaulting Project Participant's Solar Entitlement Share for the remaining term of such defaulting Project Participant's Power Sales Contract with FMPA. The agreement for such sale shall contain such terms and conditions, including provisions for discontinuance of service upon default, and as are otherwise acceptable to the Solar II Project Committee.

(3) Any portion of the Solar Entitlement Share of a defaulting Project Participant transferred pursuant to SECTION 12(c)(1) to a non-defaulting Project Participant shall become a part of and shall be added to the Solar Entitlement Share of such Project Participant(s), and each such Project Participant(s) shall be obligated to pay for its Solar Entitlement Share increased as aforesaid, as if the Solar Entitlement Share of such Project Participant(s), increased as aforesaid, had been stated originally as the Solar Entitlement Share of such Project Participant(s) in its Power Sales Contract with FMPA; provided, however, that the Project Participant assuming the defaulting Project Participant’s Power Entitlement share shall not be liable for, and the defaulting Project Participant shall remain liable for, any amounts owed by the defaulting Project Participant prior to the assignment and assumption of the defaulting Project Participant’s Power Entitlement Share.

(4) The defaulting Project Participant shall remain liable for all payments to be made on its part pursuant to the Power Sales Contract, except that the obligation of the defaulting Project Participant to pay FMPA shall be reduced to the extent that payments shall be received by FMPA, net of any administrative and reasonable attorney’s fees and costs incurred by FMPA that is caused by the default, for that portion of the defaulting Project Participant's Solar Entitlement Share which may be transferred or sold or for the Solar Product associated therewith which may be sold as provided in clauses (1), (2), or (3) of this SECTION 12. Notwithstanding the foregoing, to the extent a defaulting Project Participant has failed to pay its Solar II Project invoice, in order to prevent FMPA from defaulting under the Solar PPA, the non-defaulting Project Participants’ monthly Solar II Project invoices shall be increased on a pro rata basis, based on such Project Participants Solar Entitlement Shares, unless and until FMPA shall recover from the defaulting Project Participants amounts owed, upon which FMPA shall reimburse the non-defaulting Project Participants.

(d) Other Default by Project Participant. In the event of any default by the Project Participant under any other covenant, agreement or obligation of this Power Sales Contract which has not been cured within thirty (30) days after receipt of notice by FMPA, FMPA may bring any suit, action, or proceeding in law or in equity, including mandamus, injunction, specific performance, declaratory judgment, or any combination thereof, as may be necessary or appropriate to enforce any covenant, agreement or obligation of this Power Sales Contract against the Project Participant. Such remedies shall be in addition to all other remedies provided for herein.

SECTION 13. Default by FMPA.

In the event of any default by FMPA under any other covenant, agreement or obligation of this Power Sales Contract, Project Participant may bring any suit, action, or proceeding in law or in equity, including mandamus, injunction, specific performance, declaratory judgment, or any combination thereof, as may be necessary or appropriate to enforce any covenant, agreement or obligation of this Power Sales Contract against FMPA. Such remedies shall be in addition to all other remedies provided for herein.

SECTION 14. Abandonment of Remedy.

In case any proceeding taken on account of any default shall have been discontinued or abandoned for any reason, the parties to such proceedings shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of FMPA and the Project Participant shall continue as though no such proceedings had been taken.

SECTION 15. Waiver of Default.

Any waiver at any time by either FMPA or the Project Participant of its rights with respect to any default of the other party hereto, or with respect to any other matter arising in connection with this Power Sales Contract, shall not be a waiver with respect to any subsequent default, right or matter.

SECTION 16. Relationship to and Compliance with Other Instruments.

The performance of FMPA under this Power Sales Contract is made subject to the terms and provisions of the Solar PPA.

SECTION 17. Measurement of Electric Energy.

FMPA will or will cause Seller to install, maintain, and operate the metering equipment, required to measure the quantities of Electric Energy produced and delivered from the Solar Facility in accordance with the Solar PPA. Each meter used pursuant to this SECTION 17 shall be tested and calibrated in accordance with the Solar PPA.

SECTION 18. Liability of Parties.

Any liability which is incurred by FMPA pursuant to the Solar PPA and not covered, or not covered sufficiently, by insurance shall be paid solely from the revenues of FMPA derived from the Solar II Project, and any payments made by FMPA, or which FMPA is obligated to make, to satisfy such liability shall become part of Monthly Energy Costs, as required in order to satisfy the obligation of FMPA to make such payments as provided in the Solar PPA.

SECTION 19. Assignment or Sale of Project Participant's Solar Entitlement Share.

(a) Project Participant may terminate this Power Sales Contract upon 90 days advance written notice to FMPA and provided that Project Participant pay, prior to the termination date, the amounts set forth in this SECTION 19(a). Prior to the termination date, Project Participant shall pay to FMPA all stranded cost obligations, as determined by FMPA, to hold the other, non-terminating, Project Participants harmless from the costs associated with Project Participant's termination. For purposes of this SECTION 19(a), stranded cost obligations are defined as an estimate of the solar energy costs that FMPA will pay for the terminating Project Participant's Solar Entitlement Share during each remaining month of the remaining Initial Term of the Solar PPA based on a forecast of expected solar production. The forecast of expected solar production is defined as a P50 (probability of exceedance is 50 percent) production estimate under typical meteorological year conditions using an industry standard modeling tool (PVsyst or its successor/peer products) reflective of a degradation rate of 0.5% per year relative to the original nominal alternating current capacity of the solar resource in the current year (prorated over a partial year as applicable) and each subsequent remaining year of the Solar PPA Initial Term. Upon such payment and termination, Project Participant shall have no further obligation to the Solar II Project or other Project Participants under this Power Sales Contract. The terminating Project Participant's Solar Entitlement Share shall be allocated to the remaining Project Participants on a pro rata basis based on their Solar Entitlement Shares.

(b) Project Participant may assign this Power Sales Contract to another Project Participant or another FMPA member, provided that such assignee agrees to fully assume, and fully accept all terms and conditions of, this Power Sales Contract for the Term hereof. If assigned to a FMPA member that is not a Project Participant, such assuming FMPA member shall become a Project Participant upon its assumption of the Power Sales Contract. Upon such assignment and assumption, this Power Sales Contract shall terminate, and Project Participant shall have no further obligation to the Solar II Project or other Project Participants under this Power Sales Contract.

(c) In the event the Project Participant shall determine that all or any amount of the Solar Product which can be produced from the Project Participant's Solar Entitlement Share are in excess of the requirements of the Project Participant, or Project Participant no longer desires to purchase and receive its Solar Entitlement Share, at the written request of the Project Participant, FMPA shall use commercially reasonable efforts to sell and transfer on behalf of such Project Participant for any period of time all or any part of such excess Solar Product to such other Project Participant or Participants as shall agree to take such Solar Product at such prices as may be agreed to, provided, however, that in the event the other Project Participants do not agree to take the entire amount of such excess, FMPA shall have the right, to the extent permitted by law, to dispose of such excess to other utilities. If all or any portion of such excess of the Project Participant's Solar Entitlement Share is sold pursuant to this SECTION 19(c), then the Project Participant's Solar Entitlement Share shall not be reduced, and the Project Participant shall remain liable to FMPA to pay the full amount due as if such sale had not been made; except that such liability shall be discharged to the extent that FMPA shall receive payment for such excess from the purchaser or purchasers thereof and that any amounts received by FMPA as payment for such excess which is greater than the liability owed by the Project Participant to FMPA in respect of such excess shall be promptly paid or credited by FMPA to the Project Participant.

SECTION 20. Consent to Assignment of Power Sales Contract, Sale of Project Participant's System.

(a) This Power Sales Contract shall inure to the benefit of and shall be binding upon the respective successors and assigns of the parties to this Power Sales Contract; provided, however, that, except as provided in (1) SECTION 12 hereof in the event of a default; (2) SECTION 19(a), and (3) SECTION 20(b), neither this Power Sales Contract nor any interest herein shall be transferred or assigned by either party hereto except with the consent in writing of the other party hereto, which consent shall not be unreasonably withheld. The Solar II Project Committee shall make a recommendation on any assignment of a Power Sales Contract hereunder to the FMPA Board of Directors for their action.

(b) Project Participant agrees that it will not sell, lease, abandon or otherwise dispose of all or substantially all of its electric utility system except upon ninety (90) days prior written notice to FMPA and, in any event, will not sell, lease, abandon or otherwise dispose of the same unless the following conditions are met: (i) the Project Participant shall, subject to the Solar PPA, assign this Power Sales Contract and its rights and interest hereunder to the purchaser or lessee of said electric system, if any, and any such purchaser or lessee shall assume all obligations of the Project Participant under this Power Sales Contract; and (ii) FMPA shall by affirmative vote of the FMPA Solar II Project Committee reasonably determine that such sale, lease, abandonment or other disposition will not materially adversely affect FMPA's ability to meet its obligations under the Solar PPA.

SECTION 21. Termination or Amendment of Contract.

(a) This Power Sales Contract shall not be terminated by either party under any circumstances, whether based upon the default of the other party under this Power Sales Contract or any other instrument or otherwise except as specifically provided in this Power Sales Contract.

(b) This Power Sales Contract may be terminated by FMPA by notice to the Project Participant upon an event of default by Project Participant that has not been cured in accordance with this Power Sales Contract.

(c) No Power Sales Contract entered into between FMPA and another Project Participant may be amended so as to provide terms and conditions different from those herein contained except upon written notice to and written consent or waiver by each of the other Project Participants, and upon similar amendment being made to the Power Sales Contract of any other Project Participants requesting such amendment after receipt by such Project Participant of notice of such amendment.

SECTION 22. Notice and Computation of Time.

Any notice or demand by the Project Participant to FMPA under this Power Sales Contract shall be deemed properly given if sent by overnight mail or courier, or by facsimile or email transmission to the following:

Florida Municipal Power Agency
Attn: Chief Operating Officer
8553 Commodity Circle
Orlando, FL 32819
Email: ken.rutter@fmpa.com
Fax: 407-355-5794

With a required copy to:
FMPA Office of the General Counsel
2061-2 Delta Way
P.O. Box 3209 (32315-3209)
Tallahassee, FL 32303
Email: jody.lamar.finkea@fmpa.com
dan.ohagan@fmpa.com
Fax: 850-297-2014

Any notice or demand by FMPA to the Project Participant under this Power Sales Contract shall be deemed properly given if sent by overnight mail or courier, or by facsimile or email transmission, and addressed to the Project Participant at the address set forth on Schedule 1 hereto.

A notice sent by facsimile transmission or e-mail will be recognized and shall be deemed received on the business day on which such notice was transmitted if received before 5:00 p.m. (and if received after 5:00 p.m., on the next business day) and a notice of overnight mail or courier shall be deemed to have been received two (2) business days after it was sent or such earlier time as is confirmed by the receiving Party.

The designations of the name and address to which any such notice or demand is directed may be changed at any time and from time to time by either party giving notice as above provided.

SECTION 23. Applicable Law; Construction.

This Power Sales Contract is made under and shall be governed by the laws of the State of Florida. Headings herein are for convenience only and shall not influence the construction hereof.

SECTION 24. Severability.

If any section, paragraph, clause or provision of this Power Sales Contract shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this Power Sales Contract shall remain in full force and effect as though such section, paragraph, clause or provision or any part thereof so adjudicated to be invalid had not been included herein.

SECTION 25. Solar II Project Responsibility

This Power Sales Contract is a liability and obligation of the Solar II Project only. No liability or obligation under this Power Sales Contract shall inure to or bind any of the funds, accounts, monies, property, instruments, or rights of FMPA generally, any individual FMPA member other than Project Participant, or any of any other "project" of FMPA as that term is defined in the Interlocal Agreement

IN WITNESS WHEREOF, the parties hereto have caused this Power Sales Contract to be executed by their proper officers respectively, being thereunto duly authorized, and their respective seals to be hereto affixed, as of the day and year first above written.

SECTION 24. Severability.

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Signatures on following pages

FLORIDA MUNICIPAL POWER AGENCY

(SEAL)

By:______________________________
General Manager & CEO

Attest:

Date:______________________________

____
Secretary or Assistant Secretary

CITY OF MOUNT DORA

Catherine T Hoechst

CATHERINE T. HOECHST
MAYOR of the City of Mount Dora

ATTEST:

Gwen Keough-Johns
GWEN KEOUGH-JOHNS, MMC
CITY CLERK

Date: 12-5-2019

For the use and reliance of City of Mount Dora only
Approved as to form and legal sufficiency

____
Sherry G. Sutphen
City Attorney

SECTION 24. Severability.

If any section, paragraph, clause or provision of this Power Sales Contract shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this Power Sales Contract shall remain in full force and effect as though such section, paragraph, clause or provision or any part thereof so adjudicated to be invalid had not been included herein.

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FLORIDA MUNICIPAL POWER AGENCY

(SEAL)

By:______________________________
General Manager & CEO

Attest:

Date:______________________________

____
Secretary or Assistant Secretary

CITY OF MOUNT DORA

ATTEST:

____
CATHERINE T. HOECHST
MAYOR of the City of Mount Dora

____
GWEN KEOUGH-JOHNS, MMC
CITY CLERK

Date:______________________________

For the use and reliance of City of Mount Dora only
Approved as to form and legal sufficiency

S. G. Sutphen

____
Sherry G. Sutphen
City Attorney

(SEAL)

FLORIDA MUNICIPAL POWER AGENCY

By: Jacob A. Williams
General Manager & CEO

Date: 12/12/19

Attest:

Sue Utley
Secretary or Assistant Secretary

THE CITY OF MOUNT DORA, FLORIDA

(SEAL)

By:

Title:

Date:

Attest:

By:

Approved as to form and legal sufficiency:

By:

ATTACHMENT A

POWER PURCHASE AGREEMENTS

EXECUTION VERSION

SOLAR POWER PURCHASE AGREEMENT

between

Florida Municipal Power Agency

as Buyer

and

FL Solar 7, LLC

as Seller

dated as of

December 12, 2019

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SOLAR POWER PURCHASE AGREEMENT
(Solar II Project)

This SOLAR POWER PURCHASE AGREEMENT (this "**Agreement**") is made this 12th day of December, 2019 (the "**Effective Date**"), by and between **the Florida Municipal Power Agency**, a separate governmental legal entity creating and existing pursuant to Section 163.01, Florida Statutes, and exercising powers under that provision or Part II, Chapter 361, Florida Statutes or both ("**Buyer**") and FL Solar 7, LLC, a Delaware limited liability company ("**Seller**"). Buyer and Seller are each individually referred to herein as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, Seller intends to develop a photovoltaic solar energy generation facility of approximately 74.9 aggregate nameplate capacity on a site located in Putnam County, Florida, as further described in Exhibit B (the "**Project**"); and

WHEREAS, Seller desires to sell, and Buyer desires to purchase and receive, all of the electric Energy and associated Capacity Attributes and Environmental Attributes from Buyer's Share of the Project, on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the promises and of the mutual covenants herein set forth, and other good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, the Parties hereto, intending to be legally bound, do hereby agree as follows:

ARTICLE 1
DEFINITIONS AND INTERPRETATION

1.1 *Definitions*.

"AC" means alternating current.

"Abandon" means after having commenced construction of the Project, Seller stops construction of the Project for more than ninety (90) consecutive days excluding cessation of construction work caused by the occurrence of a Force Majeure Event, Permitting Delay, or Transmission Delay and because of such stoppage Seller cannot reasonably demonstrate to Buyer that it will nonetheless be able to complete the Facility within the timeframe contemplated by this Agreement.

"Adjustment Period" has the meaning set forth in Section 5.2.

"Affiliate" means, with respect to any Person, any entity controlled, directly or indirectly, by such Person, any entity that controls, directly or indirectly, such Person or any entity directly or indirectly under common control with such Person. For the purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

"Agreement" has the meaning set forth in the first paragraph hereof.

"***Annual Energy Output Guarantee***" has the meaning set forth in Exhibit D.

"Applicable Law" means, with respect to any Person or the Project, all laws, statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, Governmental Approvals, directives and requirements of all regulatory and other Governmental Authorities, in each case applicable to or binding upon such Person or the Project (as the case may be).

"Applicable REC Program" means, except as otherwise agreed by the Parties, the Green-e Renewable Energy Standard for the United States published by the Center for Resource Solutions, as may be amended, restated, supplemented, or otherwise modified from time to time, and any successor voluntary renewable energy program established as a replacement for such program.

"Bankrupt" means, with respect to a Party, such Party (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) is generally unable to pay its debts as they fall due, (v) been adjudicated bankruptcy or has filed a petition or an answer seeking an arrangement with creditors, (vi) taken advantage of any insolvency law or shall have submitted an answer admitting the material allegations of a petition in bankruptcy or insolvency proceeding, (vii) become subject to an order, judgment or decree for relief, entered in an involuntary case, without the application, approval or consent of such Party by any court of competent jurisdiction appointing a receiver, trustee, assignee, custodian or liquidator, for a substantial part of any of its assets and such order, judgment or decree shall continue unstayed and in effect for any period of one hundred eighty (180) consecutive Days, (viii) failed to remove an involuntary petition in bankruptcy filed against it within one hundred eighty (180) Days of the filing thereof, or (ix) become subject to an order for relief under the provisions of the United States Bankruptcy Act, 11 U.S.C. § 301.

"Business Day" means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday. A Business Day commences at 8:00 a.m. and ends at 5:00 p.m. local time for the location of the Site.

"Buyer" has the meaning set forth in the first paragraph of this Agreement.

"Buyer Curtailment Cap" means 33% of the Buyer's Share of the Annual Energy Output listed in Table A of Exhibit D.

"Buyer Curtailment Order" means the instruction from Buyer to Seller to reduce Buyer's Share of generation from the Project by the amount, and for the period of time set forth in such order, for reasons unrelated to a Planned Outage, Forced Outage, Force Majeure and/or Curtailment Period.

"Buyer Curtailment Period" means the period of time during which Seller reduces generation from the Project pursuant to a Buyer Curtailment Order. The Buyer Curtailment Period shall be inclusive of the time required for the Project to ramp down and ramp up.

"Buyer Excuses" has the meaning set forth in Section 3.5(b).

"***Buyer's Share***" means 35.748%.

"Capacity Attributes" means any current or future defined characteristic, certificate, tag, credit, or ancillary service attribute, whether general in nature or specific as to the location or any other attribute of the Project intended to value any aspect of the capacity of the Project to produce Energy or ancillary services. Notwithstanding any other provision hereof, Capacity Attributes do not include Environmental Attributes or Tax Attributes.

"Capacity Shortfall" means the difference between Buyer's Share of the Expected Project Capacity and Buyer's Share of the amount of Project capacity that has achieved Commercial Operation as of the applicable date.

"***Capacity Shortfall Damages***" has the meaning set forth in Section 4.4(b).

"Change of Law" means any enactment, adoption, promulgation, modification or repeal of any Applicable Law, or in the administration, interpretation or application thereof by any Governmental Authority occurring on or after the Effective Date.

"Commercially Reasonable" or ***"Commercially Reasonable Efforts"*** means, with respect to any purchase, sale, decision, or other action made, attempted or taken by a Party, such efforts as a reasonably prudent business would undertake for the protection of its own interest under the conditions affecting such purchase, sale, decision or other action, consistent with Prudent Operating Practices, including, without limitation, electric system reliability and stability, state or other regulatory mandates relating to renewable energy portfolio requirements, the cost of such action (including whether such cost is reasonable), the amount of notice of the need to take a particular action, the duration and type of purchase or sale or other action, and the commercial environment in which such purchase, sale, decision or other action occurs. "Commercially Reasonable" or "Commercially Reasonable Efforts" shall be reviewed and determined based upon the facts and circumstances known, or which could have been known with the exercise of reasonable efforts, at the time that a sale, purchase, or other action is taken and shall not be based upon a retroactive review of what would have been optimal at such time.

"Commercial Operation" means that (a) Seller has delivered to Buyer the Performance Assurance required under Section 9.3; (b) Seller has received all material Governmental

Approvals as may be required prior to commencing commercial operations by Applicable Law for the construction, operation and maintenance of the Project; and (c) the Project or any portion thereof, as applicable, is operating and able to produce and deliver, or make available for delivery, Energy at the Delivery Point.

"Commercial Operation Date" means the earlier of (a) the date on which Commercial Operation has occurred with respect to the full Expected Project Capacity and Seller has provided written notice of the Commercial Operation Date to Buyer; (b) [redacted] after the Target Commercial Operation Date (as may be extended by Permitted Extensions); and (c) the date the Termination Option is exercised.

"Compliance Cost Cap" has the meaning set forth in Section 3.18.

"Compliance Costs" means all reasonable out-of-pocket costs and expenses, including registration fees, volumetric fees, license renewal fees, external consultant fees and capital costs necessary for compliance, incurred by Seller and paid directly to third parties in connection with Seller's compliance with obligations under any Applicable Law in connection with, as applicable, the qualification of the Project as a renewable energy resource, the certification and transfer of Environmental Attributes, and compliance with the Transmission Owner and Transmission Provider regulations and requirements applicable to the Project due to a Change of Law after the Effective Date which requires Seller to incur additional costs and expenses in connection with any of such obligations, in excess of the costs and expenses incurred for such obligations under Applicable Law in effect as of the Effective Date.

"Confidential Information" has the meaning set forth in Section 13.1.

"***Connecting Utility***" means the Person that owns the portion of the electric transmission system at the Interconnection Point.

"***Continuation Option***" has the meaning set forth in Section 4.4.

"Contract Price" has the meaning set forth in Exhibit A.

"Contract Year" means, after the Commercial Operation Date, a calendar year commencing HE 0100 on January 1 and ending on HE 2400 on December 31 of the same year; provided that, if this Agreement is terminated prior to its expiration, the Contract Year in which such termination occurs will end at HE 2400 on the termination date and if the Commercial Operation Date occurs a date other than January 1, the first Contract Year shall commence HE 0100 on the Commercial Operation Date, and all related provisions of this Agreement shall be adjusted for such condensed Contract Years on a pro rata basis.

"Costs" means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third party transaction costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace a Terminated Transaction; and all reasonable attorneys' fees and expenses incurred by the Non-Defaulting Party in connection with such Terminated Transaction.

"Credit Rating" means, (a) with respect to Seller, the rating then assigned to Seller's unsecured, senior long-term debt obligations (not supported by third-party credit enhancements) or if Seller does not have a rating for its senior unsecured long-term debt, then the rating then assigned to Seller as an issues rating by the Rating Agencies; and (b) with respect to Buyer, the rating then assigned to Buyer's long-term bonds secured by revenues of the FMPA Solar II Project or, if Buyer does not have a rating for its long-term bonds or no such bonds are issued and outstanding, then either (i) the rating then assigned to the electric or integrated utility system of each FMPA Solar II Project Participant or (ii) the rating then assigned to the municipality of which the FMPA Solar II Project Participant is a department.

"Creditworthy Entity" means an entity has a Credit Rating of BBB- from S&P or Baa3 from Moody's with a stable outlook.

"Curtailment Period" means the period of time during which there is any curtailment of delivery of the Product resulting from a reduction (including curtailment to zero output or non-dispatch) of the net electrical output of the Project from levels of net electrical output the Project would otherwise be capable of producing, including during a Transmission Interruption that prevents Buyer from receiving Energy at or Seller from delivering Energy to the Delivery Point, as directed or caused by the Transmission Provider, a Governmental Authority, or Transmission Owner not due to actions or omissions of Seller or an Affiliate of Seller.

"Daily Delay Damages" means an amount equal to (a) $[redacted] multiplied by the number of MWs of Capacity Shortfall, divided by (b) [redacted].

"Damages Rate" has the meaning set forth in Exhibit D.

"Day" or "day" means a period of twenty-four (24) consecutive hours beginning at 00:00 hours local time at the Site location on any calendar day and ending at 24:00 hours local time at the Site location on the same calendar day.

"Deemed Delivered Energy" means the amount of Energy expressed in MWh that the Project would have produced and delivered to the Delivery Point, but that is not produced by the Project and delivered to the Delivery Point during a Buyer Curtailment Period, which amount shall be determined using relevant Project availability, weather and other pertinent data for the period of time during the Buyer Curtailment Period.

"Default Commercial Operation Date" means December 31, 2023 or, if there is an ITC Extension, the deadline for the Project to be placed in service to retain its eligibility for a 30% investment tax credit under such extension.

"Delivered Energy" means Buyer's Share of all Energy produced from the Project and delivered or made available at the Delivery Point, which shall be net of all Station Service and electrical losses associated with the transmission of the Energy to the Delivery Point, including, if applicable, any transmission or transformation losses between the Metering System and the Delivery Point.

"Delivery Term" means the period of time commencing upon the Initial Energy Delivery Date and terminating at the end of the Term.

"Delivery Point" means the point, more specifically described in Exhibit C, where Seller's Interconnection Facilities connect to the Transmission Owner's Interconnection Facilities, which shall be the point of interconnection under the Interconnection Agreement.

"Disclosing Party" has the meaning set forth in Section 13.1.

"Dispute" has the meaning set forth in Section 17.1.

"Downgrade Event" refers to any point in time (a) with respect to either Party or its Guarantor's Credit Rating falls below Investment Grade; and (b) with respect to Buyer, (i) any Credit Rating of Buyer's long-term bonds secured by the revenues of the FMPA Solar II Project falls below Investment Grade; (ii) if Buyer does not have a Credit Rating for its long-term bonds or no such bonds are issued and outstanding, then (A) less than 65% of the FMPA Solar II Project Participant Entitlement Shares are held by FMPA Solar II Project Participants that have a Credit Rating, or (B) the Credit Ratings then assigned to the electric or integrated utility systems of FMPA Solar II Project Participants with Credit Ratings equals at least thirty five percent (35%) of the Expected Project Capacity or Installed Capacity, as applicable, falls below Investment Grade; or (iii) if the FMPA Solar II Project Participant Covenants in any FMPA Solar II Project Power Sales Contract are amended, modified or altered in a manner which materially adversely impacts the ability of the FMPA Solar II Project to perform and pay its obligations under this Agreement and Seller does not consent thereto, such consent not to be unreasonably withheld, conditioned or delayed.

"Early Termination Date" has the meaning set forth in Section 7.2(a).

"Effective Date" has the meaning set forth in the first paragraph of this Agreement.

"Energy" means electric energy generated by the Project, which shall be in the form of three (3)-phase, sixty (60) Hertz, alternating current and expressed in units of megawatt-hours.

"***Environmental Attribute***" means any and all presently existing or future benefits, emissions reductions, environmental air quality credits, emissions reduction credits, greenhouse gas emissions, Renewable Energy Credits, offsets and allowances, green tag or other transferable indicia attributable to the Project during the Term, howsoever entitled or named, resulting from the generation of renewable energy or the avoidance, reduction, displacement or offset of the emission of any gas, chemical or other substance, including any of the same arising out of presently existing or future legislation or regulation concerned with oxides of nitrogen, sulfur or carbon, with particulate matter, soot or mercury, or implementing the United Nations Framework Convention on Climate Change ("UNFCCC") or the Kyoto Protocol to the UNFCCC or crediting "early action" emissions reduction, or laws or regulations involving or administered by the Clean Air Markets Division of the Environmental Protection Agency, or any successor state or federal agency given jurisdiction over a program involving transferability of Environmental Attributes, and any renewable energy certificate reporting rights to such Environmental Attributes. Notwithstanding any other provision hereof, Environmental Attributes do not include: (a) any Tax Attributes, (b) state, federal or private grants related to the Project, (c) Energy, or (d) Capacity Attributes.

"***Equitable Defenses***" means any bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally and, with regard to equitable remedies, the discretion of the court before which proceedings may be pending to obtain same.

"Event of Default" has the meaning set forth in Section 7.1.

"Executives" has the meaning set forth in Section 17.2(a).

"Expected Project Capacity" has the meaning set forth in Section 3.4.

"FMPA Solar II Project" means the joint-action solar project created by the FMPA Board of Directors pursuant to FMPA Resolution 2019-B12, dated December 12, 2019.

"FMPA Solar II Project Participant Covenants" means the covenants by each FMPA Solar II Project Participant in the applicable FMPA Solar II Project Power Sales Contract: (a) that the payments which the FMPA Solar II Project Participant is required to make under the applicable FMPA Solar II Project Power Sales Contract constitute an obligation payable as an operating expense of the FMPA Solar II Project Participant's electric utility system solely from the revenues and other available funds of the electric utility system; (b) that upon the failure of any other FMPA Solar II Project Participant(s) to make payments owed to FMPA under the applicable FMPA Solar II Project Power Sales Contract, to pay to Buyer such non-defaulting FMPA Solar II Project Participant's pro rata share of the amounts owed by the defaulting FMPA Solar II Project Participant(s), and (c) to establish, levy and collect rents, rates and other charges for the products and services provided by its electric utility system, which rents, rates, and other charges shall be at least sufficient to meet the operation and maintenance expenses of such electric utility system, including all sums owed to Buyer pursuant to the FMPA Solar II Project Power Sales Contract.

"FMPA Solar II Project Participant" means a municipality or municipal electric utility that is a member of Buyer and a member of the FMPA Solar II Project, all of which are listed on Exhibit K, as may be updated from time to time in accordance with this Agreement.

"FMPA Solar II Project Participant Entitlement Share" means, as to each FMPA Solar II Project Participant, the participant's individual undivided pro rata entitlement share of the Expected Project Capacity or Installed Capacity, as applicable.

"FMPA Solar II Project Power Sales Contracts" means a Power Sales Contract between a FMPA Solar II Project Participant and Buyer for the sale of FMPA Solar II Project Participant Entitlement Share by Buyer to such FMPA Solar II Project Participant, substantially in the form of Exhibit M.

"Forced Outage" means any unplanned reduction or suspension of the electrical output from the Project or unavailability of the Project in an amount greater than ten percent (10%) of the Installed Capacity in response to a mechanical, electrical, or hydraulic control system trip or operator-initiated trip in response to an alarm or equipment malfunction, or any other unavailability of the Project for maintenance or repair that is not a Planned Outage, due to a Buyer Curtailment Order or during a Curtailment Period, or the result of a Force Majeure Event.

"Force Majeure Event" means any event or circumstance which wholly or partly prevents or delays the performance of any material obligation arising under this Agreement, other than the obligation to pay amounts due, but only to the extent (1) such event is not within the reasonable control, directly or indirectly, of the Party seeking to have its performance obligation(s) excused thereby, (2) the Party seeking to have its performance obligation(s) excused thereby has taken all reasonable precautions and measures in order to prevent or avoid such event or mitigate the effect of such event on such Party's ability to perform its obligations under this Agreement and which, by the exercise of due diligence, such Party could not reasonably have been expected to avoid and which by the exercise of due diligence it has been unable to overcome, and (3) such event is not the direct or indirect result of the fault or negligence of the Party seeking to have its performance obligations excused thereby.

(a) Subject to the foregoing, events that could qualify as a Force Majeure Event include, but are not limited to the following:

(i) acts of God, flooding, lightning, landslide, earthquake, fire, drought, explosion, epidemic, quarantine, storm, hurricane, tornado, volcano, other natural disaster or unusual or extreme adverse weather-related events;

(ii) war (declared or undeclared), riot or similar civil disturbance, acts of the public enemy (including acts of terrorism), sabotage, blockade, insurrection, revolution, expropriation or confiscation;

(iii) except as set forth in subpart (b)(vii) below, strikes, work stoppage or other labor disputes (in which case the affected Party shall have no obligation to settle the strike or labor dispute on terms it deems unreasonable);

(iv) environmental and other contamination at or affecting the Project;

(v) accidents of navigation or breakdown or injury of vessels, accidents to harbors, docks, canals or other assistances to or adjuncts of shipping or navigation, or quarantine;

(vi) nuclear emergency, radioactive contamination or ionizing radiation or the release of any hazardous waste or materials;

(vii) air crash, shipwreck, train wrecks or other failures or delays of transportation;

(viii) vandalism beyond that which could be reasonably prevented by Seller;

(ix) the discovery of Native American burial grounds not evidenced in Seller's Phase I environmental assessment of the Site;

(x) the discovery of endangered species, as defined by Law; and

(xi) breakdown or failure of equipment as a result of a serial manufacturer defect or flaw.

(b) A Force Majeure Event shall not be based on:

(i) Buyer's inability economically to use or resell the Product purchased hereunder;

(ii) Seller's ability to sell the Product at a price greater than the price set forth in this Agreement;

(iii) Seller's inability to obtain Governmental Approvals or other approvals of any type for the construction, operation, or maintenance of the Project, except to the extent caused by a Force Majeure Event;

(iv) Seller's inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Project, except to the extent Seller's inability to obtain sufficient labor, equipment, materials, or other resources is caused by a Force Majeure Event;

(v) Seller's failure to obtain financing or other funds, including funds authorized by a state or the federal government or agencies thereof, to supplement the payments made by Buyer pursuant to this Agreement; or

(vi) a strike, work stoppage or labor dispute limited only to any one or more of Seller or Seller's Affiliates.

"Force Majeure Extension" has the meaning set forth in Section 4.2(b)(iii).

"Gains" means with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of this Agreement for the remaining Delivery Term, determined in a commercially reasonable manner. Factors used in determining economic benefit may include, without limitation, reference to information either available to it internally or supplied by one or more third parties, including, without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., NYMEX), all of which should be calculated for the remaining term of this Agreement and include the value, if any, of Environmental Attributes.

"Governmental Approvals" means all authorizations, consents, certifications, approvals, waivers, exceptions, variances, filings, permits, orders, licenses, exemptions and declarations of or with any Governmental Authority and shall include those siting and operating permits and licenses, and any of the foregoing under any applicable environmental law, that are required for the use and operation of the Project.

"Governmental Authority" means any national, state, provincial, local, tribal or municipal government, any political subdivision thereof or any other governmental, regulatory, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, department, bureau, or entity having jurisdiction over either Party, the Project, the Site, Seller's Interconnection Facilities, the Transmission Owner's Interconnection Facilities, or the Transmission System, including the Transmission Provider and NERC; *provided, however*, that "Governmental Authority" will not in any event include any Party.

"Governmental Charges" has the meaning set forth in Section 12.2.

"Guarantor" means an entity which at the time it is to provide a Guaranty (a) has a Credit Rating of at least BBB from S&P or Baa2 from Moody's if rated by only one Ratings Agency or at least BBB- from S&P and Baa3 from Moody's if rated by both Ratings Agencies, and (b) is incorporated or organized in a jurisdiction of the United States and is in good standing in such jurisdiction.

"Guaranty" means a Guaranty substantially in the form of Exhibit E.

"Initial Energy Delivery Date" means the first date that Seller delivers or makes available Energy from the Project to Buyer at the Delivery Point.

"Initial Negotiation End Date" has the meaning set forth in Section 17.2(a).

"Initial Term" has the meaning set forth in Section 2.1.

"Installed Capacity" has the meaning set forth in Section 3.4.

"Interconnection Agreement" means the interconnection service agreement or agreements entered into by and among, as applicable, the Transmission Provider, the Transmission Owner, and the Seller (or Seller's Affiliate and made available to Seller) pursuant to which the Project will be interconnected with the Transmission System.

"Interconnection Delay" has the meaning set forth in Section 4.2(b)(i).

"Interest Payment Date" means the last Business Day of each calendar month.

"Interest Rate" means the lower of (i) annual rate equal to the Prime Rate then in effect plus ten percent (10%) and (ii) the maximum interest permitted by Applicable Law.

"***Interlocal Agreement***" means the Interlocal Agreement creating the Florida Municipal Power Agency, as amended and supplemented to date, and as the same may be amended or supplemented in the future.

"***Investment Grade***" means a Credit Rating of BBB- from S&P or Baa3 from Moody's with a stable outlook.

"***ITC Extension***" means an extension of the December 31, 2023 deadline in section 48(a)(7)(B) for the U.S. Tax Code for the Project to be placed in service to qualify for a 30% investment tax credit.

"Letter(s) of Credit" means one or more irrevocable, transferable standby letters of credit, substantially in the form of Exhibit F, issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a Credit Rating of at least A- from S&P or A3 from Moody's, with a "stable outlook" by either S&P or Moody's and having assets of at least $[redacted], in a form acceptable to the Party in whose favor the letter of credit is issued.

"Losses" means with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from a Terminated Transaction for the remaining term of this Agreement, determined in a commercially reasonable manner. Factors used in determining the loss of economic benefit may include, without limitation, reference to information either available to it internally or supplied by one or more third parties including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g. NYMEX), all of which should be calculated for the remaining term of this Agreement and include the value, if any, of Environmental Attributes and, if applicable, the value of any resulting loss or recapture of Tax Attributes.

"Manager" has the meaning set forth in Section 17.2(a).

"Metering System" means all meters, metering devices and related instruments used to measure and record Energy and to determine the amount of such Energy that is being made available or delivered to Buyer at the Delivery Point for the purpose of this Agreement.

"***Meter Owner***" shall be the Party that owns the Metering System.

"Moody's" means Moody's Investor Service, Inc. or any successor thereto, or in the event that there is no such successor, a nationally recognized credit rating agency.

"MW" means a megawatt (or 1,000 kilowatts) of AC electric generating capacity.

"MWh" means a megawatt hour of Energy.

"***NERC***" means the North American Electric Reliability Corporation.

"Non-Defaulting Party" has the meaning set forth in Section 7.2.

"Notice" has the meaning set forth in Section 18.1.

"Operating Procedures" has the meaning set forth in Section 3.11.

"***Option Price***" means the applicable price set forth in the Option Price Table in Exhibit A.

"PA Beneficiary" has the meaning set forth in Article 9.

"PA Provider" means the Party that has provided or is required to provide the applicable Performance Assurance.

"Parties" has the meaning set forth in the first paragraph of this Agreement.

"Party" has the meaning set forth in the first paragraph of this Agreement.

"Performance Assurance" means collateral provided by a Party to secure such Party's obligations hereunder. Performance Assurance may be in the form of (i) Letter(s) of Credit, (ii) Cash, (iii) Surety Bond and/or (iv) a Guaranty.

"Permitted Extensions" means the extensions to the Target Commercial Operation Date set forth in Section 4.2.

"Permitting Delay" has the meaning set forth in Section 4.2(b)(ii).

"Person" means an individual, partnership, corporation, business trust, joint stock company, trust, unincorporated association, joint venture, governmental entity, municipality, limited liability company or any other entity of whatever nature.

"Planned Outage" means the removal of the all or a portion of the Project from service availability for inspection and/or general overhaul of one or more major equipment groups. To qualify as a Planned Outage, the maintenance (a) must actually be conducted during the Planned Outage, and in Seller's sole discretion must be of the type that is necessary to reliably maintain the Project, (b) cannot be reasonably conducted during the Project's operations, and (c) causes the generation level of the Project to be reduced by at least ten percent (10%) of the Installed Capacity. To the extent there are multiple Project Offtakers, any reduction in generation will be allocated to Buyer pro rata based on Buyer's Share.

"Prime Rate" means the interest per annum equal to the prime rate as published in The Wall Street Journal or comparable successor publication under "Money Rates," as applied on a daily basis, determined as of the date the obligation to pay interest arises, but in no event more than the maximum rate permitted by Applicable Law.

"Product" has the meaning set forth in Section 3.1.

"***Production Guarantee Damages***" has the meaning set forth in Exhibit D.

"Production Shortfall" has the meaning set forth in Exhibit D.

"Project" has the meaning set forth in the Recitals to this Agreement.

"Project Cure Period" has the meaning set forth in Section 4.3(a).

"Project Investor" or ***"Project Investors"*** means any and all Persons or successors in interest thereof (a) lending money, extending credit or providing loan guarantees (whether directly to Seller or to an Affiliate of Seller) as follows: (i) for the construction, interim or permanent financing or refinancing of the Project; (ii) for working capital or other ordinary business requirements of the Project (including the maintenance, repair, replacement or improvement of the Project); (iii) for any development financing, bridge financing, credit support, credit enhancement or interest rate protection in connection with the Project; (iv) for any capital improvement or replacement related to the Project; or (v) for the purchase of the Project and the related rights from Seller; or (b) participating (directly or indirectly) as an equity investor (including a Tax Equity Investor) in the Project; or (c) any lessor under a lease finance arrangement relating to the Project.

"***Project Offtaker***" means the counterparty to a contract for the purchase of Energy. For the avoidance of doubt, the same entity may be deemed separate Project Offtakers to the extent it is party to multiple contracts for the purchase of Energy.

"Prudent Operating Practices" means the practices, methods and standards of professional care, skill and diligence engaged in or approved by a significant portion of the electric generation industry for solar facilities of similar size, type, and design, that, in the exercise of reasonable judgment, in light of the facts known at the time, would have been expected to accomplish results consistent with Applicable Law, reliability, safety, environmental protection and standards of economy and expedition. Prudent Operating Practices is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the industry.

"***Qualified Transferee***" means any person or entity that (a) has an equal or better credit rating than the Seller and satisfies the collateral requirements of the Seller set forth in the

Agreement, (b) provides replacement Performance Assurance from a PA Provider with an Investment Grade Credit Rating and assets of at least $[redacted], (c) has (or has contracted with for the purpose of this Agreement), or is the subsidiary of an entity that has, a record of owning and/or operating, for a period of at least [redacted] years, solar photovoltaic generating facilities with an aggregate nameplate capacity of no less than [redacted], and (d) that expressly assumes in writing all obligations of the Seller under this Agreement.

"Ratings Agency" means either of S&P or Moody's.

"Receiving Party" has the meaning set forth in Section 13.1.

"Referral Date" has the meaning set forth in Section 17.2(a).

"***Renewable Energy Credits***" or "***RECs***" means any credits, certificates, green tags or similar environmental or green energy attributes associated with one MWh of electricity generated by the Project created by the Applicable REC Program.

"***Renewal Term***" has the meaning set forth in Section 2.1.

"S&P" means Standard & Poor's Rating Group or any successor thereto, or in the event that there is no such successor, a nationally recognized credit rating agency.

"Sales Price" means to the extent Seller, acting in a Commercially Reasonable manner, sells any Product that Buyer does not receive, (i) the price Seller actually receives for such Product, or at Seller's option, the market price at the Delivery Point for such Product not received as determined by Seller in a Commercially Reasonable manner; *less* (ii) any costs reasonably incurred by Seller in reselling such Product; provided, however, in no event shall the Sales Price include any penalties, ratcheted demand or similar charges, nor shall Seller be required to utilize or change its utilization of its owned or controlled assets, including contractual assets, or market positions to minimize Buyer's liability.

"SEC" means the U.S. Securities and Exchange Commission.

"Seller" has the meaning set forth in the first paragraph of this Agreement.

"Seller Excuses" has the meaning set forth in Section 3.5(a).

"Seller's Interconnection Facilities" means the interconnection facilities, control and protective devices and metering facilities required to connect the Project with the Transmission System up to, and on Seller's side of, the Delivery Point.

"Seller's Replacement Costs" has the meaning set forth in Section 3.5(c).

"Settlement Amount" means the Non-Defaulting Party's Costs and Losses, on the one hand, netted against its Gains, on the other.

"Site" has the meaning set forth in the Recitals.

"Station Service" means the electric energy from the Transmission System or produced by the Project that is used by the Project to power the lights, motors, control systems and other auxiliary electrical loads that are necessary for testing or operation of the Project.

"***Surety Bond***" means a bond, substantially in the form of Exhibit H, which provides for payment to the other Party upon demand and which is issued by a commercial entity with (i) a Credit Rating from one or both of S&P and Moody's, which Credit Rating is at least "A-" from S&P (if such entity has a Credit Rating from S&P) and "A3" from Moody's (if such entity has a Credit Rating from Moody's), in each case not on negative credit watch, and (ii) having a net worth of at least $[redacted] at the time of issuance of the bond.

"System Emergency" means a condition on the Transmission System, at the Project, or on Seller's Interconnection Facilities or Transmission Owner's Interconnection Facilities, which condition is likely to result in imminent significant disruption of service to Transmission System customers or is imminently likely to endanger life or property, and includes any condition during which Seller is directed by Transmission Provider to reduce or cease generation for any period of time on account of an emergency.

"Target Commercial Operation Date" means the date that is the latter of (a) 365 days after the Transmission Service Deadline and (b) December 31, 2023.

"Tax Attributes" means (a) investment tax credits (including any grants or payments in lieu thereof) and any other tax deductions or benefits under federal, state or other Law available as a result of the ownership and operation of the Project or the output generated by the Project (including, without limitation, tax credits, payments in lieu thereof and accelerated and/or bonus depreciation); and (b) present or future (whether known or unknown) cash payments, grants under Section 1603 of the American Recovery and Reinvestment Tax Act of 2009 or outright grants of money relating in any way to the Project.

"Tax Equity Investor" means an investor that has acquired an equity interest in Seller pursuant to a financing structure that assigns such investor all rights, title and benefits to the Tax Attributes of Seller.

"Term" means the Initial Term plus any Renewal Terms.

"Terminated Transaction" means the termination of this Agreement in accordance with Section 7.2 of this Agreement.

"***Termination Option***" has the meaning set forth in Section 4.4.

"Termination Payment" has the meaning set forth in Section 7.3.

"***Test Energy***" means Buyer's Share of the Energy generated by the Project and delivered to the Delivery Point prior to the Commercial Operation Date.

"Transfer Taxes" has the meaning set forth in Section 3.3(d).

"Transmission Delay Damages" means the liquidated damages Buyer shall owe Seller in the event Buyer is unable to receive any Delivered Energy due to a failure of obtaining transmission service by the Transmission Service Deadline, as calculated pursuant to Section 4.3.

"***Transmission Interruption***" means a transmission outage or curtailment directed or caused by the Transmission Owner, Transmission Provider or a Governmental Authority in connection with a System Emergency on the Transmission System that prevents or limits Buyer's ability to receive Energy at the Delivery Point not due to actions or omissions of Buyer or an Affiliate of Buyer.

"***Transmission Owner***" means the entity that owns the transmission or distribution system to which the Project interconnects.

"Transmission Owner's Interconnection Facilities" means the interconnection facilities and related assets that are or will be owned by the Transmission Owner that are required to connect the Project with the Transmission System, as further described in the Interconnection Agreement.

"Transmission Provider" means the regional transmission organization with jurisdiction over the location of the Site or, if none, then the applicable balancing authority for the Site. For the avoidance of doubt, the Transmission Provider and the Transmission Owner may be the same entity.

"***Transmission Service Deadline***" means the date that is one-hundred and twenty (120) days from Buyer's receipt from Seller of a copy of the final interconnection facilities study report for the interconnection of the Project.

"Transmission System" means the distribution or transmission system to which the Project interconnects.

1.2 ***Interpretation.***

The following rules of construction shall be followed when interpreting this Agreement except to the extent the context otherwise requires:

(a) the gender (or lack of gender) of all words used in this Agreement includes the masculine, feminine, and neuter;

(b) words used or defined in the singular include the plural and vice versa;

(c) references to Articles and Sections refer to Articles and Sections of this Agreement;

(d) references to Annexes, Exhibits and Schedules refer to the Annexes, Exhibits and Schedules attached to this Agreement, each of which is made a part hereof for all purposes;

(e) references to Applicable Laws refer to such Applicable Laws as they may be amended from time to time, and references to particular provisions of an Applicable Law include any corresponding provisions of any succeeding Applicable Law and any rules and regulations promulgated thereunder;

(f) terms defined in this Agreement are used throughout this Agreement and in any Annexes, Exhibits and Schedules hereto as so defined;

(g) references to money refer to legal currency of the United States of America;

(h) the words "includes" or "including" shall mean "including without limitation;"

(i) the words "hereof," "hereby," "herein," "hereunder" and similar terms in this Agreement shall refer to this Agreement as a whole and not any particular Article or Section in which such words appear, unless otherwise specified;

(j) all references to a particular entity shall include a reference to such entity's successors and permitted assigns but, if applicable, only if such successors and assigns are permitted by this Agreement;

(k) references to any agreement, document or instrument shall mean a reference to such agreement, document or instrument as the same may be amended, modified, supplemented or replaced from time to time;

(l) the word "or" will have the inclusive meaning represented by the phrase "and/or;"

(m) the words "shall" and "will" mean "must", and shall and will have equal force and effect and express an obligation; and

(n) the words "writing," "written" and comparable terms refer to printing, typing, and other means of reproducing in a visible form.

ARTICLE 2
TERM

2.1 *Term.*

The "**Initial Term**" of this Agreement shall commence on the date hereof and continue until the latter of (a) the date the Agreement is terminated in accordance with its terms, or (b) the date that is 20 Contract Years following the Commercial Operation Date. Buyer shall have the option to extend the term of the Agreement twice (each, a "**Renewal Term**") by providing Seller written notice of extension no less than 365 days prior to the end of the Initial Term or the first Renewal Term, as applicable. Each Renewal Term shall commence at HE 0100 on the date immediately following the last day of the Initial Term or first Renewal Term, as applicable, and extend for a period of 5 years, unless sooner terminated in accordance with the terms hereof.

ARTICLE 3
OBLIGATIONS AND DELIVERIES

3.1 *Product.*

The "Product" to be delivered and sold by Seller and received and purchased by Buyer under this Agreement is the Delivered Energy and all associated Environmental Attributes and Capacity Attributes.

3.2 *Purchase and Sale.*

Unless specifically excused by the terms of this Agreement during the Delivery Term, Seller shall sell and deliver, or cause to be delivered, and Buyer shall purchase and receive, or cause to be received, the Product at the Delivery Point, and Buyer shall pay Seller for the Product in accordance with the terms hereof.

3.3 *Contract Price.*

(a) Seller shall provide no less than ten (10) days' notice prior to the Initial Energy Delivery Date, which shall not occur prior to the Transmission Service Deadline without the prior written consent of Buyer.

(b) Buyer shall pay Seller the Contract Price for all Test Energy.

(c) On and after the Commercial Operation Date, Buyer shall pay Seller for the Product an amount equal to the Contract Price for each MWh of Delivered Energy.

(d) In addition to the amounts otherwise payable by Buyer in accordance with this Section 3.3, Buyer shall pay all applicable sales, use excise, ad valorem, transfer and other similar taxes associated with the sale of Product by Seller to Buyer ("**Transfer Taxes**"), but excluding in all events taxes based on or measured by net income, that are imposed by any taxing authority arising out of or with respect to the purchase or sale of Product (regardless of whether such Transfer Taxes are imposed on Buyer or Seller), together with any interest, penalties or additions to tax payable with respect to such Transfer Taxes.

3.4 *Project Capacity.*

The "**Expected Project Capacity**" is the expected nameplate capacity of the Project as of the Effective Date, as set forth in Exhibit B. The "**Installed Capacity**" shall be the actual capacity of the Project that is able to generate and deliver Energy to the Delivery Point and has otherwise achieved Commercial Operation as of the Commercial Operation Date. Throughout the Delivery Term, Seller shall sell all Product solely to Buyer, except in the case of an Event of Default of Buyer or other failure of Buyer to receive the Product, or during a Force Majeure Event where Buyer is prevented from accepting delivery of the Product.

3.5 ***Performance Excuses.***

(a) The obligations of Seller to deliver or make available the Product to Buyer at the Delivery Point shall be excused only (i) during periods of Force Majeure, (ii) by Buyer's failure to perform its obligation to receive the Product at the Delivery Point or other Buyer Event of Default, (iii) during Curtailment Periods, (iv) during Buyer Curtailment Periods, and (v) during Planned Outages ("**Seller Excuses**").

(b) The obligations of Buyer to receive and pay for the Product shall be excused only (i) during periods of Force Majeure, (ii) by Seller's failure to perform its obligations to generate and deliver Product to the Delivery Point or other Seller Event of Default, or (iii) during a Transmission Interruption event ("**Buyer Excuses**").

(c) If Buyer fails to receive all or part of the Product and such failure is not excused due to Buyer Excuses, then Buyer shall pay Seller, on the date payment would otherwise be due in respect of the Month in which the failure occurred, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price ("**Seller's Replacement Costs**").

(d) Seller shall include in a monthly invoice delivered to Buyer pursuant to Section 8.1 the amounts owed by Buyer pursuant to Section (a) and a description, in reasonable detail, of the calculation of Seller's Replacement Costs.

3.6 ***Offsets, Allowances and Environmental Attributes.***

(a) Buyer shall be entitled to all Environmental Attributes resulting from the generation of Energy that is actually purchased by Buyer pursuant to this Agreement. Buyer shall not be entitled to any Environmental Attributes resulting from the generation of Energy that Buyer, for any reason, does not accept and purchase under this Agreement. Upon no less than twenty (20) Business Days' advance notice, Buyer may request Seller provide Buyer or Buyer's designee evidence of the transfer of the RECs on a quarterly basis during the Delivery Term in an Environmental Attributes Attestation and Bill of Sale substantially in the form attached as Exhibit I or, as applicable, an attestation that is the then-currently required attestation of the Applicable REC Program.

(b) Seller shall be entitled to all (i) federal and state production tax credits, investment tax credits and any other tax credits which are or will be generated by the Project, (ii) any cash payments, grants under Section 1603 of the American Recovery and Reinvestment Tax Act of 2009 or outright grants of money relating in any way to the Project or Environmental Attributes, and (iii) any Environmental Attributes that the Buyer is not entitled to pursuant to the provisions of Section 3.6(a). Buyer acknowledges that Seller has the right to sell any Environmental Attributes to which it is entitled pursuant to this Section 3.6(b) to any Person other than Buyer at any rate and upon any terms and conditions that Seller may determine in its sole discretion without liability to Buyer hereunder. Buyer shall have no claim, right or interest in such Environmental Attributes or in any amount that Seller realized from the sale of such Environmental Attributes.

(c) Seller shall bear all risks, financial and otherwise throughout the Term, associated with Seller's or the Project's eligibility to receive any Tax Attributes, or to qualify for accelerated or bonus depreciation for Seller's accounting, reporting or tax purposes, except to the extent Buyer incurs liability under this Agreement in connection with relevant Losses and indemnification obligations. The obligations of the Parties hereunder, including those obligations set forth herein regarding the sale, purchase and price for and Seller's obligation to generate and deliver the Product and Environmental Attributes, shall be effective regardless of whether the generation of Product or sale and delivery of any Delivered Energy from the Project is eligible for, or receives Tax Attributes or to qualify for accelerated or bonus depreciation during the Term.

3.7 *Station Service.*

If Buyer or any of its Affiliates provides retail electric service in the service territory in which the Project is located, then if requested by Seller, Buyer or such Affiliate shall provide Station Service to the Project (including Seller's Interconnection Facilities) as requested by Seller during construction and operation of the Project at the rates and on the terms set forth in the applicable tariff(s) on a non-discriminatory basis with other customers in the same rate class as Seller.

3.8 *Transmission.*

(a) Seller shall be responsible for obtaining interconnection service for the Project so that Seller can deliver the Product to the Delivery Point in accordance with applicable Transmission Provider interconnection requirements. Seller shall be responsible for all costs to design, equip, construct and maintain the interconnection facilities necessary to deliver Energy from the Project to the Delivery Point. Seller shall be responsible for receiving Network Resource Interconnection Service (or its equivalent) from the Transmission Provider in accordance with the Transmission Provider's Large Generator Interconnection Procedures ("**LGIP**") including funding of any Network Upgrades, as defined in therein. In the event that Seller is not repaid all Seller-funded amounts for such Network Upgrades within five (5) years after the Commercial Operation Date, Seller may, subject to Buyer's consent, such consent not to be unreasonably withheld, assign to Buyer its rights under the LGIP and Interconnection Agreement to repayment of such unpaid amounts. For the avoidance of doubt, Buyer's consent may be withheld if, without otherwise limiting its right to reasonably withhold consent, Buyer is not reasonably satisfied with the terms and conditions of the Interconnection Agreement or other relevant agreement between Buyer and the Transmission Provider with regard to the Network Upgrade refunding or transmission credit procedures. If Buyer consents to such assignment, then Buyer shall pay to Seller each month an amount equal to the amount Buyer receives from Transmission Provider as a transmission credit or other form of reimbursement for such Network Upgrades during the preceding month until such time as Seller has been fully reimbursed for its Network Upgrade finding. Notwithstanding anything in this Section 3.8(a), Buyer shall not be obligated to pay Seller any amount related to the Network Upgrades for which Buyer has not received a related transmission credit or other form of reimbursement from the Transmission Provider.

(b) Buyer shall be responsible for arranging for all transmission services required to effectuate Buyer's receipt of the Product at and from the Delivery Point, including, without limitation, obtaining firm transmission service, in an amount of capacity equal to the Expected Project Capacity, and shall be responsible for the payment of any charges related to such transmission services hereunder, including, without limitation, charges for transmission or wheeling services, ancillary services, imbalance, control area services, congestion charges, transaction charges and line losses. The Parties acknowledge that the Contract Price does not include charges for such transmission services, all of which shall be paid by Buyer.

(c) In the event that the Transmission Provider or any other properly authorized Person exercising control over the Transmission Owner's Interconnection Facilities or the Transmission System takes any action or orders Seller or Buyer to take any action that affects Buyer's ability to take delivery of Energy hereunder not caused by or resulting from Seller's act or omission, a Curtailment Period, Transmission Interruption, or Force Majeure, Buyer shall use its Commercially Reasonably Efforts to attempt (at its own cost and expense) to mitigate the adverse effects of such action(s) on Buyer's ability to perform its obligations hereunder, including, without limitation, redispatching its other generation resources, if any.

3.9 *Scheduling.*

Buyer shall be responsible for the scheduling of all Delivered Energy during the Delivery Term, including, without limitation, arranging any Open Access Same Time Information Systems (OASIS), tagging, transmission scheduling or similar protocols with the Transmission Provider, Transmission Owner, or any other Persons. Buyer shall be responsible for the payment of all charges associated with such scheduling activities, including, without limitation, any imbalance charges.

3.10 *Sales for Resale.*

All Delivered Energy delivered to Buyer hereunder shall be sales for resale. Buyer shall provide Seller with any documentation reasonably requested by Seller to evidence that the deliveries of Delivered Energy hereunder are sales for resale.

3.11 *Operating Procedures.*

Seller and Buyer will endeavor to develop written operating procedures ("**Operating Procedures**") not less than sixty (60) days before the Initial Energy Delivery Date, which Operating Procedures shall only be effective if made by mutual written agreement of Seller and Buyer. The Parties agree that the Operating Procedures that they will endeavor to establish will cover the protocol under which the Parties will perform certain obligations under this Agreement and will include, but will not be limited to, procedures concerning the following: (1) the method of day-to-day communications; (2) key contacts for Seller and Buyer; and (3) reporting of scheduled maintenance, maintenance outages, Buyer Curtailment Orders, Force Majeure Events, and Forced Outages of the Project.

3.12 *Regulatory Approvals.*

(a) Seller and Buyer each agree to use their Commercially Reasonable Efforts to apply for promptly and to pursue diligently any required acceptances or approvals from Governmental Authorities for the consummation of the transactions contemplated by this Agreement or for the giving of effect to the expiration of this Agreement or any termination of this Agreement. This provision is not intended to subject this Agreement to the jurisdiction of any Governmental Authority that does not have such jurisdiction over this Agreement as of the Effective Date.

(b) Buyer shall apply for and shall diligently pursue designation of the Expected Project Capacity as a network resource or otherwise secure a firm delivery path for the Delivered Energy from the Delivery Point to and over the Transmission System. Buyer shall use Commercially Reasonable Efforts to submit an application to obtain a network resource designation or similar firm transmission rights for the Expected Project Capacity not later than thirty (30) Business Days following the Effective Date and to secure such rights no later than the Transmission Service Deadline. Notwithstanding anything to the contrary herein, Seller shall not incur liability for any delays hereunder to the extent such delays are caused by Buyer's failure or inability to secure transmission service in accordance with this Section 3.13(b). Upon Buyer's request, Seller shall use Commercially Reasonable efforts to cooperate with Buyer and provide such information as necessary to assist Buyer in obtaining firm transmission service.

(c) Following the Effective Date of this Agreement, each Party shall promptly seek to obtain all other licenses, permits and approvals necessary to perform its obligations hereunder.

3.13 ***Standards of Care.***

(a) Seller shall comply with all applicable requirements of Applicable Law, the Transmission Provider and NERC relating to the Project (including those related to construction, ownership, interconnection and operation of the Project).

(b) As applicable, each Party shall perform all generation, scheduling and transmission services in compliance with all applicable operating policies, criteria, rules, guidelines, tariffs and protocols of the Transmission Provider and Prudent Operating Practices.

(c) Seller agrees to abide by all applicable (i) NERC reliability requirements, including all such reliability requirements for generator owners and generator operators, and (ii) all applicable requirements regarding interconnection of the Project, including the requirements of the interconnected Transmission Owner and the Transmission Provider.

3.14 ***Buyer Curtailment.***

Except to the extent compliance would directly cause loss or recapture of any Tax Attributes, Seller shall reduce Buyer's Share of generation from the Project as required pursuant to a Buyer Curtailment Order, provided that (a) the Buyer Curtailment Period shall not exceed the Buyer Curtailment Cap cumulatively per Contract Year (which may be consecutive or non-consecutive); and (b) Buyer shall pay Seller the Contract Price for Deemed Delivered Energy associated with a Buyer Curtailment Period. If multiple Project Offtakers issue overlapping Buyer Curtailment Orders, then any Deemed Delivered Energy during such period shall be allocated to Buyer on a pro rata basis in accordance with its Buyer's Share.

3.15 ***Outage Notification.***

(a) Seller shall schedule Planned Outages for the Project in accordance with Prudent

Operating Practices and with the prior written consent of Buyer, which consent may not be unreasonably withheld, conditioned or delayed. The Parties acknowledge that in all circumstances, Prudent Operating Practices shall dictate when Planned Outages should occur. Seller shall notify Buyer of its proposed Planned Outage schedule for the Project for the following calendar year by submitting a written Planned Outage schedule no later than August 1st of each year during the Delivery Term. The Planned Outage schedule is subject to Buyer's approval, which approval may not be unreasonably withheld, conditioned or delayed. Buyer shall promptly respond with its approval or with reasonable modifications to the proposed Planned Outage schedule and Seller shall use its best efforts in accordance with Prudent Operating Practices to accommodate Buyer's requested modifications and deliver the final Planned Outage schedule to Buyer. Seller shall contact Buyer with any requested changes to the Planned Outage schedule if Seller believes the Project must be shut down to conduct maintenance that cannot be delayed until the next scheduled Planned Outage consistent with Prudent Operating Practices. Seller shall not change its Planned Outage schedule without Buyer's approval, not to be unreasonably withheld, conditioned or delayed. Seller shall use its best efforts in accordance with Prudent Operating Practices not to schedule Planned Outages during the period of April 1st through October 31st. Seller shall not substitute Energy from any other source for the output of the Project during a Planned Outage.

(b) In addition to Planned Outages, Seller shall use Commercially Reasonable Efforts to promptly notify Buyer of any Forced Outage lasting for more than sixty (60) consecutive minutes. Such Notices shall contain information describing the nature of the Forced Outage, the beginning date and time of such Forced Outage, the expected end date and time of such Forced Outage, the amount of Energy that Seller expects will be provided to the Delivery Point during such Forced Outage, and any other information reasonably requested by Buyer. With respect to any such Forced Outage, Seller shall provide Buyer with such Notice by any reasonable means requested by Buyer, including by telephone or electronic mail.

3.16 ***Operations Logs and Access Rights.***

(a) Seller shall maintain a complete and accurate log of all material operations and maintenance information on a daily basis. Such log shall include, but not be limited to, information on power production, efficiency, availability, maintenance performed, Planned Outages, Forced Outages, results of inspections, manufacturer recommended services, replacements, electrical characteristics of the generators, control settings or adjustments of equipment and protective devices. Seller shall maintain this information for at least two (2) years and, to the extent consistent with Applicable Law, shall provide this information electronically to Buyer within fifteen (15) days of Buyer's reasonable request.

(b) Buyer, its authorized agents, employees or inspectors shall have the right to visit the Site up to five (5) times per calendar year during normal business hours upon reasonable advance Notice and for any purposes reasonably connected with this Agreement; *provided,* that Buyer shall observe all applicable Project safety rules that Seller has communicated to Buyer; provided further, that Buyer, subject to and without waiving its rights to sovereign immunity under Florida Statutes, shall indemnify Seller for damage to property or injury to persons to the extent caused by the negligent or wrongful act or omission of Buyer, its authorized agents, employees, contractors, inspectors and other representatives while Buyer or such authorized individuals are at the Site or the Project. Buyer may request additional Site visits with Seller's consent, which shall not be unreasonably withheld, conditioned, or delayed.

3.17 *Forecasting.*

(a) Seller shall provide Buyer with forecasts of the delivery of Energy under this Agreement as described below. Such forecasts shall include the updated status of all Project equipment that may impact availability and production of Product, and other information reasonably requested by Buyer. Seller shall use Commercially Reasonable Efforts to forecast daily by 5:00 a.m. (EDT) the hourly delivery of Energy under this Agreement accurately and to transmit such information in the format agreed to by the Parties as set forth in the Operating Procedures. Buyer and Seller shall agree upon reasonable changes to the requirements and procedures set forth below from time-to-time, as necessary to accommodate changes to operating and scheduling procedures of Buyer and will document such updated requirements and procedures in the Operating Procedures.

(b) No later than: (i) forty-five (45) Days prior to the commencement of the first Contract Year; and (ii) September 1 of each calendar year for every subsequent Contract Year, Seller shall provide to Buyer a non-binding forecast of the hourly delivery of Energy under this Agreement for an average day in each month of the following calendar year in a form reasonably acceptable to Buyer.

(c) Ten (10) Business Days before the commencement of the first Contract Year, and thereafter ten (10) Business Days before the beginning of each month during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of the hourly energy deliveries under this Agreement for each day of the following month in a form reasonably acceptable to Buyer.

(d) No later than 5:00 a.m. of each day, Seller shall provide Buyer a non-binding forecast of hourly Energy deliveries under this Agreement for the remainder of such day and the following seven (7) days in a form reasonably acceptable to Buyer. Each such Notice shall clearly identify, for each hour, Seller's forecast of all deliveries of Energy pursuant to this Agreement. In the event that Seller foresees that actual deliveries under this Agreement for any hour will be materially different than a forecast previously provided for such day, Seller shall, as soon as reasonably possible, provide Notice to Buyer of such change and an updated forecast.

3.18 *Weather Station.*

(a) No later than sixty (60) Days prior to the Commercial Operation Date, Seller, at its own expense, shall install and maintain at least one stand-alone meteorological station at the Site to monitor, measure, communicate and report the meteorological data required under Section 3.18(b). Seller shall maintain and replace the meteorological station as necessary to provide accurate data with respect to the location of the Project.

(b) Upon the Commercial Operation Date, and continuing through the end of the Delivery Term, Seller shall record and maintain the following data:

(i) real and reactive power production by the Project for each hour;

(ii) changes in operating status, outages and maintenance events;

(iii) any unusual conditions found during inspections;

(iv) any significant events related to the operation of the Project; and

(v) fifteen (15) minute and hourly time-averaged measurements from data samples at sixty (60) seconds or greater frequency for the following parameters at the Project: total global horizontal irradiance, total global radiation within the plane of the array, air temperature, relative humidity, wind direction and speed, back of module surface temperature, and other pertinent meteorological conditions.

(c) Buyer shall have real-time access to the required meteorological data at a frequency not to exceed every fifteen (15) minutes. Seller shall provide Buyer a report within thirty (30) days after the end of each month that provides the foregoing information for such month as well as any other additional information that Buyer reasonably requests regarding conditions at the Site and the operation of the Project that is collected and maintained by Seller in the ordinary course of Project operations.

(d) Seller shall make available to Buyer all data from any weather monitoring portals Seller elects to install at the Site.

(e) Subject to procedures agreed upon in the Operating Procedures, Buyer shall have the right to install equipment and associated communication infrastructure to enable Buyer to monitor, measure and communicate pertinent operation and weather data.

3.19 ***Compliance Cost Cap.***

Costs applicable to the Compliance Cost Cap are only those costs applicable under the definition of "Compliance Costs" and are new costs associated with a Change of Law occurring after the Effective Date. The Parties agree that the Compliance Costs Seller shall be required to bear during the Delivery Term shall be capped annually at $[redacted] per MW of Installed Capacity and in the aggregate throughout the Delivery Term at $[redacted] per MW of Installed Capacity (collectively, the "**Compliance Cost Cap**"). In the event and to the extent that the Compliance Costs incurred by Seller exceed the Compliance Cost Cap, Buyer shall either reimburse Seller for such Compliance Costs that exceed the Compliance Cost Cap, or excuse Seller from performing the obligations of this Agreement that would otherwise cause it to incur Compliance Costs in excess of the Compliance Cost Cap. Within sixty (60) Days after the Change of Law that Seller anticipates will cause it to incur Compliance Costs in excess of the Compliance Cost Cap, Seller shall provide to Buyer Notice with an estimate of the expected annual Compliance Costs caused by such Change of Law. Within thirty (30) Days of the delivery of such Notice with the estimate, Buyer shall provide Seller Notice of (i) Buyer's request for Seller to incur the Compliance Costs in excess of the Compliance Cost Cap, (ii) Buyer's initiation of dispute resolution under ARTICLE 17, or (iii) Buyer's waiver of Seller's performance of such obligations.

3.20 *Production Guarantee.*

Seller shall cause the Project to be operated in accordance with Prudent Operating Practices. Seller guarantees that the Delivered Energy will equal or exceed the Annual Energy Output Guarantee of Energy in at least one of every two rolling Contract Years. If there is a Production Shortfall in any two rolling consecutive Contract Years, then Seller shall owe Buyer liquidated damages in an amount equal to (i) the Production Shortfall that occurred in the later of the two relevant Contract Years, multiplied by (ii) the Damages Rate (the "**Production Guarantee Damages**").

ARTICLE 4
PROJECT DESIGN AND CONSTRUCTION

4.1 *Project Development.*

Seller, at no cost to Buyer shall:

(a) Design and construct the Project.

(b) Establish and maintain interconnection rights for the Project that permit the full Expected Project Capacity to interconnect to the Transmission System in compliance with the Transmission Provider's transmission tariff and the Interconnection Agreement.

(c) Acquire all material Governmental Approvals for the construction, operation, and maintenance of the Project.

(d) Complete any environmental impact studies necessary for the construction, operation, and maintenance of the Project.

(e) At Buyer's reasonable request, provide to Buyer Seller's electrical specifications and design drawings pertaining to the Project.

(f) Within thirty (30) days after each calendar quarter following the Effective Date until the Commercial Operation Date, provide to Buyer a construction progress report substantially in the form attached in Exhibit L advising Buyer of the current status of the Project, the status of obtaining required Governmental Approvals, any significant developments or delays along with an action plan for making up delays, and Seller's best estimate of the Commercial Operation Date.

4.2 *Commercial Operation.*

(a) Seller shall cause the Project to achieve the Commercial Operation Date by the Target Commercial Operation Date, unless extended in accordance with Section 4.2(b).

(b) Permitted Extensions to the Target Commercial Operation Date are as follows (the "**Permitted Extensions**"):

(i) The Target Commercial Operation Date may be extended on a day-for-day basis for a cumulative period equal to [redacted]) days if Seller has used Commercially Reasonable Efforts to have the Project physically interconnected to the Transmission System and to complete all Transmission Owner's Interconnection Facilities, if any, but such interconnection or Transmission Owner's Interconnection Facilities cannot be completed by the Target Commercial Operation Date for reasons beyond Seller's reasonable control and Seller has worked diligently to resolve the delay ("**Interconnection Delay**");

(ii) The Target Commercial Operation Date may be extended on a day-for-day basis for a cumulative period equal to no more than [redacted] days if Seller has used commercially reasonable efforts to obtain permits necessary for the construction and operation of the Project, but is unable to obtain such permits and Seller has worked diligently to resolve the delay ("**Permitting Delay**");

(iii) The Target Commercial Operation Date may be extended on a day-for-day basis for a cumulative period equal to no more than [redacted] days in the event of Force Majeure ("**Force Majeure Extension**"); provided that Seller works diligently to resolve the effect of the Force Majeure and provides evidence of its efforts promptly to Buyer upon Buyer's written request; and

(iv) The Target Commercial Operation Date may be extended on a day-for-day basis for each day Buyer is liable to Seller for Transmission Delay Damages pursuant to Section 4.3(b).

(c) Notwithstanding the foregoing, if Seller claims more than one Permitted Extension under Section 4.2(b)(i)-(iii), such extensions cannot cumulatively exceed [redacted] days and all Permitted Extensions taken shall be concurrent, rather than consecutive, during any overlapping days.

(d) If Seller claims a Permitted Extension, Seller shall provide Buyer Notice sixty (60) Days prior to the Target Commercial Operation Date, which Notice must clearly identify the Permitted Extension being claimed and include information necessary for Buyer to verify the length and qualification of the extension; provided that, in the event sixty (60) Days is impracticable or impossible, Seller shall provide as much advanced Notice as is reasonably possible.

4.3 ***Cure Period and Delay Damages.***

(a) Seller shall cause the Project to achieve the Commercial Operation Date by the Target Commercial Operation Date. If the Commercial Operation Date occurs after the Target Commercial Operation Date after giving effect to Permitted Extensions and for reasons other than Buyer's failure to obtain transmission service by the Transmission Service Deadline in accordance with Section 3.8(b), then Buyer shall be entitled to draw upon the Seller's Performance Assurance for liquidated damages equal to Daily Delay Damages for each day or portion of a day that the Commercial Operation Date occurs after the Target Commercial Operation Date after giving effect to Permitted Extensions until the earlier of (i) the date that is [redacted] days after such date, and (ii) the Commercial Operation Date (the "**Project Cure Period**").

(b) Beginning on the Transmission Service Deadline, in the event that Buyer's failure to obtain transmission service in accordance with Section 3.8(b) results in Buyer's inability to receive Delivered Energy, then, subject to Section 4.3(c), Buyer shall owe Seller liquidated damages equal to the Transmission Delay Damages for each day or portion of a day that Buyer fails to receive such Delivered Energy.

(c) Notwithstanding Buyer's failure to obtain transmission service pursuant to Section 3.8(b) and resulting inability to receive all or part of the Delivered Energy, Seller shall use Commercially Reasonable Efforts to commence operations and deliver electricity from the Project, which shall include, if available, selling the Project output to a utility pursuant to the Public Utility Regulatory Policies Act.

(d) Transmission Delay Damages shall be calculated as follows: (i) to the extent Seller sells electricity from the Project to a third party in accordance with Section 4.3(c), Buyer shall pay Seller only the positive difference between the Contract Price and sums received from the utility for any electricity sold pursuant to this Section 4.3; (ii) to the extent Seller is unable to deliver or sell any electricity that the Project is capable of generating despite using Commercially Reasonable Efforts as a result of Buyer's failure to obtain transmission service, Buyer shall pay Seller the full Contract Price for such electricity. In addition, in calculating the Transmission Delay Damages, Buyer shall pay Seller any reasonably incurred and documented costs corresponding to its efforts to sell the Delivered Energy to a third party. For the avoidance of doubt, Buyer shall also be liable to Seller pursuant to Section 11.3 to the extent Buyer's failure to obtain transmission service results in the full or partial loss or recapture of Tax Attributes.

(e) Each Party agrees and acknowledges that (i) the damages that the other Party would incur due to the delays described in this Section 4.3 would be difficult or impossible to predict with certainty and (ii) the Daily Delay Damages and Transmission Delay Damages are an appropriate approximation of such damages.

4.4 *Project Capacity, Default Commercial Operation Date, and Termination Option.*

(a) Seller shall provide Notice to Buyer no later than thirty (30) days prior to the Default Commercial Operation Date if it anticipates a Capacity Shortfall. Seller shall then provide Notice to Buyer no later than ten (10) Business Days after the Default Commercial Operation Date of the actual Capacity Shortfall, if any. Buyer shall have twenty (20) days after receipt of such notice to either: (i) elect to waive the obligation of Seller to complete the Capacity Shortfall, and neither Party shall have any further obligations with respect to the development, sale, delivery, receipt, or purchase of the Capacity Shortfall (the "**Termination Option**"); or (ii) elect to purchase any amount of Capacity Shortfall that achieves Commercial Operation in accordance with the terms of this Agreement after the Default Commercial Operation Date at the Option Price (the "**Continuation Option**"). For avoidance of doubt, the Agreement shall remain in full force and effect at the Contract Price with respect to any Project capacity that achieved Commercial Operation as of the Default Commercial Operation Date.

(b) If Buyer elects the Continuation Option, then Seller shall continue to pursue Commercial Operation of any Capacity Shortfall. If there remains a Capacity Shortfall as of the Commercial Operation Date, Seller shall then provide Notice to Buyer no later than ten (10) Business Days after the Commercial Operation Date specifying the Installed Capacity. Subject to

Seller's payment of both the Capacity Shortfall Damages as provided below and all applicable Daily Delay Damages pursuant to Section 4.3, the Seller's Performance Assurance will be reduced to reflect the Installed Capacity and all of Seller's Performance Assurance posted in excess of such Installed Capacity shall be promptly returned to Seller. Seller shall pay Buyer, as liquidated damages and not as a penalty, an amount (the "**Capacity Shortfall Damages**") equal to (i) (1) the Capacity Shortfall as of the Commercial Operation Date, in MW, multiplied by (2) $[redacted] per MW, minus (ii) all Daily Delay Damages previously paid by Seller to Buyer for such amount of Capacity Shortfall.

(c) Each Party agrees and acknowledges that (i) the damages that Buyer would incur due to the Capacity Shortfall would be difficult or impossible to predict with certainty, and (ii) the Capacity Shortfall Damages is an appropriate approximation of such damages. In order to satisfy the Capacity Shortfall Damages, Buyer shall have the right to immediately draw upon and apply the Seller's Performance Assurance to the payment of the Capacity Shortfall Damages. Seller's payment of the Capacity Shortfall Damages hereunder shall constitute Buyer's sole remedy for Seller's failure to achieve Commercial Operation of the Capacity Shortfall.

ARTICLE 5
METERING AND MEASUREMENT

5.1 *Metering System.*

The Parties shall ensure the Metering System is designed, located, constructed, installed, owned, operated and maintained in accordance with the Interconnection Agreement and Prudent Operating Practices in order to measure and record the amount of Energy delivered from the Project to the Delivery Point. The meters shall be of a mutually acceptable accuracy range and type. Seller shall be responsible for the cost of all metering that will be installed, owned, operated and maintained by the Meter Owner for the purpose of determining the amount of Energy delivered to the Delivery Point. Except in the event of a System Emergency or any order of a Governmental Authority, no one other than the Meter Owner shall make adjustments to the Metering System without the written consent of Meter Owner, which consent shall not be unreasonably withheld, conditioned or delayed. If Buyer is the Meter Owner, then Seller, may, at its own cost, install additional meters or other such facilities, equipment or devices on Seller's side of the Delivery Point as Seller deems necessary or appropriate to monitor the measurements of the Metering System; provided, however, that in all cases Buyer will be entitled to rely upon its own Metering System.

5.2 *Inspection and Adjustment.*

(a) The Meter Owner shall inspect and test the Metering System at such times as will conform to Prudent Operating Practices, but not less often than every Contract Year. Upon reasonable written request to the Meter Owner, the other Party may request, at its own expense, inspection or testing of any such meters more frequently than once every Contract Year.

(b) If any seal securing the metering is found broken, if the Metering System fails to register, or if the measurement made by a metering device is found upon testing to vary by more than one percent (1.0%) from the measurement made by the standard meter used in the test, an adjustment shall be made correcting all measurements of energy made by the Metering System during: (i) the actual period when inaccurate measurements were made by the Metering System, if that period can be determined to the mutual satisfaction of the Parties; or (ii) if such actual period cannot be determined to the mutual satisfaction of the Parties, the second half of the period from the date of the last test of the Metering System to the date such failure is discovered or such test is made ("**Adjustment Period**"). If the Parties are unable to agree on the amount of the adjustment to be applied to the Adjustment Period, the amount of the adjustment shall be determined: (A) by correcting the error if the percentage of error is ascertainable by calibration, tests or mathematical calculation; or (B) if not so ascertainable, by estimating on the basis of deliveries made under similar conditions during the period since the last test. Within thirty (30) Days after the determination of the amount of any adjustment, Buyer shall pay Seller any additional amounts then due for deliveries of Energy during the Adjustment Period or Buyer shall be entitled to a credit against any subsequent payments for Energy, as the case may be.

(c) The Parties and their representatives shall be entitled to be present at any test, inspection, maintenance, adjustments and replacement of any part of the Metering System relating to obligations under this Agreement and the Meter Owner shall use commercially reasonable efforts to provide no less than ten (10) Business Days' prior notice of any such test, inspection or other event.

ARTICLE 6
EARLY TERMINATION

6.1 *Early Termination.*

(a) In addition to applicable termination rights otherwise expressly provided in this Agreement, this Agreement may be terminated prior to the expiration of the Term as follows:

(i) By Seller within thirty (30) days after receipt of the final facilities study report from the Transmission Owner, if the estimated cost of Transmission Owner's Interconnection Facilities (as identified by the Transmission Owner) exceeds [redacted]) and Buyer has not agreed in writing to reimburse Seller for any overages;

(ii) By Seller if an Interconnection Agreement in form and substance satisfactory to Seller, in its sole commercially reasonable discretion, is not executed on or before on or before December 31, 2022 or

(iii) By Seller, in the event that Seller has not obtained the necessary fee, leasehold or other title to or interest in the Site and all Governmental Approvals necessary to construct and operate the Project in the manner contemplated by this Agreement and which are final and no longer subject to appeal or legal challenge, on or before September 30, 2022; *provided* that Seller gives Buyer Notice of such termination within fifteen (15) Days after such date.

(b) Notwithstanding any provision of this Agreement to the contrary, in the event of termination pursuant to this Section 6.1, the Parties shall be released and discharged from any obligations arising or accruing hereunder from and after the date of such termination and shall not incur any additional liability to each other as a result of such termination, *provided* that such termination shall not discharge or relieve either Party from any obligation that has accrued prior to such termination or otherwise limit the survival provisions set forth in Section 19.1.

ARTICLE 7
EVENTS OF DEFAULT

7.1 *Events of Default.*

An "**Event of Default**" shall mean,

(a) with respect to a Party that is subject to the Event of Default the occurrence of any of the following:

(i) the failure by such Party to make, when due, any payment required pursuant to this Agreement and such failure is not remedied within ten (10) Business Days after Notice thereof;

(ii) the failure by such Party to satisfy, when due, any Performance Assurance requirements within ten (10) Business Days after receipt of Notice of such failure;

(iii) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated, and such default is not remedied within thirty (30) Days after Notice thereof;

(iv) the failure by such Party to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default) and such failure is not remedied within thirty (30) Days after Notice thereof; provided, however, that if such failure is not reasonably capable of being remedied within the thirty (30) Day cure period, such Party shall have such additional time (not exceeding an additional ninety (90) Days) as is reasonably necessary to remedy such failure, so long as such Party promptly commences and diligently pursues such remedy;

(v) such Party becomes Bankrupt;

(vi) such Party assigns this Agreement or any of its rights hereunder other than in compliance with Section 14.1;

(vii) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of Law or pursuant to an agreement reasonably satisfactory to the other Party; or

(b) with respect to Buyer as the Defaulting Party, the failure to obtain firm transmission service sufficient to receive the Delivered Energy at the Delivery Point in accordance with Section

3.13(b) by the Transmission Service Deadline, except to the extent Buyer secures interim transmission service sufficient to receive the Delivered Energy from the Transmission Service Deadline at the Delivery Point that becomes firm transmission service no later than the Default Commercial Operation Date; or

(c) with respect to Seller as the Defaulting Party, the occurrence of any of the following:

(i) if at any time, Seller delivers or attempts to deliver to the Delivery Point for sale under this Agreement Energy or Environmental Attributes that was not generated by or associated with the Project; or

(ii) Seller Abandons the Project.

7.2 *Remedies; Declaration of Early Termination Date.*

If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party ("**Non-Defaulting Party**") shall have the right to one or more of the following:

(a) send Notice, designating a day, no earlier than the day such Notice is deemed to be received and no later than twenty (20) days after such Notice is deemed to be received, as an early termination date of this Agreement ("**Early Termination Date**");

(b) collect in connection with such Early Termination Date a Termination Payment;

(c) accelerate all amounts owing between the Parties and end the Delivery Term effective as of the Early Termination Date;

(d) withhold any payments due to the Defaulting Party under this Agreement;

(e) suspend performance; and

(f) exercise its rights pursuant to Section 9.3 to draw upon and retain Performance Assurance.

7.3 *Termination Payment.*

On or as soon as reasonably practicable following the occurrence of an Early Termination Date, the Non-Defaulting Party will calculate the Termination Payment, which shall equal the Settlement Amount, net of any sums owed by the Non-Defaulting Party to the Defaulting Party. If the Termination Payment calculation yields a positive number, then the Defaulting Party shall owe the Termination Payment to the Non-Defaulting Party. If the Termination Payment calculation results in a negative number, then the Termination Payment shall be zero. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, the Settlement Amount as of the Early Termination Date. Third parties supplying information for purposes of the calculation of Gains or Losses may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. The Settlement Amount shall not include consequential, incidental, punitive, exemplary, indirect or business interruption damages; provided, however, that any lost Environmental Attributes shall be deemed direct damages covered by this Agreement. Without prejudice to the Non-Defaulting Party's duty to mitigate, the Non-Defaulting Party shall not have to enter into replacement transactions to establish a Settlement Amount. Each Party agrees and acknowledges that (a) the actual damages that the Non-Defaulting Party would incur in connection with the termination of this Agreement would be difficult or impossible to predict with certainty, (b) the Termination Payment described in this section is a reasonable and appropriate approximation of such damages, and (c) the Termination Payment described in this section is the exclusive remedy of the Non-Defaulting Party in connection with the termination of this Agreement but shall not otherwise act to limit any of the Non-Defaulting Party's rights or remedies if the Non-Defaulting Party does not elect to terminate this Agreement as its remedy for an Event of Default by the Defaulting Party.

7.4 ***Notice of Payment of Termination Payment.***

As soon as practicable after a designation of the Early Termination Date, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment and whether the Termination Payment is due to the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount and the sources for such calculation. The Termination Payment shall be made to the Non-Defaulting Party, as applicable, within ten (10) Business Days after such Notice is effective.

7.5 ***Disputes with Respect to Termination Payment.***

If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall, within five (5) Business Days of receipt of the Non-Defaulting Party's calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. Disputes regarding the Termination Payment shall be determined in accordance with ARTICLE 17. The Defaulting Party shall pay all undisputed portions of the Termination Payment and provide Performance Assurance equal to the disputed portion until final resolution of the dispute.

7.6 ***Rights and Remedies Are Cumulative.***

Except where liquidated damages are provided as the exclusive remedy, the rights and remedies of a Party pursuant to this ARTICLE 7 shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

7.7 ***Mitigation.***

Any Non-Defaulting Party shall be obligated to use Commercially Reasonable efforts to mitigate its Costs and Losses resulting from any Event of Default of the other Party under this Agreement.

ARTICLE 8
PAYMENT

8.1 ***Billing and Payment.***

On or about the tenth (10^{th}) day of each month beginning with the month following the Initial Energy Delivery Date and every month thereafter, and continuing through and including the first month following the end of the Delivery Term, Seller shall provide to Buyer an invoice covering the Product delivered in the preceding month determined in accordance with Article 4 (which may include preceding months), with all component charges and unit prices identified and all calculations used to arrive at invoiced amounts described in reasonable detail. Buyer shall pay the undisputed amount of such invoices on or before thirty (30) Days after date of the invoice. If either the invoice date or payment date is not a Business Day, then such invoice or payment shall be provided on the next following Business Day. Each Party will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any undisputed amounts not paid by the due date will be deemed delinquent and will accrue interest at the Interest Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full. Invoices may be sent by regular mail, facsimile, or e-mail.

8.2 *Disputes and Adjustments of Invoices.*

A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Interest Rate from and including the original due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived if the other Party is not notified in accordance with this Section 8.2 within twelve (12) months after the invoice is rendered or subsequently adjusted, except to the extent any misinformation was from a third party not Affiliated with any Party and such third party corrects its information after the twelve-month period. If an invoice is not rendered within twelve (12) months after the close of the month during which performance occurred, the right to payment for such performance is waived.

ARTICLE 9
INSURANCE, CREDIT AND COLLATERAL REQUIREMENTS

9.1 *Insurance.*

In connection with Seller's performance of its duties and obligations under this Agreement, during the Delivery Term, Seller shall maintain insurance in accordance with Exhibit G.

9.2 *Grant of Security Interest.*

To the extent a PA Provider delivers Performance Assurance hereunder, it hereby grants to the other Party (the "**PA Beneficiary**") a present and continuing first priority security interest in, and lien on (and right of setoff against), and assignment of, all cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, the PA Beneficiary, and each Party agrees to take such action as the other Party reasonably requires in order to perfect the PA Beneficiary's first-priority security interest in, and lien on (and right of setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof. Upon or any time after the occurrence and during the continuation of an Event of Default by the PA Provider or an Early Termination Date as a result thereof, the PA Beneficiary may do any one or more of the following: (i) exercise any of the rights and remedies of a secured party with respect to all Performance Assurance, including any such rights and remedies under Applicable Law then in effect; (ii) exercise its rights of setoff against such collateral and any and all proceeds resulting therefrom or from the liquidation thereof; (iii) draw on any outstanding Letter of Credit issued for its benefit; and (iv) liquidate all or any portion of any Performance Assurance then held by or for the benefit of the PA Beneficiary free from any claim or right of any nature whatsoever of PA Provider, including any equity or right of purchase or redemption. PA Beneficiary shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce the PA Provider's obligations under the Agreement (the PA Provider remaining liable for any amounts owing to the PA Beneficiary after such application), subject to PA Beneficiary's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

9.3 ***Performance Assurance.***

(a) <u>Seller's Performance Assurance</u>. Seller agrees to deliver to Buyer and thereafter maintain in full force and effect for the remainder of the Term, Performance Assurance in the amount of [redacted] dollars per MW ($[redacted]/MW) of Buyer's Share of the Expected Project Capacity or Installed Capacity, as applicable, within thirty (30) Days following the Effective Date.

(b) <u>Buyer's Performance Assurance</u>. If Buyer is not a Creditworthy Entity as of the Effective Date or at any time after the Effective Date is subject to a Downgrade Event, then, within thirty (30) days after the Effective Date or Downgrade Event, as applicable, and for such periods as Buyer is not a Creditworthy Entity, Buyer shall provide Seller with Performance Assurance in the amount of [redacted] dollars per MW ($[redacted] MW) of Buyer's Share of the Expected Project Capacity or Installed Capacity, as applicable.

(i) If at any time during the Term Buyer becomes a Creditworthy Entity, then Buyer will not be required to provide Buyer's Performance Assurance and Seller shall refund any unused portion of Buyer's Performance Assurance within thirty (30) Days of receipt of Notice and verification of its status as a Creditworthy Entity.

(c) Any sum due under this Agreement (other than disputed amounts) and not satisfied within thirty (30) Days of becoming due and owing may be satisfied by a Party by a draw on Performance Assurance until such Performance Assurance has been exhausted. In addition, upon termination, a Party shall have the right to draw upon Performance Assurance for any undisputed amounts owed under this Agreement if not paid when due pursuant to Section 8.1. Performance Assurance shall not be subject to replenishment.

(d) A PA Beneficiary shall pay interest on cash held as Performance Assurance at the Prime Rate.

(e) If, during the Term, there shall occur a Downgrade Event in respect to a Party's Guarantor, then the applicable PA Provider shall deliver to the PA Beneficiary replacement Performance Assurance within ten (10) Days of such Downgrade Event.

(f) A Party's obligation to maintain Performance Assurance shall terminate upon the occurrence of the following: (i) the Term of the Agreement has ended, or an the Agreement has been terminated pursuant to Section 7.2, as applicable; and (ii) all payment obligations of the PA Provider arising under this Agreement, Termination Payment, indemnification payments or other damages are paid in full. Upon the occurrence of the foregoing, each Party shall promptly return to the other Party the unused portion of the applicable Performance Assurance, including the payment of any interest due thereon.

(g) Any Letter of Credit provided pursuant to this Agreement must provide, among other things, that the PA Beneficiary is entitled to draw the full amount of such Letter of Credit if: (i) the Letter of Credit has not been renewed or replaced within thirty (30) days prior to the expiration date of the Letter of Credit; or (ii) the issuer of the Letter of Credit fails to maintain a credit rating of at least A- from S&P and a rating of at least A3 from Moody's and the Party required to provide the Letter of Credit has failed, within ten (10) Business Days after receipt of Notice thereof by the PA Beneficiary to replace such Letter of Credit with another Letter of Credit, in a form reasonably acceptable to the issuer of the Letter of Credit and PA Beneficiary. Costs of a Letter of Credit shall be borne by the PA Provider.

ARTICLE 10
REPRESENTATIONS, WARRANTIES AND COVENANTS

10.1 *Representations and Warranties.*

On the Effective Date, each Party represents and warrants to the other Party that:

(a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

(b) it has or will obtain in accordance herewith all Governmental Approvals necessary for it to perform its obligations under this Agreement, other than those Governmental Approvals that are not required to be obtained, and, as to Seller, all Governmental Approvals and all rights, title and interest in and to the Site and as otherwise necessary to construct, operate and maintain the Project and related interconnection facilities, as of the Effective Date;

(c) the execution, delivery and performance of this Agreement is within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any Applicable Law;

(d) this Agreement and each other document executed and delivered in accordance with this Agreement constitutes a legally valid and binding obligation enforceable against it in accordance with its terms, subject to any Equitable Defenses;

(e) it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt;

(f) except as may be set forth in its reports filed with the SEC, there is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could reasonably be expected to materially adversely affect its ability to perform its obligations under this Agreement; and

(g) it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement.

10.2 ***General Covenants.***

Each Party covenants that throughout the Term:

(a) it shall continue to be duly organized, validly existing and in good standing under the Applicable Laws of the jurisdiction of its formation;

(b) it shall maintain (or obtain from time to time as required, including through renewal, as applicable) all Governmental Approvals necessary for it to legally perform its obligations under this Agreement; and

(c) it shall perform its obligations under this Agreement in a manner that does not violate any of the terms and conditions in its governing documents, any material contracts to which it is a party or any Applicable Law or Governmental Approval.

10.3 ***Seller Covenants.***

Seller covenants as follows:

(a) that, from the Initial Energy Delivery Date through the expiration or termination of this Agreement, the Project shall be operated and maintained in all material respects in accordance with this Agreement, Applicable Laws, Governmental Approvals and Prudent Operating Practices; and

(b) throughout the Term that it, or its permitted successors or assigns, shall maintain ownership of a fee, easement, long-term leasehold interest, or other similar asset ownership interest in the Project.

10.4 ***Buyer's Covenants.***

Buyer covenants as follows:

(a) from the date hereof through the expiration or termination of this Agreement, Buyer shall comply in all material respects with this Agreement and Applicable Laws.

(b) Buyer will, at Seller's expense, reasonably cooperate with Seller in opposing, and will not support any action of any regulatory body having jurisdiction thereover that could result in the modification or vitiation of any of the terms or conditions hereof or have any other material adverse effect on Seller, the Project or this Agreement.

(c) Buyer shall not treat this Agreement for tax purposes as a lease of the Project rather than a service contract; Buyer shall not take an ownership interest in the Project during the first five (5) Contract Years following the Commercial Operation Date (for the avoidance of doubt, nothing in this Agreement permits Buyer to take an ownership interest in the Project); and Buyer shall not take any action or inaction in breach of this Agreement or otherwise fail to obtain transmission service in a manner that would prevent the Project from being placed in service for tax purposes prior to the Default Commercial Operation Date.

(d) Buyer's obligations under this Agreement shall qualify as operating expenses which enjoy first priority payment at all times under any and all bond or other ordinances or indentures to which Buyer is a party and shall be included as part of the rate calculations required by any rate-related debt covenants to which Buyer is bound.

(e) Buyer covenants that Buyer's obligations under this Agreement shall qualify as operating expenses which enjoy first priority payment at all times under any and all bond or other ordinances or indentures to which Buyer is a party relating to electric utility operations and shall be included as part of the rate calculations required by any rate-related debt covenants to which Buyer is bound.

(f) Buyer covenants that from the date hereof through the expiration or termination of this Agreement, Buyer shall (i) establish and maintain FMPA Solar Project Participant payment obligations pursuant to the FMPA Solar Project Power Sales Contracts at amounts sufficient to meet FMPA's costs and liabilities lawfully owed under this Agreement; (ii) deliver written Notice to Seller of (A) any defaults occurring under any FMPA Solar Project Power Sales Contract that are not cured by the applicable cure period and (B) any changes to the list of FMPA Solar Project Participants set forth in Exhibit K; and (iii) not agree to any amendment, modification or alteration of any FMPA Solar Project Power Sales Contract that would materially adversely affect the FMPA Solar Project Participant Covenants without the prior written consent of Seller, which consent shall not be unreasonably withheld, conditioned or delayed.

(g) Buyer shall enforce the provisions of the FMPA Solar Project Power Sales Contracts and duly perform its covenants and agreements thereunder; provided, however, that notwithstanding any provision of this Agreement to the contrary, in the event of the failure of an FMPA Solar Project Participant to observe the FMPA Solar Project Participant Covenants, such failure shall be considered a Downgrade Event (without limiting Events of Default) and the sole and exclusive remedy of Seller for such failure shall be the delivery by Buyer to Seller of

Performance Assurance in the form of a Letter of Credit or cash in an amount equal to the then applicable amount of Buyer's Performance Assurance.

(h) Buyer covenants that from the Effective Date through the expiration or termination of this Agreement, Buyer shall (i) establish and maintain FMPA Solar II Project Participant payment obligations pursuant to the FMPA Solar II Project Power Sales Contracts at amounts sufficient to meet FMPA's costs and liabilities lawfully owed under this Agreement; (ii) deliver written Notice to Seller of (A) any defaults occurring under any FMPA Solar II Project Power Sales Contract that are not cured by the applicable cure period and (B) any changes to the list of FMPA Solar II Project Participants set forth in Exhibit K; and (iii) not agree to any amendment of any FMPA Solar II Project Power Sales Contract that would materially adversely affect the FMPA Solar II Project Participant Covenants without the prior written consent of Seller, which consent shall not be unreasonably withheld, conditioned or delayed.

ARTICLE 11
TITLE, RISK OF LOSS, INDEMNITIES

11.1 *Title and Risk of Loss.*

Title to and risk of loss related to the Product shall transfer from Seller to Buyer at the Delivery Point. Seller warrants that it will deliver to Buyer the Product free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person arising prior to or at the Delivery Point.

11.2 *Indemnities by Seller.*

Seller shall release, indemnify, defend, and hold harmless Buyer, its Affiliates, and its and their directors, officers, employees, agents, and representatives against and from any and all actions, suits, losses, costs, damages, injuries, liabilities, claims, demands, penalties and interest, including reasonable costs and attorneys' fees ("**Claims**") resulting from, or arising out of or in any way connected with (i) any event, circumstance, act, or incident relating to the Product delivered under this Agreement up to and at the Delivery Point, (ii) Seller's development, permitting, construction, ownership, operation and/or maintenance of the Project, (iii) the failure by Seller or the failure of the Project to comply with Applicable Laws, (iv) any Governmental Charges for which Seller is responsible hereunder, or (v) any liens, security interests, encumbrances, or other adverse claims against the Product delivered hereunder made by, under, or through Seller, in all cases including, without limitation, any Claim for or on account of injury, bodily or otherwise, to or death of persons, or for damage to or destruction of property belonging to Buyer, Seller, or others, excepting only such Claim to the extent caused by the willful misconduct or gross negligence of Buyer, its Affiliates, and its and their directors, officers, employees, agents, and representatives.

11.3 *Indemnities by Buyer.*

To the fullest extent permitted by Florida law, subject to and without waiving its rights to sovereign immunity under Florida law, Buyer shall release, indemnify, defend, and hold harmless Seller, its Affiliates, and its and their directors, officers, employees, agents, and representatives against and from any and all Claims resulting from, or arising out of or in any way connected with (i) any event, circumstance, act, or incident relating to the Product received by Buyer under this Agreement after the Delivery Point, (ii) the failure by Buyer to comply with Applicable Laws, (iii) Buyer's breach of this Agreement, or (iv) any Governmental Charges for which Buyer is responsible hereunder, in all cases including, without limitation, any Claim for or on account of injury, bodily or otherwise, to or death of persons, or for damage to or destruction of property belonging to Buyer, Seller, or others, excepting only such Claim to the extent caused by the willful misconduct or gross negligence of Seller, its Affiliates, and its and their directors, officers, employees, agents, and representatives.

ARTICLE 12
GOVERNMENTAL CHARGES

12.1 *Cooperation.*

Each Party shall use reasonable efforts to implement the provisions of and to administer this Agreement in accordance with the intent of the Parties to minimize all taxes, so long as neither Party incurs any cost, expense, risk, obligation or liability or is otherwise materially adversely affected by such efforts.

12.2 *Governmental Charges.*

Seller shall pay or cause to be paid all taxes imposed by any governmental authority ("**Governmental Charges**") on or with respect to the Product or the transaction under this Agreement arising prior to and at the Delivery Point, including, but not limited to, ad valorem taxes and other taxes attributable to the Project, land, land rights or interests in land for the Project. Buyer shall pay or cause to be paid all Governmental Charges on or with respect to the Product or the transaction under this Agreement at and after the Delivery Point. In the event Seller is required by Applicable Law or regulation to remit or pay Governmental Charges which are Buyer's responsibility hereunder, Buyer shall promptly reimburse Seller for such Governmental Charges. If Buyer is required by Applicable Law or regulation to remit or pay Governmental Charges which are Seller's responsibility hereunder, Buyer may deduct such amounts from payments to Seller with respect to payments under the Agreement; if Buyer elects not to deduct such amounts from Seller's payments, Seller shall promptly reimburse Buyer for such amounts upon request. Nothing shall obligate or cause a Party to pay or be liable to pay any Governmental Charges for which it is exempt under Applicable Law.

ARTICLE 13
CONFIDENTIAL INFORMATION

13.1 *Confidential Information.*

(a) The Parties have and will develop certain information, processes, know-how, techniques and procedures concerning the Project that they consider confidential and proprietary (together with the terms and conditions of this Agreement, the "Confidential Information"). Notwithstanding the confidential and proprietary nature of such Confidential Information, the

Parties (each, the "**Disclosing Party**") may make such Confidential Information available to the other (each, a "**Receiving Party**") subject to the provisions of this Section 13.1.

(b) Upon receiving or learning of Confidential Information, the Receiving Party shall:

(i) Treat such Confidential Information as confidential and use reasonable care not to divulge such Confidential Information to any third party except as required by law, subject to the restrictions set forth below;

(ii) Restrict access to such Confidential Information to only those employees, subcontractors, suppliers, vendors, and advisors whose access is reasonably necessary for the development, construction, operation or maintenance of the Project and for the purposes of this Agreement who shall be bound by the terms of this Section 13.1;

(iii) Use such Confidential Information solely for the purpose of developing the Project and for purposes of this Agreement; and

(iv) Upon the termination of this Agreement, destroy or return any such Confidential Information in written or other tangible form and any copies thereof; provided, however, that either Party shall be entitled to keep a record copy of such information to the extent required by Florida law.

(c) The restrictions of this Section 13.1 do not apply to:

(i) Release of this Agreement or Confidential Information to any Governmental Authority required for obtaining any approval or making any filing pursuant to Sections 3.12 or 12.2, *provided* that each Party agrees to cooperate in good faith with the other to maintain the confidentiality of the provisions of this Agreement and the Confidential Information by requesting confidential treatment with all filings to the extent appropriate and permitted by Applicable Law;

(ii) Information which is, or becomes, publicly known or available other than through the action of the Receiving Party in violation of this Agreement;

(iii) Information which is in the possession of the Receiving Party prior to receipt from the Disclosing Party or which is independently developed by the Receiving Party, *provided* that the Person or Persons developing such information have not had access to any Confidential Information;

(iv) Information which is received from a third party which is not known (after due inquiry) by Receiving Party to be prohibited from disclosing such information pursuant to a contractual, fiduciary or legal obligation; and

(v) Information which is, in the reasonable written opinion of counsel of the Receiving Party, required to be disclosed pursuant to Applicable Law (including, without limitation, any request pursuant to Chapter 119 of the Florida Statutes, or other state or federal public records law, freedom of information act, or other similarly title law); *provided*, *however*, that the Receiving Party, prior to such disclosure, shall provide reasonable advance Notice to the Disclosing Party of the time and scope of the intended disclosure in order to provide the Disclosing Party an opportunity to obtain, at its sole expense, a protective order or otherwise seek to prevent, limit the scope of, or impose conditions upon such disclosure.

(d) Notwithstanding the foregoing, Seller may disclose Confidential Information to the Project Investors and any other financial institutions expressing an interest in providing equity or debt financing or refinancing and/or credit support to Seller, and the agent or trustee of any of them, any advisors, consultants, insurance providers, brokers of Seller, Project Investors or other financial institutions.

(e) Neither Party shall issue any press or publicity release or otherwise release, distribute or disseminate any information, with the intent that such information will be published (other than information that is, in the reasonable written opinion of counsel to the Disclosing Party, required to be distributed or disseminated pursuant to Applicable Law, *provided* that the Disclosing Party has given Notice to, and an opportunity to prevent disclosure by, the other Party as provided in Section 13.1(c)(v)), concerning this Agreement or the participation of the other Party in the transactions contemplated hereby without the prior written approval of the other Party, which approval will not be unreasonably withheld or delayed. This provision shall not prevent the Parties from releasing information which is required to be disclosed in order to obtain permits, licenses, releases and other approvals relating to the Project or as are necessary in order to fulfill such Party's obligations under this Agreement.

(f) The obligations of the Parties under this Section 13.1 shall remain in full force and effect for three (3) years following the expiration or termination of this Agreement.

ARTICLE 14
ASSIGNMENT

14.1 *Successors and Assigns; Assignment.*

(a) This Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns. This Agreement shall not be assigned or transferred by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed.

(b) Notwithstanding the foregoing, no consent shall be required for the following:

(i) Any assignment of this Agreement by Seller to any Project Investors as collateral security for obligations under the financing documents entered into with such Project Investors;

(ii) Any assignment by the Project Investors to a third party after the Project Investors have exercised their foreclosure rights with respect to this Agreement or the Project;

(iii) Any assignment or transfer of this Agreement by Seller to an Affiliate of Seller; or

(iv) Any assignment or transfer of this Agreement by Seller to a Person succeeding to all or substantially all of the assets of Seller, provided that such Person is a Qualified Transferee.

(c) An assignee shall be afforded no additional rights, interests or remedies beyond those specifically granted to the assignor in this Agreement. The Party seeking to assign or transfer this Agreement shall be solely responsible for paying all costs and expenses, including attorney's and advisor fees of any such assignment.

(d) Buyer acknowledges that upon an event of default under any financing documents relating to the Project, subject to receipt by Buyer of Notice, any of the Project Investors may (but shall not be obligated to) assume, or cause its designee or a new lessee or buyer of the Project that is a Qualified Transferee to assume, all of the interests, rights and obligations of Seller thereafter arising under this Agreement, provided that Buyer's interests, rights and obligations under this Agreement will remain in full force and effect.

(e) If the rights and interests of Seller in this Agreement shall be assumed, sold or transferred as herein provided, and the assuming party shall agree in writing to be bound by and to assume, the terms and conditions hereof and any and all obligations to Buyer arising or accruing hereunder from and after the date of such assumption, then Seller shall be released and discharged from the terms and conditions hereof and each such obligation hereunder from and after such date, and Buyer shall continue this Agreement with the assuming party as if such Person had been named as Seller under this Agreement. Notwithstanding any such assumption by any of the Project Investors or a designee thereof, Seller shall not be released and discharged from and shall remain liable for any and all obligations to Buyer arising or accruing hereunder prior to such assumption.

(f) The provisions of this ARTICLE 14 are for the benefit of the Project Investors as well as the Parties hereto, and shall be enforceable by the Project Investors as express third-party beneficiaries hereof. Buyer hereby agrees that none of the Project Investors, nor any bondholder or participant for whom they may act or any trustee acting on their behalf, shall be obligated to perform any obligation or be deemed to incur any liability or obligation provided in this Agreement on the part of Seller or shall have any obligation or liability to Buyer with respect to this Agreement except to the extent any of them becomes a party hereto pursuant to this ARTICLE 14.

14.2 *Collateral Assignment.*

(a) Seller, without approval of Buyer, may, by security, charge or otherwise encumber its interest under this Agreement in favor of a Project Investor for the purposes of financing the development, construction and/or operation of the Project and the Seller's Interconnection Facilities.

(b) Promptly after making such encumbrance, Seller shall notify Buyer in writing of the name, address, and telephone and facsimile numbers of each Project Investor to which Seller's interest under this Agreement has been encumbered. Such Notice shall include the names of the account managers or other representatives of the Project Investors to whom all written and telephonic communications should be addressed.

(c) After giving Buyer such initial Notice, Seller shall promptly give Buyer Notice of any change in the information provided in the initial Notice or any revised Notice.

(d) If Seller encumbers its interest under this Agreement as permitted by this Section 14.2, the following provisions shall apply:

(i) The Parties, except as provided by the terms of this Agreement, shall not modify or cancel this Agreement without the prior written consent of the Project Investors;

(ii) The Project Investors or their designees shall have the right, but not the obligation, to perform any act required to be performed by Seller under this Agreement to prevent or cure an Event of Default by Seller and such act performed by the Project Investors or their designees shall be as effective to prevent or cure an Event of Default as if done by Seller, provided that, if any such Project Investor or its designee elects to perform any act required to be performed by Seller under this Agreement to prevent or cure an Event of Default by Seller, Buyer will not be deemed to have waived or relinquished its rights and remedies as provided in this Agreement;

(iii) Buyer shall upon request by Seller execute statements certifying that this Agreement is unmodified (or, modified and stating the nature of the modification), in full force and effect and, to the knowledge of Buyer, the absence or existence (and the nature thereof) of Events of Default hereunder by Seller and documents of consent to such assignment to the encumbrance and any assignment to such Project Investors; and

(iv) Upon the receipt of a written request from Seller or any Project Investor, Buyer shall use Commercially Reasonable Efforts to execute, or arrange for the delivery of, such certificates, opinions and other documents as may be reasonably necessary in order for Seller to consummate any financing or refinancing of the Project or any part thereof and will enter into reasonable agreements with such Project Investor, which agreements will grant certain rights to the Project Investors as more fully developed and described in such documents, including (a) this Agreement shall not be terminated (except for termination pursuant to the terms of this Agreement) without the consent of Project Investor, which consent is not to be unreasonably withheld or delayed, (b) Project Investors shall be given notice of, and the opportunity to cure as provided in Section 14.2(d)(ii), any breach or default of this Agreement by Seller, (c) that if the Project Investor forecloses, take a deed in lieu of foreclosure or otherwise exercise its remedies pursuant to any security documents, then (i) Buyer shall, at Project Investor's request, continue to perform all of its obligations hereunder, and Project Investor or its nominee may perform in the place of Seller, and may assign this Agreement to another Person in place of Seller, provided that such other Person is a Qualified Transferee, (ii) Project Investor shall have no liability under this Agreement except during the period of such Project Investor's ownership or operation of the Project and (iii) that Buyer shall accept performance in accordance with this Agreement by Project Investor or its nominee, and (d) that Buyer shall make the same representations and warranties to Project Investor as Buyer made to Seller pursuant to this Agreement. The Parties agree that an agreement substantially in the form of Exhibit J shall be reasonable.

ARTICLE 15
FORCE MAJEURE

15.1 *Force Majeure Events.*

To the extent either Party is prevented by a Force Majeure Event from carrying out, in whole or part, its obligations under this Agreement and such Party gives Notice and details of the Force Majeure Event to the other Party as detailed below, then, the Party impacted by the Force Majeure Event shall be excused from the performance of its obligations to the extent impacted. As soon as practicable after commencement of a Force Majeure Event, the non-performing Party shall provide the other Party with oral notice of the Force Majeure Event, and within two (2) weeks of the commencement of a Force Majeure Event (or such longer period as reasonably required given the nature of the Force Majeure Event), the non-performing Party shall provide the other Party with Notice in the form of a letter describing in detail the particulars of the occurrence giving rise to the Force Majeure Event claim and the anticipated impact on the non-performing Party's ability to perform its obligations and the non-performing Party's anticipated plan to resume full performance of the obligations impacted by the Force Majeure Event. Seller shall not substitute Product from any other source for Buyer’s Share of the output of the Project during an outage resulting from a Force Majeure Event. The suspension of performance due to a claim of a Force Majeure Event must be of no greater scope and of no longer duration than is required by the Force Majeure Event. Buyer shall not be required to make any payments for any Product that Seller fails to schedule, deliver or provide as a result of a Force Majeure Event during the term of such Force Majeure Event.

15.2 *Extended Force Majeure Events.*

This Agreement may be terminated by either Party with no further obligation to the other Party if a Force Majeure Event prevents the performance of a material portion of the obligations hereunder and such Force Majeure Event is not resolved and full performance is resumed within twelve (12) months after the commencement of such Force Majeure Event, subject to Seller’s right to extend in this Section 15.2. If Seller is the non-performing Party due to damage to the Project caused by a Force Majeure Event, Seller shall have up to [redacted] Days following the start of such Force Majeure Event to obtain a report from an independent, third party engineer stating whether the Project is capable of being repaired or replaced within [redacted]) additional months from the date of the report. Seller shall promptly provide Buyer a copy of the engineer’s report at no cost to Buyer. If such engineer’s report concludes that the Project is capable of being repaired or replaced within such [redacted]) month period and Seller undertakes and continues such repair or replacement with due diligence, then Buyer shall not have the right to terminate this Agreement pursuant to this Section until the expiration of the period deemed necessary by the engineer’s report (not to exceed [redacted]) months), after which time, either Party may terminate by Notice to the other Party unless the Project has been repaired or replaced, as applicable, and the Seller has resumed and is satisfying its performance obligations under this Agreement.

ARTICLE 16
LIMITATIONS ON LIABILITY

16.1 ***Disclaimer of Warranties.***

EXCEPT AS SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED.

16.2 ***Limitations on Liability.***

THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED, UNLESS THE PROVISION IN QUESTION PROVIDES THAT THE EXPRESS REMEDIES ARE IN ADDITION TO OTHER REMEDIES THAT MAY BE AVAILABLE. EXCEPT FOR A PARTY'S INDEMNITY OBLIGATION IN RESPECT OF THIRD PARTY CLAIMS OR AS OTHERWISE EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. UNLESS EXPRESSLY HEREIN PROVIDED, AND SUBJECT TO THE PROVISIONS OF ARTICLE 11, IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

16.3 ***Buyer Liability.***

(a) This Agreement is a liability and financial obligation of the Solar II Project only. No liability or obligation under this Agreement shall inure to or bind any of the funds, accounts, monies, property, instruments, or rights of the Florida Municipal Power Agency generally, any individual FMPA member, or any of any other project designated by FMPA in accordance with Article II of the Interlocal Agreement.

(b) Each FMPA Solar II Project Participant has commitments under the FMPA Solar II Project Power Sales Contracts with regard to the payment obligations to the FMPA Solar II Project for all costs related to this Agreement in the event of a default by one or more other FMPA Solar II Project Participants, as more fully described in the Power Sales Contracts.

ARTICLE 17
DISPUTE RESOLUTION

17.1 *Intent of the Parties*

Except as provided in the next sentence, the sole procedure to resolve any claim arising out of or relating to this Agreement or any related agreement (a "**Dispute**") is the dispute resolution procedure set forth in this Article 12. Either Party may seek a preliminary injunction or other provisional judicial remedy if such action is necessary to prevent irreparable harm or preserve the status quo, in which case both Parties nonetheless will continue to pursue resolution of the Dispute by means of the dispute resolution procedure set forth in this ARTICLE 17.

17.2 *Management Negotiations*

(a) The Parties will attempt in good faith to resolve any Dispute by prompt negotiations between each Party's authorized representative designated in writing as a representative of the Party (each a "**Manager**"). Either Manager may, by Notice to the other Party, request a meeting to initiate negotiations to be held within ten (10) Business Days of the other Party's receipt of such request, at a mutually agreed time and place (either in person or telephonically). If the matter is not resolved within fifteen (15) Business Days of their first meeting ("**Initial Negotiation End Date**"), the Managers shall refer the matter to the designated senior officers of their respective companies that have authority to settle the dispute ("**Executives**"). Within five (5) Business Days of the Initial Negotiation End Date ("**Referral Date**"), each Party shall provide one another Notice confirming the referral and identifying the name and title of the Executive who will represent the Party.

(b) Within five (5) Business Days of the Referral Date, the Executives shall establish a mutually acceptable location and date, which date shall not be greater than thirty (30) Days from the Referral Date, to meet. After the initial meeting date, the Executives shall meet, as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute.

(c) All communication and writing exchanged between the Parties in connection with these negotiations shall be confidential and shall not be used or referred to in any subsequent binding adjudicatory process or judicial proceeding between the Parties. The Parties shall bear their respective costs, expenses and fees relating to the activities under this Section 17.2.

(d) If the matter is not resolved within forty-five (45) days of the Referral Date, or if the Party receiving the Notice to meet, pursuant to Section 17.2(a) above, refuses or does not meet within the ten (10) Business Day period specified in Section 17.2(a) above, and subject to Sections 16.2, 19.7 and 19.8 of this Agreement, either Party may pursue all remedies available to it at law or in equity. Venue for any action or proceeding shall be state and federal courts in Leon County, Florida.

17.3 *Specific Performance and Injunctive Relief.*

Each Party shall be entitled to seek a decree compelling specific performance with respect to, and shall be entitled, without the necessity of filing any bond, to seek the restraint by injunction of, any actual or threatened breach of any material obligation of the other Party under Article 13. The Parties in any action for specific performance or restraint by injunction agree that they shall each request that all expenses incurred in such proceeding, including, but not limited to, reasonable counsel fees, be apportioned in the final decision based upon the respective merits of the positions of the Parties.

ARTICLE 18
NOTICES

18.1 ***Notices.***

Whenever this Agreement requires or permits delivery of a "**Notice**" (or requires a Party to "notify"), the Party with such right or obligation shall provide a written communication in the manner specified in herein and to the addresses set forth below; provided, however, that Notices of Outages or other Scheduling or dispatch information or requests, shall be provided in accordance with the terms set forth in the relevant section of this Agreement or the Operating Procedures, as applicable. Invoices may be sent by facsimile or e-mail in addition to overnight mail or courier. A Notice sent by facsimile transmission or e-mail will be recognized and shall be deemed received on the Business Day on which such Notice was transmitted if received before 5:00 p.m. (and if received after 5:00 p.m., on the next Business Day) and a Notice of overnight mail or courier shall be deemed to have been received two (2) Business Days after it was sent or such earlier time as is confirmed by the receiving Party. Each Party shall provide Notice to the other Party of the persons authorized to nominate and/or agree to a Schedule or Dispatch Order for the delivery or acceptance of the Product or make other Notices on behalf of such Party and specify the scope of their individual authority and responsibilities, and may change its designation of such persons from time to time in its sole discretion by providing Notice.

If to Seller: FL Solar 7, LLC

800 Brickell Avenue, Suite 1100
Miami, FL 33131
Attn: President

With a copy to:
c/o Origis Energy
800 Brickell Avenue, Suite 1100
Miami, FL 33131
Attention: General Counsel

If to Buyer: Florida Municipal Power Agency

Chief Operating Officer
8553 Commodity Circle
Orlando, FL 32819
Telephone: 407-355-7767
Email: ken.rutter@fmpa.com

ARTICLE 19
MISCELLANEOUS

19.1 *Effectiveness of Agreement; Survival.*

This Agreement shall be in full force and effect, enforceable and binding in all respects as of the Effective Date until the conclusion of the Term or earlier termination pursuant to the terms of this Agreement; provided however, that the relevant provisions of this Agreement shall remain in effect until (i) the Parties have fulfilled all obligations under this Agreement, including payment in full of amounts due for the Product delivered prior to the end of the Term, the Settlement Amount, indemnification payments or other damages (whether directly or indirectly such as through set-off or netting) and (ii) the undrawn portion of Performance Assurance is released and/or returned as applicable (if any is due). Notwithstanding any provisions herein to the contrary, the obligations set forth in Sections 6.1(b) and 13.1 and ARTICLE 16, the indemnity obligations set forth in ARTICLE 11, and the limitations on liabilities set forth herein shall survive (in full force) the expiration or termination of this Agreement.

19.2 *Audits.*

Each Party has the right, at its sole expense and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any statement or payment will be made unless objection to the accuracy thereof was made prior to the lapse of twelve (12) months from the rendition thereof, and thereafter any objection shall be deemed waived except to the extent any misinformation was from a third party not affiliated with any Party and such third party corrects its information after such twelve (12)-month period.

19.3 *Amendments.*

This Agreement shall not be modified nor amended unless such modification or amendment shall be in writing and signed by authorized representatives of both Parties.

19.4 *Waivers.*

Failure to enforce any right or obligation by any Party with respect to any matter arising in connection with this Agreement shall not constitute a waiver as to that matter nor to any other matter. Any waiver by any Party of its rights with respect to a breach or default under this Agreement or with respect to any other matters arising in connection with this Agreement must be in writing. Such waiver shall not be deemed a waiver with respect to any subsequent breach or default or other matter.

19.5 *Severability.*

If any of the terms of this Agreement are finally held or determined to be invalid, illegal or void, all other terms of the Agreement shall remain in effect; *provided* that the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any Applicable Law and the original intent and original economic benefit of the Parties.

19.6 *Standard of Review.*

(a) Absent the agreement of the Parties to the proposed change, the standard of review for changes to this Agreement proposed by a Party, a Person or the FERC acting sua sponte shall be the "public interest" application of the "just and reasonable" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956), as clarified by Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish, 554 U.S. 527 (2008) (the "Mobile-Sierra" doctrine).

(b) Notwithstanding any provision of Agreement, and absent the prior written agreement of the Parties, each Party, to the fullest extent permitted by Applicable Laws, for itself and its respective successors and assigns, hereby also expressly and irrevocably waives any rights it can or may have, now or in the future, whether under Sections 205, 206, or 306 of the Federal Power Act or otherwise, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation, supporting a third party seeking to obtain or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain, an order from FERC changing any Section of this Agreement specifying any rate or other material economic terms and conditions agreed to by the Parties.

19.7 *Governing Law.*

THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF FLORIDA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. THE SOLE AND EXCLUSIVE VENUE FOR ANY DISPUTE, CLAIM OR CONTROVERSY RELATING TO THIS AGREEMENT SHALL BE THE STATE AND FEDERAL COURTS IN LEON COUNTY, FLORIDA.

19.8 *Waiver of Trial by Jury.*

EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY DISPUTE ARISING OUT OF OR RELATING TO THIS AGREEMENT AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS AGREEMENT.

19.9 *Attorneys' Fees.*

In any proceeding brought to enforce this Agreement or because of the breach by any Party of any covenant or condition herein contained, the prevailing Party shall be entitled to reasonable attorneys' fees (including reasonably allocated fees of in-house counsel) in addition to court costs and any and all other costs recoverable in said action.

19.10 *No Third-Party Beneficiaries.*

Except as set forth in Article 14, this Agreement is intended solely for the benefit of the Parties hereto and nothing contained herein shall be construed to create any duty to, or standard of care with reference to, or any liability to, or any benefit for, any Person not a Party to this Agreement.

19.11 *No Agency.*

This Agreement is not intended, and shall not be construed, to create any association, joint venture, agency relationship or partnership between the Parties or to impose any such obligation or liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act as or be an agent or representative of, or otherwise bind, the other Party.

19.12 *Cooperation.*

The Parties acknowledge that they are entering into a long-term arrangement in which the cooperation of both of them will be required. If, during the Term, changes in the operations, facilities or methods of either Party will materially benefit a Party without detriment to the other Party, the Parties commit to each other to make Commercially Reasonable Efforts to cooperate and assist each other in making such change, including engaging in good-faith negotiations to revise or supplement this Agreement as appropriate.

19.13 *Further Assurances.*

Upon the receipt of a written request from the other Party, each Party shall execute such additional documents, instruments and assurances and take such additional actions as are reasonably necessary and desirable to carry out the terms and intent hereof. Neither Party shall unreasonably withhold, condition or delay its compliance with any reasonable request made pursuant to this Section. No Party shall be required to take any action or execute any document under this Section 19.13 that would negatively change that Party's risk or benefit under this Agreement.

19.14 *Captions; Construction.*

All indexes, titles, subject headings, section titles, and similar items are provided for the purpose of reference and convenience and are not intended to affect the meaning of the content or scope of this Agreement. This Agreement was prepared jointly by the Parties, each Party having had access to advice of its own counsel, and not by either Party to the exclusion of the other Party, and shall not be construed against one Party or the other as a result of the manner in which this Agreement was prepared, negotiated or executed.

19.15 *Entire Agreement.*

This Agreement shall supersede all other prior and contemporaneous understandings or agreements, both written and oral, between the Parties relating to the subject matter of this Agreement.

19.16 *Forward Contract.*

The Parties acknowledge and agree that this Agreement constitutes a "forward contract" within the meaning of the United States Bankruptcy Code.

19.17 *Service Contract.*

Each Party intends this Agreement to be a "service contract" within the meaning of Section 7701(e) of the Internal Revenue Code of 1986.

19.18 *Counterparts.*

This Agreement may be executed in several counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK –
SIGNATURES APPEAR ON FOLLOWING PAGE]**

IN WITNESS WHEREOF the Parties have executed this Agreement in the manner appropriate to each as of the Effective Date set forth above.

FL Solar 7, LLC	**Florida Municipal Power Agency**
By:______________	By: Jacob A. Williams______________
Name: Carl VanHaze______________	Name: Jacob A. Williams______________
Title: CCO______________	Title: GM & CEO______________

Signature Page

EXHIBIT A

CONTRACT PRICE & OPTION PRICE

I. CONTRACT PRICE

A. Initial Term

PERIOD	CONTRACT PRICE ($/MWh)
From and including the Initial Energy Delivery Date through the remainder of the Initial Term	$[redacted]

B. Renewal Terms

Renewal Term 1	
Contract Year	**Contract Price ($/MWh)**
21	[redacted]
22	[redacted]
23	[redacted]
24	[redacted]
25	[redacted]
Renewal Term 2	
Contract Year	**Contract Price ($/MWh)**
26	[redacted]
27	[redacted]
28	[redacted]
29	[redacted]

30	[redacted]

II. OPTION PRICE TABLE

Price addition to the PPA Rate Post ITC ([redacted])		
-		
ITC % Assumption	**Delta PPA Rate ($ / MWh) Per MWac in year 1**	**PPA Rate Post ITC for each MWac that is placed in service at the applicable ITC %**
30%	N/A	
[redacted]	[redacted]	[redacted]

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EXHIBIT B

DESCRIPTION OF PROJECT

Seller intends to build, own and operate a single axis tracking photovoltaic solar energy generation facility on a site located in Putnam County, Florida, which is referred to at times in this Agreement as the "Rice Creek" solar facility. As presently planned, the Expected Project Capacity will be 74.9 MW, and will consist of:

- 74.9 MWac solar PV plant with single-axis tracker, (1) 53/70/88MVA 230/34.5/13.8-kV, three-winding transformer (Ynynd)
- (24) PE HEM FS3350M inverters, each with an integrated pad mount transformer 3465kVA, 34.5/0.63-kV Dy
- 1x14 MVAR capacitor bank at the 34.5kV bus of the substation to which the Project interconnects

Point(s) of Interconnection: The Project will interconnect with the transmission facilities of Florida Power & Light Company at a point to be determined in the interconnection study process.

Real Property Description which shall be subject to adjustment to reflect the final survey and any modifications made in accordance with Prudent Operating Practices:

Located in the County of Putnam, Florida (to be updated by Seller in accordance with the Interconnection Agreement).

Nothing in this Agreement or Exhibit B is intended to either (i) limit the right of Seller to make any changes to the Project it determines to undertake, or (ii) grant any rights to Buyer regarding the description, nature or components of the Project.

EXHIBIT C

DESCRIPTION OF DELIVERY POINT

Following is a preliminary description of the Delivery Point. Seller shall update as necessary.

The Delivery Point will be at the point the Project interconnects to Florida Power & Light Company's transmission system, which (as of the Effective Date) is anticipated to be located at a new substation on or near the Putnam-Seminole Plant 230kV line or the Springbank-Seminole Plant 230kV line.

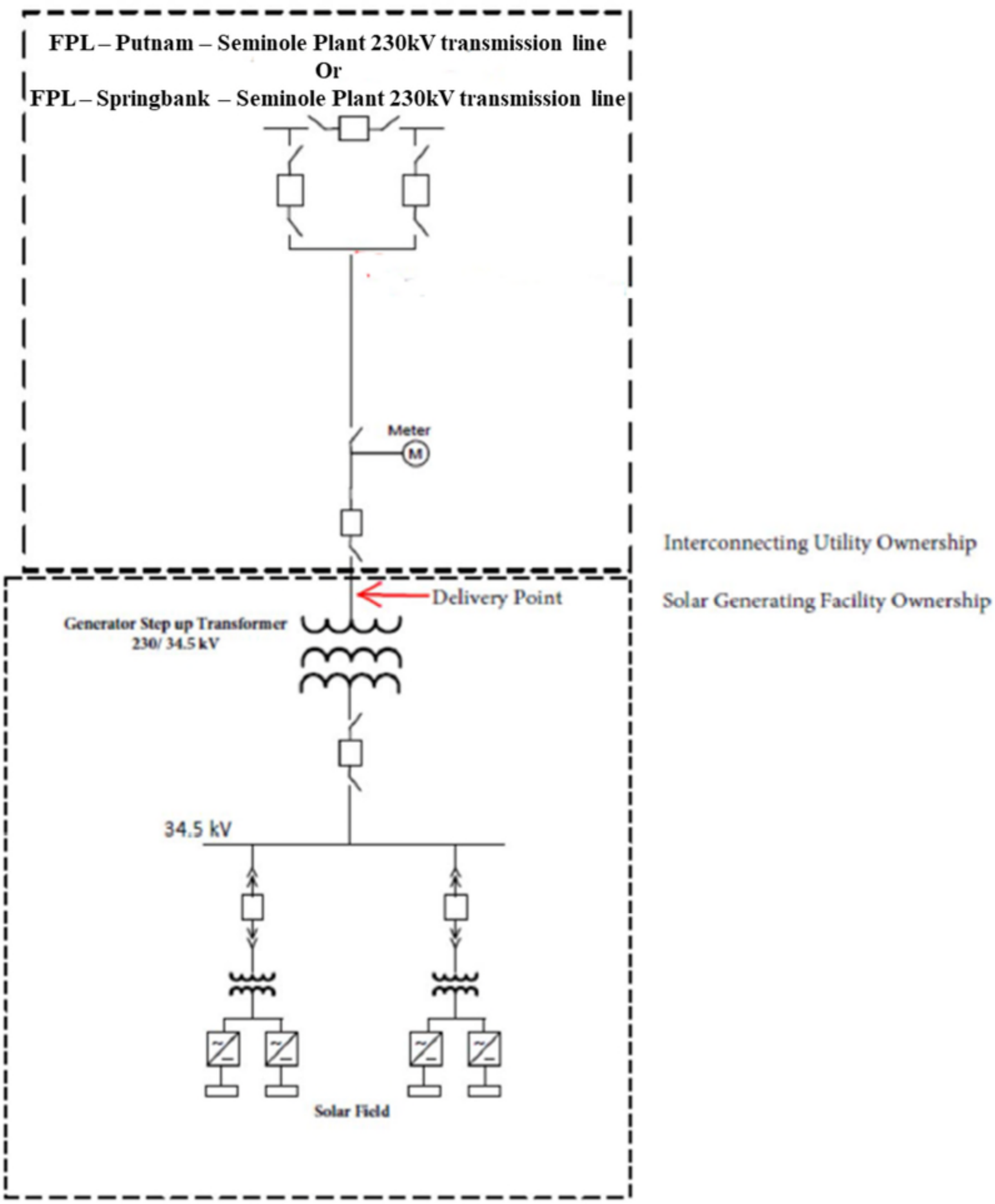

EXHIBIT D

PRODUCTION GUARANTEE

I. Definitions. The following defined terms shall apply to this Exhibit D. Capitalized terms used in this Exhibit D and not defined herein will have the meaning assigned in Section 1.1 of the Agreement.

"Actual Energy Output" means, for any Contract Year, the amount of Energy the Seller delivered or made available to Buyer at the Delivery Point during such Contract Year, measured in MWh.

"Annual Energy Output Guarantee" means, for any Contract Year, (i) Buyer's Share of the amount set forth in the following Table A for such Contract Year, less (ii) any Excused Energy.

Table A		
Contract Year	**Annual Energy Output (MWh)**	
		Rice Creek
1		103,303
2		102,787
3		102,273
4		101,761
5		101,253
6		100,746
7		100,243
8		99,741
9		99,243
10		98,746
11		98,253
12		97,761
13		97,273
14		96,786
15		96,302
16		95,821
17		95,342
18		94,865
19		94,391
20		93,919
Renewal Terms (if applicable)		
21		93,449
22		92,982
23		92,517
24		92,054

25		91,594
26		91,136
27		90,680
28		90,227
29		89,776
30		89,327

"Damages Rate" means an amount equal to the lesser of (1) the Contract Price or (2) the positive difference between Buyer's annual average avoided energy rate minus the Contract Price per MWh of Production Shortfall.

"Excused Energy" means (a) any Energy, measured in MWh, that Seller is unable to schedule or deliver to the Delivery Point as a result of Buyer Curtailment Orders, Buyer's failure to obtain transmission service or Buyer's failure to perform, including for reasons outside its control, as contemplated in Section 3.8(c) (other than due to a breach by Seller of its obligations under the Agreement); plus (b) Buyer's Share of any Energy, measured in MWh, that Seller is unable to schedule or deliver to the Delivery Point as a result of a (i) Curtailment Period, (ii) System Emergency (other than a System Emergency caused by Seller's breach of the Interconnection Agreement), (iii) Force Majeure Event, or (iv) Planned Outages [redacted]

"Production Shortfall" means, for any Contract Year, the positive difference (if any) between the Annual Energy Output Guarantee and the Actual Energy Production for that Contract Year.

II. Guarantee and Damages.

a. Production Guarantee Damages. If there is a Production Shortfall in any two rolling consecutive Contract Years, then Seller shall owe Buyer liquidated damages in an amount equal to (i) the Production Shortfall that occurred in the later of the two relevant Contract Years, multiplied by (ii) the Damages Rate (the "**Production Guarantee Damages**").

b. Annual Report. No later than 45 days after each Contract Year, Seller shall deliver to Buyer: (i) a calculation showing Seller's computation of the Actual Energy Output for the previous two Contract Years and the Production Guarantee Damages, if any, owed to Buyer, and (ii) payment in full of any Production Guarantee Damages owed to Buyer. Production Guarantee Damages shall be Buyer's sole remedy for the failure of Seller to satisfy the production guarantee set forth in this Exhibit D.

EXHIBIT E
FORM OF GUARANTY

THIS SOLAR POWER PURCHASE AGREEMENT GUARANTY, dated as of ______________ (this "Guarantee"), is issued by [name of guarantor], a __________ ("Guarantor") in favor of [___________] ("Guaranteed Party"). [BENEFICIARY], a Delaware limited liability company ("Obligor") is a wholly owned subsidiary of Guarantor.

A. RECITALS

Obligor and Guaranteed Party have entered into a Solar Power Purchase Agreement, dated as of _____________ (the "Agreement").

This Guarantee is delivered to Guaranteed Party by Guarantor pursuant to the Agreement. All terms defined in the Agreement and not otherwise defined in this Guarantee have the meanings given to them in the Agreement.

AGREEMENT

Guarantee.

Guarantee of Obligations Under the Agreement. For value received, Guarantor absolutely, unconditionally and irrevocably, as primary Obligor and not as surety, subject to the express terms hereof, guarantees the payment and performance when due of all obligations, whether now in existence or hereafter arising, by Obligor to Guaranteed Party pursuant to the Agreement (the "Obligations"). This Guarantee is one of payment and not of collection and shall apply regardless of whether recovery of all such Obligations may be or become discharged or uncollectible in any bankruptcy, insolvency or other similar proceeding, or otherwise unenforceable.

Maximum Guaranteed Amount. Notwithstanding anything to the contrary, Guarantor's aggregate obligation to Guaranteed Party hereunder is limited to [**insert applicable Required Security Amount**] (the "Maximum Guaranteed Amount") (it being understood for purposes of calculating the Maximum Guaranteed Amount of Guarantor hereunder that any payment by Guarantor either directly or indirectly to the Guaranteed Party, pursuant to a demand made upon Guarantor by Guaranteed Party or otherwise made by Guarantor pursuant to its obligations under this Guarantee, including any indemnification obligations, shall reduce Guarantor's maximum aggregate liability hereunder on a dollar-for-dollar basis), excluding costs and expenses incurred by Guaranteed Party in enforcing this Guarantee, and shall not either individually or in the aggregate be greater or different in character or extent than the obligations of Obligor to Guaranteed Party under the terms of the Agreement.

Payment; Currency. All sums payable by Guarantor hereunder shall be made in freely transferable and immediately available funds and shall be made in the currency in which the Obligations were due.

Waiver of Certain Defenses. Guarantor waives: (a) notice of acceptance of this Guarantee and of the Obligations and any action taken with regard thereto; (b) presentment, demand for payment, protest, notice of dishonor or non-payment, suit, or the taking of any other action by Guaranteed Party against Obligor, Guarantor or others; (c) any right to require Guaranteed Party to proceed against Obligor or any other person, or to require Guaranteed Party first to exhaust any remedies against Obligor or any other person, before proceeding against Guarantor hereunder; and (d) any defense based upon (i) an election of remedies by Guaranteed Party; (ii) a change in the financial condition, corporate existence, structure or ownership of the Guarantor or Obligor; (iii) the institution by or against Obligor or any other person or entity of any bankruptcy, winding-up, liquidation, dissolution, insolvency, reorganization or other similar proceeding affecting Obligor or its assets or any resulting release, stay or discharge of any Obligations; (iv) any lack or limitation of power, incapacity or disability on the part of Obligor or of its directors, partners or agents or any other irregularity, defect or informality on the part of Obligor in the authorization of the Obligations; (v) any lack of validity or enforceability of the Obligations; (vi) any amendment, release, discharge, substitution or waiver of the Agreement or any of the Obligations and (v) any duty of Guaranteed Party to disclose to Guarantor any facts concerning Obligor, the Agreement or the Project, or any other circumstances that might increase the risk to Guarantor under this Guarantee, whether now known or hereafter learned by Guaranteed Party, it being understood that Guarantor is capable of and assumes the responsibility for being and remaining informed as to all such facts and circumstances.

Without limitation to the foregoing, Guaranteed Party shall have the right to at any time and from time to time without notice to or consent of Guarantor and without impairing or releasing the obligations of Guarantor hereunder: (a) renew, compromise, extend, accelerate or otherwise change, substitute or supersede the Obligations; (b) take or fail to take any action of any kind in respect of any security for the Obligations, or impair, exhaust, exchange, enforce, waive or release any such security; (c) exercise or refrain from exercising any rights against Obligor or others in respect of the Obligations; or (d) compromise or subordinate the Obligations, including any security therefor, or grant any forbearances or waivers, on one or more occasions, for any length of time, or accept settlements with respect to Obligor's performance of any of the Obligations.

Except as expressly set forth in this paragraph, Guarantor shall be entitled to assert any and all rights, setoffs, counterclaims and other defenses that Obligor may have to payment or performance of any of the Obligations and also shall be entitled to assert any and all rights, setoffs, counterclaims and other defenses that the Guarantor may have against the Guaranteed Party, other than (a) defenses arising from the insolvency, reorganization or bankruptcy of Obligor, (b) defenses expressly waived in this Agreement by Guarantor, (c) defenses arising by reason of (i) Guarantor's direct or indirect ownership interests in Obligor or (ii) legal requirements applicable to Obligor that prevent the payment by Obligor of its payment obligations that constitute Obligations, and (d) defenses previously asserted by Obligor against such claims to the extent such defenses have been resolved in favor of Guaranteed Party by a court of last resort.

Term. This Guarantee shall continue in full force and effect until the earlier to occur of (a) the substitution of an alternative form of Security by Obligor, (b) the satisfaction of all Obligations of Obligor under the Agreement, or (c) the payment by Guarantor, without reservation of rights, of an aggregate amount equal to the Maximum Guaranteed Amount, together with any other amounts required to be paid by Guarantor pursuant to this agreement. Guarantor further agrees that this Guarantee shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of any Obligation is rescinded or must otherwise be restored or returned due to bankruptcy or insolvency laws or otherwise.

Subrogation. Until all Obligations are indefeasibly paid in full, unless otherwise provided herein, Guarantor waives all rights of subrogation, reimbursement, contribution and indemnity from Obligor with respect to this Guarantee and any collateral held therefor, and Guarantor subordinates all rights under any debts owing from Obligor to Guarantor, whether now existing or hereafter arising, to the prior payment of the Obligations. Any amount paid to Guarantor on account of any purported subrogation rights prior to the termination of this Guaranty shall be held in trust for the benefit of Guaranteed Party and shall immediately thereafter be paid to Guaranteed Party.

Expenses. Whether or not legal action is instituted, Guarantor agrees to reimburse Guaranteed Party on written demand for all reasonable attorneys' fees and all other reasonable costs and expenses incurred by Guaranteed Party in enforcing its rights under this Guarantee. Notwithstanding the foregoing, the Guarantor shall have no obligation to pay any such costs or expenses if, in any action or proceeding brought by Guaranteed Party giving rise to a demand for payment of such costs or expenses, it is finally adjudicated that the Guarantor is not liable to make payment.

Assignment. Guarantor shall not be permitted to assign its rights or delegate its obligations under this Guarantee in whole or part without written consent of Guaranteed Party. Guaranteed Party shall not be permitted to assign its rights hereunder except in connection with a permitted assignment of its rights and obligations under the Agreement.

Non-Waiver. The failure of Guaranteed Party to enforce any provisions of this Guarantee at any time or for any period of time shall not be construed to be a waiver of any such provision or the right thereafter to enforce same. All remedies of Guaranteed Party under this Guarantee shall be cumulative and shall be in addition to any other remedy now or hereafter existing at law or in equity. The terms and provisions hereof may not be waived, altered, modified or amended except in a writing executed by Guarantor and Guaranteed Party.

Entire Agreement. This Guarantee and the Agreement are the entire and only agreements between Guarantor and Guaranteed Party with respect to the guarantee of the Obligations of Obligor by Guarantor. All prior or contemporaneous agreements or undertakings made, which are not set forth in this Guarantee, are superseded.

Notice. Any demand for payment, notice, request, instruction, correspondence or other document to be given hereunder by Guarantor or by Guaranteed Party shall be in writing and shall be deemed received (a) if given personally, when received; (b) if mailed by certified mail (postage prepaid and return receipt requested), five (5) days after deposit in the U.S. mails; (c) if given by facsimile, when transmitted with confirmed transmission; or (d) if given via overnight express courier service, when received or personally delivered, in each case with charges prepaid and addressed as follows (or such other address as either Guarantor or Guaranteed Party shall specify in a notice delivered to the other in accordance with this Section):

If to Guarantor:

Attn: _____________

If to Guaranteed Party:

Attn: _____________

Counterparts. This Guarantee may be executed in counterparts, each of which when executed and delivered shall constitute one and the same instrument.

Governing Law; Jurisdiction. This Guarantee shall be governed by and construed in accordance with the laws of the State of Florida without giving effect to principles of conflicts of law. Guarantor and Guaranteed Party submit to the jurisdiction and venue of the Superior Court of the District of Columbia or of any federal district court located in the District of Columbia over any disputes relating to this Guarantee.

Further Assurances. Guarantor shall cause to be promptly and duly taken, executed, acknowledged and delivered such further documents and instruments as Guaranteed Party may from time to time reasonably request in order to carry out the intent and purposes of this Guarantee.

Limitation on Liability. Except as specifically provided in this Guarantee, Guaranteed Party shall have no claim, remedy or right to proceed against Guarantor or against any past, present or future stockholder, partner, member, director or officer thereof for the payment of any of the Obligations, as the case may be, or any claim arising out of any agreement, certificate, representation, covenant or warranty made by Obligor in the Agreement.

Effectiveness. This Guarantee shall be effective as of the date set forth in the first paragraph hereof upon its execution by both Guarantor and Guaranteed Party.

IN WITNESS WHEREOF, Guarantor and Guaranteed Party have executed and delivered this Guarantee.

[**Guarantor**]

By:___________________________________
Name:
Title:

Acknowledged and agreed

[**Guaranteed Party**]

By: ___________________________________
Name:
Title:

EXHIBIT F
FORM OF IRREVOCABLE LETTER OF CREDIT

Irrevocable Standby Letter of Credit No.

Date of Issuance:

Beneficiary:

[Buyer Name]

Applicant/Account Party:

Amount: USD Amount ([Amount] and 00/100)

Initial expiration date at our counter (unless evergreen):

Final expiration date at our counter:

Ladies and Gentlemen:

We, [Bank Name]

("Issuer"), do hereby issue this Irrevocable Transferable Standby Letter of Credit No. {______} by order of, for the account of, and on behalf of [_________] ("Account Party") and in favor of [Buyer Name]. The term "Beneficiary" includes any successor by operation of law of the named beneficiary including without limitation any liquidator, receiver or conservator.

This Letter of Credit is issued, presentable and payable at the office of the Issuing Bank and we guarantee to YOU that drafts and documents drawn under and in compliance with the terms of this Letter of Credit will be honored on presentation pursuant to the terms of this Letter of Credit.

This Letter of Credit is available in one or more drafts drawn on [Bank Name] and may be drawn hereunder for the account of up to an aggregate amount not exceeding [$Amount]. This Letter of Credit is drawn against by presentation to us at our office located at [Bank Address] of a drawing certificate (i) signed by an officer of the Beneficiary; (ii) dated the date of presentation; and (iii) the following statement:

"The undersigned hereby certifies to [Bank Name] ("Issuer"), with reference to its Irrevocable Transferable Standby Letter of Credit No.[____], dated , issued on behalf of [_____________] ("Account Party") and in favor of the [Buyer Name], ("Beneficiary") that:

[said Account Party has failed to perform in accordance with the terms and provisions of the Solar Power Purchase Agreement dated [ ] to which Account Party and Beneficiary are parties, as such agreement may be amended and supplemented from time to time, and any replacements or substitutions thereof, (collectively, the "Agreement").]

☐ --or--

[(i) Beneficiary has received notice from the Issuing Bank pursuant to the terms of the Letter of Credit that Issuing Bank elects not to extend the Letter of Credit for an additional one-year period, and (ii) the Letter of Credit will expire in fewer than thirty (30) days from the date hereof. As such, as of the date hereof Beneficiary is entitled to draw under the Letter of Credit.]

The Beneficiary hereby draws upon the Letter of Credit in an amount equal to $[insert amount in figures] (United States Dollars [insert amount in words]).”

If presentation of any drawing certificate is made on a Business Day and such presentation is made on or before 10:00 a.m. Eastern Time, Issuer shall satisfy such drawing request on the second Business Day. If the drawing certificate is received after 10:00 a.m. Eastern Time, Issuer will satisfy such drawing request on the third Business Day.

It is a condition of the letter of credit that it will be automatically extended without amendment for additional one-year periods until [ ] (the “Final Expiration Date”), unless at least one hundred twenty (120) days prior to any expiration date we send you written notice at the above address by registered mail or overnight courier service that we elect not to consider this Letter of Credit extended for any such period.

This Letter of Credit may be transferred in its entirety (but not in part) by Issuing Bank only upon presentation to us of a Request for Transfer signed by the Beneficiary in the form of Exhibit A accompanied by this Original Letter of Credit and any amendment(s), in which the Beneficiary irrevocably transfers to such transferee all of its rights hereunder, whereupon we agree to either issue a Transferred letter of credit to such transferee or endorse such transfer on the reverse of this Letter of Credit. Any transfer fees assessed by the issuer will be payable solely by the applicant.

Payments under the Letter of Credit shall be in accordance with the following terms and conditions:

All commissions and charges will be borne by the Account Party.

This Letter of Credit shall be governed by the International Standby Practices Publication No. 590 of the International Chamber of Commerce, (the “ISP”), except to the extent that terms hereof are inconsistent with the provisions of the ISP, in which case the terms of the Letter of Credit shall govern. This Letter of Credit shall be governed by the internal laws of the State of Florida to the extent that the terms of the ISP are not applicable; provided that, in the event of any conflict between the ISP and such Florida laws, the ISP shall control.

This Letter of Credit may not be amended, changed or modified without the express written consent of the Beneficiary and the Issuer.

The Beneficiary shall not be deemed to have waived any rights under this Letter of Credit, unless the Beneficiary shall have signed a written waiver.

No such waiver, unless expressly so stated therein, shall be effective as to any transaction that occurs subsequent to the date of the waiver, nor as to any continuance of a breach after the waiver.

Partial drawings and multiple drawings are permitted.

A failure to make any drawing at any time shall not impair or reduce the availability of this Letter of Credit in any subsequent period or our obligation to honor your subsequent demands for payment made in accordance with the terms of this Letter of Credit.

Original Letter of Credit and all amendments need to be presented for a drawing. If it's a partial drawing, we will endorse the drawing amount on the back of the Original Letter of Credit and return the same to beneficiary.

EXHIBIT A UNDER STANDBY LETTER OF CREDIT NO.

REQUEST FOR TRANSFER OF LETTER OF CREDIT IN ITS ENTIRETY

Date: ________________

[Bank Name and Address]
Re: Standby Letter of Credit No.

For value received, the undersigned beneficiary hereby irrevocably transfers to:

NAME OF TRANSFEREE ____

ADDRESS OF TRANSFEREE ____

CITY, STATE/COUNTRY ZIP ____

(hereinafter, the "transferee") all rights of the undersigned beneficiary to draw under above letter of credit, in its entirety.

By this transfer, all rights of the undersigned beneficiary in such Letter of Credit are transferred to the transferee and the transferee shall have the sole rights as beneficiary hereof, including sole rights relating to any amendments, whether increases or extensions or other amendments and whether now existing or hereafter made. All amendments are to be advised directly to the transferee without necessity of any consent of or notice to the undersigned beneficiary.

The original of such letter of credit and all amendment(s), if any, are returned herewith, and we ask you to issue a Transferred Letter of Credit or endorse the transfer on the reverse thereof, and forward it directly to the transferee with your customary notice of transfer.

In payment of your transfer commission in amount equal to ¼% of the amount transferred, minimum of $250.00

The applicant has wired funds to you through____________________________________ bank and in addition thereto, we agree to pay you on demand any expenses which may be incurred by you in connection with this transfer

Very truly yours, [BENEFICIARY NAME]

____
Authorized Signature

The signature(s) of ______________________________ with title(s) as stated conforms to those on file with us; are authorized for the execution of such instrument; and the beneficiary has been approved under our bank's Customer Identification Program.

____

____

(Signature of Authenticating Bank) (Name of Bank)

____

____

(Printed Name/Title) (Date)

____

____

(1) FOR BANK USE ONLY

Confirmation of Authenticating Bank's signature performed by:

____

Date: Time: a.m./p.m.

Addl Info.:

EXHIBIT G
INSURANCE REQUIREMENTS

General Liability Insurance. Seller must obtain the following insurance coverage, which can be exceeded by Seller and may be met through any combination of primary insurance and following form excess or umbrella insurance so long as the combined limits meet requirements of this Agreement:

Commercial general liability insurance in an "occurrence" form with bodily injury and property damage combined liability limits of not less than [redacted]) per occurrence; provided, however: (i) Seller may use any combination of primary or excess policies to satisfy the overall limit requirements; and (ii) if Seller uses a "claims-made" policy, it must maintain continuous coverage in effect for at least two (2) years beyond termination of this Agreement, through continuous renewal of the original policy or by purchasing extended discovery period or retroactive insurance dated back to the Effective Date of this Agreement.

Specific coverage for broad form contractual liability and a separation of insured provision.

Additional Insurance. In addition to the requirements above, Seller must acquire and maintain throughout the Term, the following additional types of insurance:

Workers' Compensation. Workers' compensation insurance in accordance with statutory requirements including employer's liability insurance with limits not less than [redacted]) per occurrence and endorsement providing insurance for obligations under the U.S. Longshoremen's and Harbor Worker's Compensation Act and the Jones Act, where applicable.

Auto Liability. Automobile liability insurance including owned, non-owned and hired automobiles with combined bodily injury and property damage limits of at least [redacted]).

All Risk Property. All Risk Property insurance covering the Facility against physical loss or damage, with a minimum limit sufficient to cover replacement of the Facility, except physical loss or damage caused by flood, wind, or earthquake, which shall be insured up to $10 million, to be procured at commercially reasonable terms and limits available in the marketplace. A deductible may be carried, which will be the absolute responsibility of Seller.

EXHIBIT H
FORM OF SURETY BOND

BOND NUMBER ____________________

POWER PURCHASE AGREEMENT BOND

KNOW ALL MEN BY THESE PRESENTS, That we ____ (hereinafter called "Principal"), and [__________________________] authorized to do business in the State of _______________________ (hereinafter called "Surety") are held and firmly bound unto ____ (hereinafter called "Obligee") as Obligee, for such monetary amount as incurred by the Obligee, not to exceed the penal sum of ____($__________________) DOLLARS, good and lawful money of the United States of America, the payment of which, well and truly to be made, we do bind ourselves, our heirs, administrators, executors, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS the above bounded Principal has entered into a certain written agreement with the above named Obligee, effective the ________ day of ___________________, 20____, for the ____ (hereinafter called "Agreement") which Agreement is hereby referred to and made a part hereof as fully and to the same extent as if copies at length were attached herein.

The obligation of this Bond shall be null and void unless: (1) the above Agreement is in writing, and has been fully executed by both the Principal and the Obligee; (2) the Principal is actually in Default under the above Agreement (hereinafter called "Default"), and is declared by the Obligee thereafter to be in Default; and (3) the Obligee has provided written notice of the Default to the Surety as promptly as possible, and in any event, within fifteen (15) days after such Default.

The Surety, at the sole election and discretion of the Surety, may take any of the following actions:

1. Determine the amount for which the Surety may be liable to the Obligee, and as soon as practicable thereafter, tender payment thereof to the Obligee; or
2. Pay the full amount of the above penal sum in complete discharge and exoneration of this Bond, and of all liabilities of the Surety relating hereto.

PROVIDED HOWEVER, that this Bond is executed by the Surety and accepted by the Obligee subject to the following expressed conditions:

1. This bond may be cancelled by providing sixty days (60) written notice of cancellation given by certified mail to the Obligee and to the Principal at the addresses stated below. Such cancellation shall in no way limit the liability of the Surety for subsequent defaults of the Principal's obligation incurred prior to such termination. In the event of cancellation, the Principal is responsible for providing alternate security to the Obligee thirty (30) days prior to the termination date, otherwise to be considered in Default under the Agreement and the Obligee shall be entitled to submit a Demand and receive payment under this Bond.
2. A reorganization under Chapter 11 of the US Bankruptcy Code by the Principal shall not constitute an event of Default recoverable under this Bond if they continue to perform their obligations under the Agreement.
3. In the event the Principal fails to make any payments due to the Obligee which would constitute the basis of a Default, within Ten (10) business days of Surety's receipt of a Demand for payment under this Bond (hereinafter called "Demand"), Surety shall pay to the Obligee the amount of such Demand. The Surety shall cause to be paid all payments then past due, and in so doing cure any Default under the Agreement. The Obligee may present one or more Demands at any time in its sole discretion, provided however, Surety shall not be obligated to pay an aggregate amount in excess of the penal sum of the Bond less any amounts previously paid by the surety.

4. Surety's liability under this Bond issued in connection therewith shall not be cumulative and shall in no event exceed the amount as set forth in this bond or in any additions, riders, or endorsements properly issued by the Surety as supplements thereto.
5. No claim, action, suit or proceeding, except as herein set forth, shall be had or maintained against the Surety on this Bond unless same be brought or instituted and process served upon the Surety within six (6) months following the effective cancellation date of this Bond.
6. Any notice given or required under this Agreement will be made to the following representatives of the Parties:
   a. To: {Principal}

   b. To: {Obligee}

   c. To: {Surety}

In the event of conflict or inconsistency between the provisions of this Bond and the provisions of the above Agreement, the provisions of this Bond shall control. The Obligee's acceptance of this Bond and reliance upon it as security constitutes its acknowledgement and agreement as to the explicit terms stated herein under which it is offered and issued by the Surety.

Sealed with our seals and dated this ________________ day of ________________________________ 20____.

WITNESS:	**PRINCIPAL:**
________________________________	________________________________(SEAL)
(Name & Title)	(Signature)
	________________________________
	(Name & Title)
WITNESS:	**SURETY:**
________________________________	________________________________(SEAL)
(Name & Title)	(Signature)
	________________________________
	(Name, as Attorney-in-Fact)

EXHIBIT I

ENVIRONMENTAL ATTRIBUTES ATTESTATION AND BILL OF SALE

I. Seller Information

Name of Seller:____

Address of Seller:____

Contact Person: _____________________________________ Title:______________________________

Telephone: ___________________ Fax: ________________ Email Address:______________________

II. Declaration

I, **[NAME AND TITLE]** declare that the Environmental Attributes listed below were sold in accordance with that [**AGREEMENT**] dated as of [**DATE**] ("Agreement") exclusively from: _____("Seller") to [________________] ("Buyer").

# MWhs Environmental Attributes Transferred	Period of Generation (mm/yy)

I further declare that:

1) all the Environmental Attributes were generated by Seller;

2) to the best of my knowledge, the Environmental Attributes were not sold, marketed or otherwise claimed by a third party;

3) Seller transferred the Environmental Attributes only once, to Buyer;

4) the Environmental Attributes were not used to meet any federal, state or local renewable energy requirement, renewable energy procurement, renewable portfolio standard, or other renewable energy mandate by Seller, nor, to the best of my knowledge, by any other entity;

5) all of the Environmental Attributes transferred to Buyer (as listed above) were generated at the [_____] facility, a [____]-powered generation facility located in [County, State]; and

6) Environmental Attributes transferred to Buyer include RECs which shall be registered and eligible under the Applicable REC Program specified in the Agreement.

As an authorized agent of Seller, I attest that the above statements are true and correct.

____ ______________________________
Signature Date

____
Place of Execution

EXHIBIT J

FORM OF LENDER CONSENT

In the event Seller collaterally assigns its rights hereunder to the Lender as security, any related Lender Consent will contain provisions substantially as follows:

Buyer will not terminate the Agreement other than as provided therein, without the prior written consent of the Lender.

In connection with the exercise of its rights under the Financing Documents, the Lender shall have the right, but not the obligation, to do any act required to be performed by Seller under the Agreement, and Buyer shall accept any such performance by the Lender any such performance by the Lender to the same extent as if such performance was rendered by Seller itself.

Lender shall not assume, sell or otherwise dispose of the Agreement (whether by foreclosure sale, conveyance in lieu of foreclosure or otherwise) unless, on or before the date of any such assumption, sale or disposition, Lender or any third party, as the case may be, assuming, purchasing or otherwise acquiring the Agreement (a) executes and delivers to Buyer a written assumption of all of Seller's rights and obligations under the Agreement in form and substance reasonably satisfactory to Buyer, which include the obligation to cure any and all defaults of Seller under the Agreement which are capable of being cured and which are not personal to Seller; (b) satisfies and complies with all requirements of the Agreement; (c) if applicable, delivers to Buyer a replacement for any Credit Support that is required to be delivered and maintained by Seller under the Agreement; and (d) is a Permitted Transferee (as defined below). Lender further acknowledges that the assignment of the Agreement to Lender is for security purposes only and that Lender has no rights under the Agreement to enforce the provisions of the Agreement unless and until an event of default has occurred and is continuing under the Financing Documents (a "Financing Default") or under this Agreement, in which case Lender shall be entitled to all of the rights and benefits and subject to all of the obligations which Seller then has or may have under the Agreement to the same extent and in the same manner as if Lender were an original party to the Agreement.

"Permitted Transferee" means any person or entity who (i) meets the Required Credit Rating set forth in the Agreement, (ii) has, or is the subsidiary of an entity that has, a record of owning and/or operating, for a period of at least [redacted] years, solar photovoltaic generating facilities with an aggregate nameplate capacity of no less than [redacted] MW, and (iii) is not a Prohibited Person or Entity. Lender may from time to time, following the occurrence of a Financing Default, notify Buyer in writing of the identity of a proposed transferee of the Agreement, which proposed transferee may include Lender, in connection with the enforcement of Lender's rights, which notice shall include evidence reasonably acceptable to Buyer that the proposed transferee satisfies the criteria set forth above. Upon receipt of such notice, Buyer shall, within thirty (30) Days of its receipt of such written notice, confirm to Lender whether or not such proposed transferee is a "Permitted Transferee" (together with a written statement of the reason(s) for any negative determination) it being understood that if Buyer fails to so respond within such thirty (30) Day period such proposed transferee shall be deemed to be a "Permitted Transferee".

If Buyer becomes entitled to terminate the Agreement due to an uncured Event of Default by Seller, Buyer shall not terminate the Agreement unless it has first given notice of such uncured Event of Default to the Lender and has given the Lender an Additional Cure Period to cure such Event of Default. For the purposes of this Agreement, "Additional Cure Period" means (i) with respect to a monetary default, ten (10) Business Days in addition to the cure period (if any) provided to Seller in the Agreement, and (ii) with respect to a non-monetary default, thirty (30) Days in addition to the cure period (if any) provided to Seller in the Agreement. However, if the Lender requires possession of the Project in order to cure the Event of Default and commences foreclosure proceedings against Seller within thirty (30) Days of receiving notice of an Event of Default from Buyer or Seller, whichever is received first, Lender shall be allowed a reasonable additional period to complete such foreclosure proceedings, such period not to exceed ninety (90) Days; provided, however, that Lender shall provide a written notice to Buyer that it intends to commence foreclosure proceedings with respect to Seller within ten (10) Business Days of receiving a notice of such Event of Default from Buyer or Seller, whichever is received first.

Neither the Lender nor any other participant in the Project Debt shall be obligated to perform or be liable for any obligation of Seller under the Agreement until and unless any of them assumes the Agreement.

Any party taking possession of the Project through the exercise of the Lender's rights and remedies shall remain subject to the terms of the Agreement and shall assume all of Seller's obligations under the Agreement, both prospective and accrued, including the obligation to cure any then-existing defaults capable of cure by performance or the payment of money damages. In the event that the Lender or its successor assumes the Agreement in accordance with this paragraph, Buyer shall continue the Agreement with the Lender or its successor, as the case may be, substituted wholly in the place of Seller.

Within sixty (60) Days of any termination of the Agreement in connection with any bankruptcy or insolvency Event of Default of Seller, upon the request of Lender, the Lender (or its successor) and Buyer shall enter into a new power purchase agreement on the same terms and conditions as the Agreement and for the period that would have been remaining under the Agreement but for such termination.

Buyer agrees to execute an estoppel certificate substantially in the form of Attachment A.

[ATTACHMENT A TO EXHIBIT J]

[**Buyer shall have the right to qualify and/or revise any representation, warranty and other statement that such representation, warranty or other statement is a true statement as of the date of this certificate.**]

[Date]

Reference is made to that certain Power Purchase Agreement dated as of [____] (the "PPA"), by and between [____], a [____] organized and existing under the laws of [_____] ("Buyer"); and [___], LLC, a [___] ("Seller"). Terms used herein but not defined herein have the same meanings as in the PPA.

Buyer hereby confirms and agrees as of the date hereof as follows:

1. Buyer is a [____] duly organized, validly existing and in good standing (if applicable) under the laws of the State of [____]. The execution and delivery by Buyer of this Estoppel Certificate have been duly authorized by all necessary action on the part of Buyer and do not require any further internal approval or consent of Buyer and do not violate any provision of any law, regulation, order, judgment, injunction or similar matters or breach any agreement presently in effect with respect to or binding on Buyer.

The copy of the PPA, as amended, attached as Exhibit [___], constitutes a true and complete copy of the PPA.

To Buyer's knowledge, as of the date hereof, the PPA is in full force and effect and the PPA has not been assigned or amended by Buyer. All representations and warranties of Buyer under the PPA were true and correct (as may be qualified by the terms of the Agreement) when made, and, to Buyer's knowledge, remain true and correct in all material respects as of the date hereof, except for those that, by their nature or terms, apply only as of the date originally made[, except: __________________].

As of the date hereof, (A) no default or event of default with respect to Buyer nor, to the Buyer's knowledge, Seller, has occurred under the PPA, and (B) to Buyer's knowledge, there are no material defaults (including breach(es) of the PPA existing as of the date hereof that are not yet defaults under the PPA because applicable cure periods have not yet expired) or circumstances which with the passage of time and/or giving of notice would constitute a default.

To Buyer's knowledge, there is no event, act, circumstance or condition constituting an event of force majeure under the PPA.

To Buyer's knowledge, Buyer has no existing counterclaims, offsets or defenses against Seller under the PPA. Buyer has no present knowledge of any facts entitling Buyer to any material claim, counterclaim or offset against Seller in respect of the PPA. As of the date hereof, there is no pending or, to Buyer's knowledge, threatened action or proceeding involving or relating to Buyer before any court, tribunal, governmental authority or arbitrator which purports to materially affect the legality, validity or enforceability of the PPA. There exist no pending or to the Buyer's knowledge, threatened disputes or legal proceedings under the PPA or otherwise between Buyer and Seller.

All payments due, if any, under the PPA by Buyer have been paid in full through the period ending on the date hereof.

[*Signature page follows*]

IN WITNESS WHEREOF, Buyer has caused this Certificate to be duly executed by its officer thereunto duly authorized as of the date first set forth above.

____

By:

Title:

Name:

EXHIBIT K

PARTICIPANT LIST

FMPA Solar II Project Participants	Share of Rice Creek Solar
Homestead Public Services	3.338%
City of Lake Worth Beach Utilities	17.723%
City of Mount Dora	1.335%
New Smyrna Beach Utilities Commission	6.676%
Winter Park Electric Utility	6.676%
Total	**35.748%**

***For reference only*:**

FMPA All-Requirements Power Supply Project Participants	Share of Rice Creek Solar
Beaches Energy Services	10.013%
Fort Pierce Utilities Authority	10.013%
Town of Havana	0.167%
Keys Energy Services	16.689%
Kissimmee Utility Authority	13.351%
City of Newberry	0.668%
Ocala Utility Services	13.351%
Total	**64.252%**

EXHIBIT L

FORM OF PROGRESS REPORT

Project:
Recipient:

PROJECT PROGRESS REPORT

Pursuant to Section 4.1(f) of the Agreement, after the Effective Date and before the Commercial Operation Date, Seller will provide Buyer with quarterly progress reports advising Buyer of the current status of the Project, the status of obtaining required Governmental Approvals, any significant developments or delays along with an action plan for making up delays, and Seller's best estimate of the Commercial Operation Date.

I. Overview

Milestone	Expected Completion	Status	Notes
Interconnect Screening Study		Pending	
Start of Permitting		Pending	
Completion of Site Studies		Pending	
Interconnection Application		Pending	
System Impact Study		Pending	
Local Permitting Complete		Pending	
Facilities Study		Pending	
Interconnection Agreement		Pending	
Construction NTP		Pending	
Start of Major Equipment Delivery to Site		Pending	
85% Capacity Available		Pending	
Back Feed Available		Pending	
COD		Pending	

<u>II. Status Updates</u>

- **<u>Interconnection Agreement</u>**
  - **Status update**
    - March 2020:

  - **Discussion of any foreseeable disruptions or delays**
    - March 2020:

- **<u>Permits, Licenses, Easements and Approvals to Construct</u>**
  - **Status update**
    - March 2020:

  - **Discussion of any foreseeable disruptions or delays**
    - March 2020:

- **<u>Construction Notice To Proceed</u>**
  - **Status update**
    - March 2020:

  - **Discussion of any foreseeable disruptions or delays**
    - March 2020:

- **<u>Major Equipment Delivered to Site</u>**
  - **Status update**
    - March 2020:

  - **Discussion of any foreseeable disruptions or delays**
    - March 2020:

- **<u>Commercial Operation Date</u>**
  - **Status update**
    - March 2020:

  - **Discussion of any foreseeable disruptions or delays**
    - March 2020:

Report Completed: [*Date, Sender Initials*]

EXHIBIT M

FORM OF SOLAR II PROJECT POWER SALES CONTRACT

EXECUTION VERSION

SOLAR POWER PURCHASE AGREEMENT

between

Florida Municipal Power Agency

as Buyer

and

FL Solar 8, LLC

as Seller

dated as of

December 12, 2019

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SOLAR POWER PURCHASE AGREEMENT
(Solar II Project)

This SOLAR POWER PURCHASE AGREEMENT (this "**Agreement**") is made this 12th day of December, 2019 (the "**Effective Date**"), by and between **the Florida Municipal Power Agency**, a separate governmental legal entity creating and existing pursuant to Section 163.01, Florida Statutes, and exercising powers under that provision or Part II, Chapter 361, Florida Statutes or both ("**Buyer**") and FL Solar 8, LLC, a Delaware limited liability company ("**Seller**"). Buyer and Seller are each individually referred to herein as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, Seller intends to develop a photovoltaic solar energy generation facility of approximately 74.9 aggregate nameplate capacity on a site located in Alachua County, Florida, as further described in Exhibit B (the "**Project**"); and

WHEREAS, Seller desires to sell, and Buyer desires to purchase and receive, all of the electric Energy and associated Capacity Attributes and Environmental Attributes from Buyer's Share of the Project, on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the promises and of the mutual covenants herein set forth, and other good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, the Parties hereto, intending to be legally bound, do hereby agree as follows:

ARTICLE 1
DEFINITIONS AND INTERPRETATION

1.1 ***Definitions***.

"AC" means alternating current.

"Abandon" means after having commenced construction of the Project, Seller stops construction of the Project for more than ninety (90) consecutive days excluding cessation of construction work caused by the occurrence of a Force Majeure Event, Permitting Delay, or Transmission Delay and because of such stoppage Seller cannot reasonably demonstrate to Buyer that it will nonetheless be able to complete the Facility within the timeframe contemplated by this Agreement.

"Adjustment Period" has the meaning set forth in Section 5.2.

"Affiliate" means, with respect to any Person, any entity controlled, directly or indirectly, by such Person, any entity that controls, directly or indirectly, such Person or any entity directly or indirectly under common control with such Person. For the purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

"Agreement" has the meaning set forth in the first paragraph hereof.

"***Annual Energy Output Guarantee***" has the meaning set forth in Exhibit D.

"Applicable Law" means, with respect to any Person or the Project, all laws, statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, Governmental Approvals, directives and requirements of all regulatory and other Governmental Authorities, in each case applicable to or binding upon such Person or the Project (as the case may be).

"Applicable REC Program" means, except as otherwise agreed by the Parties, the Green-e Renewable Energy Standard for the United States published by the Center for Resource Solutions, as may be amended, restated, supplemented, or otherwise modified from time to time, and any successor voluntary renewable energy program established as a replacement for such program.

"Bankrupt" means, with respect to a Party, such Party (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) is generally unable to pay its debts as they fall due, (v) been adjudicated bankruptcy or has filed a petition or an answer seeking an arrangement with creditors, (vi) taken advantage of any insolvency law or shall have submitted an answer admitting the material allegations of a petition in bankruptcy or insolvency proceeding, (vii) become subject to an order, judgment or decree for relief, entered in an involuntary case, without the application, approval or consent of such Party by any court of competent jurisdiction appointing a receiver, trustee, assignee, custodian or liquidator, for a substantial part of any of its assets and such order, judgment or decree shall continue unstayed and in effect for any period of one hundred eighty (180) consecutive Days, (viii) failed to remove an involuntary petition in bankruptcy filed against it within one hundred eighty (180) Days of the filing thereof, or (ix) become subject to an order for relief under the provisions of the United States Bankruptcy Act, 11 U.S.C. § 301.

"Business Day" means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday. A Business Day commences at 8:00 a.m. and ends at 5:00 p.m. local time for the location of the Site.

"Buyer" has the meaning set forth in the first paragraph of this Agreement.

"Buyer Curtailment Cap" means [redacted] of the Buyer's Share of the Annual Energy Output listed in Table A of Exhibit D.

"Buyer Curtailment Order" means the instruction from Buyer to Seller to reduce Buyer's Share of generation from the Project by the amount, and for the period of time set forth in such order, for reasons unrelated to a Planned Outage, Forced Outage, Force Majeure and/or Curtailment Period.

"Buyer Curtailment Period" means the period of time during which Seller reduces generation from the Project pursuant to a Buyer Curtailment Order. The Buyer Curtailment Period shall be inclusive of the time required for the Project to ramp down and ramp up.

"Buyer Excuses" has the meaning set forth in Section 3.5(b).

"***Buyer's Share***" means 35.748%.

"Capacity Attributes" means any current or future defined characteristic, certificate, tag, credit, or ancillary service attribute, whether general in nature or specific as to the location or any other attribute of the Project intended to value any aspect of the capacity of the Project to produce Energy or ancillary services. Notwithstanding any other provision hereof, Capacity Attributes do not include Environmental Attributes or Tax Attributes.

"Capacity Shortfall" means the difference between Buyer's Share of the Expected Project Capacity and Buyer's Share of the amount of Project capacity that has achieved Commercial Operation as of the applicable date.

"***Capacity Shortfall Damages***" has the meaning set forth in Section 4.4(b).

"Change of Law" means any enactment, adoption, promulgation, modification or repeal of any Applicable Law, or in the administration, interpretation or application thereof by any Governmental Authority occurring on or after the Effective Date.

"Commercially Reasonable" or ***"Commercially Reasonable Efforts"*** means, with respect to any purchase, sale, decision, or other action made, attempted or taken by a Party, such efforts as a reasonably prudent business would undertake for the protection of its own interest under the conditions affecting such purchase, sale, decision or other action, consistent with Prudent Operating Practices, including, without limitation, electric system reliability and stability, state or other regulatory mandates relating to renewable energy portfolio requirements, the cost of such action (including whether such cost is reasonable), the amount of notice of the need to take a particular action, the duration and type of purchase or sale or other action, and the commercial environment in which such purchase, sale, decision or other action occurs. "Commercially Reasonable" or "Commercially Reasonable Efforts" shall be reviewed and determined based upon the facts and circumstances known, or which could have been known with the exercise of reasonable efforts, at the time that a sale, purchase, or other action is taken and shall not be based upon a retroactive review of what would have been optimal at such time.

"Commercial Operation" means that (a) Seller has delivered to Buyer the Performance Assurance required under Section 9.3; (b) Seller has received all material Governmental

Approvals as may be required prior to commencing commercial operations by Applicable Law for the construction, operation and maintenance of the Project; and (c) the Project or any portion thereof, as applicable, is operating and able to produce and deliver, or make available for delivery, Energy at the Delivery Point.

"Commercial Operation Date" means the earlier of (a) the date on which Commercial Operation has occurred with respect to the full Expected Project Capacity and Seller has provided written notice of the Commercial Operation Date to Buyer; (b) [redacted] days after the Target Commercial Operation Date (as may be extended by Permitted Extensions); and (c) the date the Termination Option is exercised.

"Compliance Cost Cap" has the meaning set forth in Section 3.18.

"Compliance Costs" means all reasonable out-of-pocket costs and expenses, including registration fees, volumetric fees, license renewal fees, external consultant fees and capital costs necessary for compliance, incurred by Seller and paid directly to third parties in connection with Seller's compliance with obligations under any Applicable Law in connection with, as applicable, the qualification of the Project as a renewable energy resource, the certification and transfer of Environmental Attributes, and compliance with the Transmission Owner and Transmission Provider regulations and requirements applicable to the Project due to a Change of Law after the Effective Date which requires Seller to incur additional costs and expenses in connection with any of such obligations, in excess of the costs and expenses incurred for such obligations under Applicable Law in effect as of the Effective Date.

"Confidential Information" has the meaning set forth in Section 13.1.

"***Connecting Utility***" means the Person that owns the portion of the electric transmission system at the Interconnection Point.

"***Continuation Option***" has the meaning set forth in Section 4.4.

"Contract Price" has the meaning set forth in Exhibit A.

"Contract Year" means, after the Commercial Operation Date, a calendar year commencing HE 0100 on January 1 and ending on HE 2400 on December 31 of the same year; provided that, if this Agreement is terminated prior to its expiration, the Contract Year in which such termination occurs will end at HE 2400 on the termination date and if the Commercial Operation Date occurs a date other than January 1, the first Contract Year shall commence HE 0100 on the Commercial Operation Date, and all related provisions of this Agreement shall be adjusted for such condensed Contract Years on a pro rata basis.

"Costs" means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third party transaction costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace a Terminated Transaction; and all reasonable attorneys' fees and expenses incurred by the Non-Defaulting Party in connection with such Terminated Transaction.

"Credit Rating" means, (a) with respect to Seller, the rating then assigned to Seller's unsecured, senior long-term debt obligations (not supported by third-party credit enhancements) or if Seller does not have a rating for its senior unsecured long-term debt, then the rating then assigned to Seller as an issues rating by the Rating Agencies; and (b) with respect to Buyer, the rating then assigned to Buyer's long-term bonds secured by revenues of the FMPA Solar II Project or, if Buyer does not have a rating for its long-term bonds or no such bonds are issued and outstanding, then either (i) the rating then assigned to the electric or integrated utility system of each FMPA Solar II Project Participant or (ii) the rating then assigned to the municipality of which the FMPA Solar II Project Participant is a department.

"Creditworthy Entity" means an entity has a Credit Rating of BBB- from S&P or Baa3 from Moody's with a stable outlook.

"Curtailment Period" means the period of time during which there is any curtailment of delivery of the Product resulting from a reduction (including curtailment to zero output or non-dispatch) of the net electrical output of the Project from levels of net electrical output the Project would otherwise be capable of producing, including during a Transmission Interruption that prevents Buyer from receiving Energy at or Seller from delivering Energy to the Delivery Point, as directed or caused by the Transmission Provider, a Governmental Authority, or Transmission Owner not due to actions or omissions of Seller or an Affiliate of Seller.

"Daily Delay Damages" means an amount equal to (a) $[redacted] multiplied by the number of MWs of Capacity Shortfall, divided by (b) [redacted].

"Damages Rate" has the meaning set forth in Exhibit D.

"Day" or "day" means a period of twenty-four (24) consecutive hours beginning at 00:00 hours local time at the Site location on any calendar day and ending at 24:00 hours local time at the Site location on the same calendar day.

"Deemed Delivered Energy" means the amount of Energy expressed in MWh that the Project would have produced and delivered to the Delivery Point, but that is not produced by the Project and delivered to the Delivery Point during a Buyer Curtailment Period, which amount shall be determined using relevant Project availability, weather and other pertinent data for the period of time during the Buyer Curtailment Period.

"Default Commercial Operation Date" means December 31, 2023 or, if there is an ITC Extension, the deadline for the Project to be placed in service to retain its eligibility for a 30% investment tax credit under such extension.

"Delivered Energy" means Buyer's Share of all Energy produced from the Project and delivered or made available at the Delivery Point, which shall be net of all Station Service and electrical losses associated with the transmission of the Energy to the Delivery Point, including, if applicable, any transmission or transformation losses between the Metering System and the Delivery Point.

"Delivery Term" means the period of time commencing upon the Initial Energy Delivery Date and terminating at the end of the Term.

"Delivery Point" means the point, more specifically described in Exhibit C, where Seller's Interconnection Facilities connect to the Transmission Owner's Interconnection Facilities, which shall be the point of interconnection under the Interconnection Agreement.

"Disclosing Party" has the meaning set forth in Section 13.1.

"Dispute" has the meaning set forth in Section 17.1.

"Downgrade Event" refers to any point in time (a) with respect to either Party or its Guarantor's Credit Rating falls below Investment Grade; and (b) with respect to Buyer, (i) any Credit Rating of Buyer's long-term bonds secured by the revenues of the FMPA Solar II Project falls below Investment Grade; (ii) if Buyer does not have a Credit Rating for its long-term bonds or no such bonds are issued and outstanding, then (A) less than 65% of the FMPA Solar II Project Participant Entitlement Shares are held by FMPA Solar II Project Participants that have a Credit Rating, or (B) the Credit Ratings then assigned to the electric or integrated utility systems of FMPA Solar II Project Participants with Credit Ratings equals at least thirty five percent (35%) of the Expected Project Capacity or Installed Capacity, as applicable, falls below Investment Grade; or (iii) if the FMPA Solar II Project Participant Covenants in any FMPA Solar II Project Power Sales Contract are amended, modified or altered in a manner which materially adversely impacts the ability of the FMPA Solar II Project to perform and pay its obligations under this Agreement and Seller does not consent thereto, such consent not to be unreasonably withheld, conditioned or delayed.

"Early Termination Date" has the meaning set forth in Section 7.2(a).

"Effective Date" has the meaning set forth in the first paragraph of this Agreement.

"Energy" means electric energy generated by the Project, which shall be in the form of three (3)-phase, sixty (60) Hertz, alternating current and expressed in units of megawatt-hours.

"***Environmental Attribute***" means any and all presently existing or future benefits, emissions reductions, environmental air quality credits, emissions reduction credits, greenhouse gas emissions, Renewable Energy Credits, offsets and allowances, green tag or other transferable indicia attributable to the Project during the Term, howsoever entitled or named, resulting from the generation of renewable energy or the avoidance, reduction, displacement or offset of the emission of any gas, chemical or other substance, including any of the same arising out of presently existing or future legislation or regulation concerned with oxides of nitrogen, sulfur or carbon, with particulate matter, soot or mercury, or implementing the United Nations Framework Convention on Climate Change ("UNFCCC") or the Kyoto Protocol to the UNFCCC or crediting "early action" emissions reduction, or laws or regulations involving or administered by the Clean Air Markets Division of the Environmental Protection Agency, or any successor state or federal agency given jurisdiction over a program involving transferability of Environmental Attributes, and any renewable energy certificate reporting rights to such Environmental Attributes. Notwithstanding any other provision hereof, Environmental Attributes do not include: (a) any Tax Attributes, (b) state, federal or private grants related to the Project, (c) Energy, or (d) Capacity Attributes.

"***Equitable Defenses***" means any bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally and, with regard to equitable remedies, the discretion of the court before which proceedings may be pending to obtain same.

"Event of Default" has the meaning set forth in Section 7.1.

"Executives" has the meaning set forth in Section 17.2(a).

"Expected Project Capacity" has the meaning set forth in Section 3.4.

"FMPA Solar II Project" means the joint-action solar project created by the FMPA Board of Directors pursuant to FMPA Resolution 2019-B12, dated December 12, 2019.

"*FMPA Solar II Project Participant Covenants*" means the covenants by each FMPA Solar II Project Participant in the applicable FMPA Solar II Project Power Sales Contract: (a) that the payments which the FMPA Solar II Project Participant is required to make under the applicable FMPA Solar II Project Power Sales Contract constitute an obligation payable as an operating expense of the FMPA Solar II Project Participant's electric utility system solely from the revenues and other available funds of the electric utility system; (b) that upon the failure of any other FMPA Solar II Project Participant(s) to make payments owed to FMPA under the applicable FMPA Solar II Project Power Sales Contract, to pay to Buyer such non-defaulting FMPA Solar II Project Participant's pro rata share of the amounts owed by the defaulting FMPA Solar II Project Participant(s), and (c) to establish, levy and collect rents, rates and other charges for the products and services provided by its electric utility system, which rents, rates, and other charges shall be at least sufficient to meet the operation and maintenance expenses of such electric utility system, including all sums owed to Buyer pursuant to the FMPA Solar II Project Power Sales Contract.

"FMPA Solar II Project Participant" means a municipality or municipal electric utility that is a member of Buyer and a member of the FMPA Solar II Project, all of which are listed on Exhibit K, as may be updated from time to time in accordance with this Agreement.

"FMPA Solar II Project Participant Entitlement Share" means, as to each FMPA Solar II Project Participant, the participant's individual undivided pro rata entitlement share of the Expected Project Capacity or Installed Capacity, as applicable.

"FMPA Solar II Project Power Sales Contracts" means a Power Sales Contract between a FMPA Solar II Project Participant and Buyer for the sale of FMPA Solar II Project Participant Entitlement Share by Buyer to such FMPA Solar II Project Participant, substantially in the form of Exhibit M.

"Forced Outage" means any unplanned reduction or suspension of the electrical output from the Project or unavailability of the Project in an amount greater than ten percent (10%) of the Installed Capacity in response to a mechanical, electrical, or hydraulic control system trip or operator-initiated trip in response to an alarm or equipment malfunction, or any other unavailability of the Project for maintenance or repair that is not a Planned Outage, due to a Buyer Curtailment Order or during a Curtailment Period, or the result of a Force Majeure Event.

"Force Majeure Event" means any event or circumstance which wholly or partly prevents or delays the performance of any material obligation arising under this Agreement, other than the obligation to pay amounts due, but only to the extent (1) such event is not within the reasonable control, directly or indirectly, of the Party seeking to have its performance obligation(s) excused thereby, (2) the Party seeking to have its performance obligation(s) excused thereby has taken all reasonable precautions and measures in order to prevent or avoid such event or mitigate the effect of such event on such Party's ability to perform its obligations under this Agreement and which, by the exercise of due diligence, such Party could not reasonably have been expected to avoid and which by the exercise of due diligence it has been unable to overcome, and (3) such event is not the direct or indirect result of the fault or negligence of the Party seeking to have its performance obligations excused thereby.

(a) Subject to the foregoing, events that could qualify as a Force Majeure Event include, but are not limited to the following:

(i) acts of God, flooding, lightning, landslide, earthquake, fire, drought, explosion, epidemic, quarantine, storm, hurricane, tornado, volcano, other natural disaster or unusual or extreme adverse weather-related events;

(ii) war (declared or undeclared), riot or similar civil disturbance, acts of the public enemy (including acts of terrorism), sabotage, blockade, insurrection, revolution, expropriation or confiscation;

(iii) except as set forth in subpart (b)(vii) below, strikes, work stoppage or other labor disputes (in which case the affected Party shall have no obligation to settle the strike or labor dispute on terms it deems unreasonable);

(iv) environmental and other contamination at or affecting the Project;

(v) accidents of navigation or breakdown or injury of vessels, accidents to harbors, docks, canals or other assistances to or adjuncts of shipping or navigation, or quarantine;

(vi) nuclear emergency, radioactive contamination or ionizing radiation or the release of any hazardous waste or materials;

(vii) air crash, shipwreck, train wrecks or other failures or delays of transportation;

(viii) vandalism beyond that which could be reasonably prevented by Seller;

(ix) the discovery of Native American burial grounds not evidenced in Seller's Phase I environmental assessment of the Site;

(x) the discovery of endangered species, as defined by Law; and

(xi) breakdown or failure of equipment as a result of a serial manufacturer defect or flaw.

(b) A Force Majeure Event shall not be based on:

(i) Buyer's inability economically to use or resell the Product purchased hereunder;

(ii) Seller's ability to sell the Product at a price greater than the price set forth in this Agreement;

(iii) Seller's inability to obtain Governmental Approvals or other approvals of any type for the construction, operation, or maintenance of the Project, except to the extent caused by a Force Majeure Event;

(iv) Seller's inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Project, except to the extent Seller's inability to obtain sufficient labor, equipment, materials, or other resources is caused by a Force Majeure Event;

(v) Seller's failure to obtain financing or other funds, including funds authorized by a state or the federal government or agencies thereof, to supplement the payments made by Buyer pursuant to this Agreement; or

(vi) a strike, work stoppage or labor dispute limited only to any one or more of Seller or Seller's Affiliates.

"Force Majeure Extension" has the meaning set forth in Section 4.2(b)(iii).

"Gains" means with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of this Agreement for the remaining Delivery Term, determined in a commercially reasonable manner. Factors used in determining economic benefit may include, without limitation, reference to information either available to it internally or supplied by one or more third parties, including, without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., NYMEX), all of which should be calculated for the remaining term of this Agreement and include the value, if any, of Environmental Attributes.

"Governmental Approvals" means all authorizations, consents, certifications, approvals, waivers, exceptions, variances, filings, permits, orders, licenses, exemptions and declarations of or with any Governmental Authority and shall include those siting and operating permits and licenses, and any of the foregoing under any applicable environmental law, that are required for the use and operation of the Project.

"Governmental Authority" means any national, state, provincial, local, tribal or municipal government, any political subdivision thereof or any other governmental, regulatory, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, department, bureau, or entity having jurisdiction over either Party, the Project, the Site, Seller's Interconnection Facilities, the Transmission Owner's Interconnection Facilities, or the Transmission System, including the Transmission Provider and NERC; *provided*, *however*, that "Governmental Authority" will not in any event include any Party.

"Governmental Charges" has the meaning set forth in Section 12.2.

"Guarantor" means an entity which at the time it is to provide a Guaranty (a) has a Credit Rating of at least BBB from S&P or Baa2 from Moody's if rated by only one Ratings Agency or at least BBB- from S&P and Baa3 from Moody's if rated by both Ratings Agencies, and (b) is incorporated or organized in a jurisdiction of the United States and is in good standing in such jurisdiction.

"Guaranty" means a Guaranty substantially in the form of Exhibit E.

"Initial Energy Delivery Date" means the first date that Seller delivers or makes available Energy from the Project to Buyer at the Delivery Point.

"Initial Negotiation End Date" has the meaning set forth in Section 17.2(a).

"Initial Term" has the meaning set forth in Section 2.1.

"Installed Capacity" has the meaning set forth in Section 3.4.

"Interconnection Agreement" means the interconnection service agreement or agreements entered into by and among, as applicable, the Transmission Provider, the Transmission Owner, and the Seller (or Seller's Affiliate and made available to Seller) pursuant to which the Project will be interconnected with the Transmission System.

"Interconnection Delay" has the meaning set forth in Section 4.2(b)(i).

"Interest Payment Date" means the last Business Day of each calendar month.

"Interest Rate" means the lower of (i) annual rate equal to the Prime Rate then in effect plus ten percent (10%) and (ii) the maximum interest permitted by Applicable Law.

"***Interlocal Agreement***" means the Interlocal Agreement creating the Florida Municipal Power Agency, as amended and supplemented to date, and as the same may be amended or supplemented in the future.

"***Investment Grade***" means a Credit Rating of BBB- from S&P or Baa3 from Moody's with a stable outlook.

"***ITC Extension***" means an extension of the December 31, 2023 deadline in section 48(a)(7)(B) for the U.S. Tax Code for the Project to be placed in service to qualify for a 30% investment tax credit.

"Letter(s) of Credit" means one or more irrevocable, transferable standby letters of credit, substantially in the form of Exhibit F, issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a Credit Rating of at least A- from S&P or A3 from Moody's, with a "stable outlook" by either S&P or Moody's and having assets of at least $[redacted], in a form acceptable to the Party in whose favor the letter of credit is issued.

"Losses" means with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from a Terminated Transaction for the remaining term of this Agreement, determined in a commercially reasonable manner. Factors used in determining the loss of economic benefit may include, without limitation, reference to information either available to it internally or supplied by one or more third parties including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g. NYMEX), all of which should be calculated for the remaining term of this Agreement and include the value, if any, of Environmental Attributes and, if applicable, the value of any resulting loss or recapture of Tax Attributes.

"Manager" has the meaning set forth in Section 17.2(a).

"Metering System" means all meters, metering devices and related instruments used to measure and record Energy and to determine the amount of such Energy that is being made available or delivered to Buyer at the Delivery Point for the purpose of this Agreement.

"***Meter Owner***" shall be the Party that owns the Metering System.

"Moody's" means Moody's Investor Service, Inc. or any successor thereto, or in the event that there is no such successor, a nationally recognized credit rating agency.

"MW" means a megawatt (or 1,000 kilowatts) of AC electric generating capacity.

"MWh" means a megawatt hour of Energy.

"***NERC***" means the North American Electric Reliability Corporation.

"Non-Defaulting Party" has the meaning set forth in Section 7.2.

"Notice" has the meaning set forth in Section 18.1.

"Operating Procedures" has the meaning set forth in Section 3.11.

"***Option Price***" means the applicable price set forth in the Option Price Table in Exhibit A.

"PA Beneficiary" has the meaning set forth in Article 9.

"PA Provider" means the Party that has provided or is required to provide the applicable Performance Assurance.

"Parties" has the meaning set forth in the first paragraph of this Agreement.

"Party" has the meaning set forth in the first paragraph of this Agreement.

"Performance Assurance" means collateral provided by a Party to secure such Party's obligations hereunder. Performance Assurance may be in the form of (i) Letter(s) of Credit, (ii) Cash, (iii) Surety Bond and/or (iv) a Guaranty.

"Permitted Extensions" means the extensions to the Target Commercial Operation Date set forth in Section 4.2.

"Permitting Delay" has the meaning set forth in Section 4.2(b)(ii).

"Person" means an individual, partnership, corporation, business trust, joint stock company, trust, unincorporated association, joint venture, governmental entity, municipality, limited liability company or any other entity of whatever nature.

"Planned Outage" means the removal of the all or a portion of the Project from service availability for inspection and/or general overhaul of one or more major equipment groups. To qualify as a Planned Outage, the maintenance (a) must actually be conducted during the Planned Outage, and in Seller's sole discretion must be of the type that is necessary to reliably maintain the Project, (b) cannot be reasonably conducted during the Project's operations, and (c) causes the generation level of the Project to be reduced by at least ten percent (10%) of the Installed Capacity. To the extent there are multiple Project Offtakers, any reduction in generation will be allocated to Buyer pro rata based on Buyer's Share.

"Prime Rate" means the interest per annum equal to the prime rate as published in The Wall Street Journal or comparable successor publication under "Money Rates," as applied on a daily basis, determined as of the date the obligation to pay interest arises, but in no event more than the maximum rate permitted by Applicable Law.

"Product" has the meaning set forth in Section 3.1.

"***Production Guarantee Damages***" has the meaning set forth in Exhibit D.

"Production Shortfall" has the meaning set forth in Exhibit D.

"Project" has the meaning set forth in the Recitals to this Agreement.

"Project Cure Period" has the meaning set forth in Section 4.3(a).

"Project Investor" or ***"Project Investors"*** means any and all Persons or successors in interest thereof (a) lending money, extending credit or providing loan guarantees (whether directly to Seller or to an Affiliate of Seller) as follows: (i) for the construction, interim or permanent financing or refinancing of the Project; (ii) for working capital or other ordinary business requirements of the Project (including the maintenance, repair, replacement or improvement of the Project); (iii) for any development financing, bridge financing, credit support, credit enhancement or interest rate protection in connection with the Project; (iv) for any capital improvement or replacement related to the Project; or (v) for the purchase of the Project and the related rights from Seller; or (b) participating (directly or indirectly) as an equity investor (including a Tax Equity Investor) in the Project; or (c) any lessor under a lease finance arrangement relating to the Project.

"***Project Offtaker***" means the counterparty to a contract for the purchase of Energy. For the avoidance of doubt, the same entity may be deemed separate Project Offtakers to the extent it is party to multiple contracts for the purchase of Energy.

"Prudent Operating Practices" means the practices, methods and standards of professional care, skill and diligence engaged in or approved by a significant portion of the electric generation industry for solar facilities of similar size, type, and design, that, in the exercise of reasonable judgment, in light of the facts known at the time, would have been expected to accomplish results consistent with Applicable Law, reliability, safety, environmental protection and standards of economy and expedition. Prudent Operating Practices is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the industry.

"***Qualified Transferee***" means any person or entity that (a) has an equal or better credit rating than the Seller and satisfies the collateral requirements of the Seller set forth in the

Agreement, (b) provides replacement Performance Assurance from a PA Provider with an Investment Grade Credit Rating and assets of at least $[redacted], (c) has (or has contracted with for the purpose of this Agreement), or is the subsidiary of an entity that has, a record of owning and/or operating, for a period of at least [redacted], solar photovoltaic generating facilities with an aggregate nameplate capacity of no less than [redacted] MW, and (d) that expressly assumes in writing all obligations of the Seller under this Agreement.

"Ratings Agency" means either of S&P or Moody's.

"Receiving Party" has the meaning set forth in Section 13.1.

"Referral Date" has the meaning set forth in Section 17.2(a).

"***Renewable Energy Credits***" or "***RECs***" means any credits, certificates, green tags or similar environmental or green energy attributes associated with one MWh of electricity generated by the Project created by the Applicable REC Program.

"***Renewal Term***" has the meaning set forth in Section 2.1.

"S&P" means Standard & Poor's Rating Group or any successor thereto, or in the event that there is no such successor, a nationally recognized credit rating agency.

"Sales Price" means to the extent Seller, acting in a Commercially Reasonable manner, sells any Product that Buyer does not receive, (i) the price Seller actually receives for such Product, or at Seller's option, the market price at the Delivery Point for such Product not received as determined by Seller in a Commercially Reasonable manner; *less* (ii) any costs reasonably incurred by Seller in reselling such Product; provided, however, in no event shall the Sales Price include any penalties, ratcheted demand or similar charges, nor shall Seller be required to utilize or change its utilization of its owned or controlled assets, including contractual assets, or market positions to minimize Buyer's liability.

"SEC" means the U.S. Securities and Exchange Commission.

"Seller" has the meaning set forth in the first paragraph of this Agreement.

"Seller Excuses" has the meaning set forth in Section 3.5(a).

"Seller's Interconnection Facilities" means the interconnection facilities, control and protective devices and metering facilities required to connect the Project with the Transmission System up to, and on Seller's side of, the Delivery Point.

"Seller's Replacement Costs" has the meaning set forth in Section 3.5(c).

"Settlement Amount" means the Non-Defaulting Party's Costs and Losses, on the one hand, netted against its Gains, on the other.

"Site" has the meaning set forth in the Recitals.

"Station Service" means the electric energy from the Transmission System or produced by the Project that is used by the Project to power the lights, motors, control systems and other auxiliary electrical loads that are necessary for testing or operation of the Project.

"***Surety Bond***" means a bond, substantially in the form of Exhibit H, which provides for payment to the other Party upon demand and which is issued by a commercial entity with (i) a Credit Rating from one or both of S&P and Moody's, which Credit Rating is at least "A-" from S&P (if such entity has a Credit Rating from S&P) and "A3" from Moody's (if such entity has a Credit Rating from Moody's), in each case not on negative credit watch, and (ii) having a net worth of at least $[redacted] at the time of issuance of the bond.

"System Emergency" means a condition on the Transmission System, at the Project, or on Seller's Interconnection Facilities or Transmission Owner's Interconnection Facilities, which condition is likely to result in imminent significant disruption of service to Transmission System customers or is imminently likely to endanger life or property, and includes any condition during which Seller is directed by Transmission Provider to reduce or cease generation for any period of time on account of an emergency.

"Target Commercial Operation Date" means the date that is the latter of (a) 365 days after the Transmission Service Deadline and (b) December 31, 2023.

"Tax Attributes" means (a) investment tax credits (including any grants or payments in lieu thereof) and any other tax deductions or benefits under federal, state or other Law available as a result of the ownership and operation of the Project or the output generated by the Project (including, without limitation, tax credits, payments in lieu thereof and accelerated and/or bonus depreciation); and (b) present or future (whether known or unknown) cash payments, grants under Section 1603 of the American Recovery and Reinvestment Tax Act of 2009 or outright grants of money relating in any way to the Project.

"Tax Equity Investor" means an investor that has acquired an equity interest in Seller pursuant to a financing structure that assigns such investor all rights, title and benefits to the Tax Attributes of Seller.

"Term" means the Initial Term plus any Renewal Terms.

"Terminated Transaction" means the termination of this Agreement in accordance with Section 7.2 of this Agreement.

"***Termination Option***" has the meaning set forth in Section 4.4.

"Termination Payment" has the meaning set forth in Section 7.3.

"***Test Energy***" means Buyer's Share of the Energy generated by the Project and delivered to the Delivery Point prior to the Commercial Operation Date.

"Transfer Taxes" has the meaning set forth in Section 3.3(d).

"Transmission Delay Damages" means the liquidated damages Buyer shall owe Seller in the event Buyer is unable to receive any Delivered Energy due to a failure of obtaining transmission service by the Transmission Service Deadline, as calculated pursuant to Section 4.3.

"***Transmission Interruption***" means a transmission outage or curtailment directed or caused by the Transmission Owner, Transmission Provider or a Governmental Authority in connection with a System Emergency on the Transmission System that prevents or limits Buyer's ability to receive Energy at the Delivery Point not due to actions or omissions of Buyer or an Affiliate of Buyer.

"***Transmission Owner***" means the entity that owns the transmission or distribution system to which the Project interconnects.

"Transmission Owner's Interconnection Facilities" means the interconnection facilities and related assets that are or will be owned by the Transmission Owner that are required to connect the Project with the Transmission System, as further described in the Interconnection Agreement.

"Transmission Provider" means the regional transmission organization with jurisdiction over the location of the Site or, if none, then the applicable balancing authority for the Site. For the avoidance of doubt, the Transmission Provider and the Transmission Owner may be the same entity.

"***Transmission Service Deadline***" means the date that is one-hundred and twenty (120) days from Buyer's receipt from Seller of a copy of the final interconnection facilities study report for the interconnection of the Project.

"Transmission System" means the distribution or transmission system to which the Project interconnects.

1.2 *Interpretation.*

The following rules of construction shall be followed when interpreting this Agreement except to the extent the context otherwise requires:

(a) the gender (or lack of gender) of all words used in this Agreement includes the masculine, feminine, and neuter;

(b) words used or defined in the singular include the plural and vice versa;

(c) references to Articles and Sections refer to Articles and Sections of this Agreement;

(d) references to Annexes, Exhibits and Schedules refer to the Annexes, Exhibits and Schedules attached to this Agreement, each of which is made a part hereof for all purposes;

(e) references to Applicable Laws refer to such Applicable Laws as they may be amended from time to time, and references to particular provisions of an Applicable Law include any corresponding provisions of any succeeding Applicable Law and any rules and regulations promulgated thereunder;

(f) terms defined in this Agreement are used throughout this Agreement and in any Annexes, Exhibits and Schedules hereto as so defined;

(g) references to money refer to legal currency of the United States of America;

(h) the words "includes" or "including" shall mean "including without limitation;"

(i) the words "hereof," "hereby," "herein," "hereunder" and similar terms in this Agreement shall refer to this Agreement as a whole and not any particular Article or Section in which such words appear, unless otherwise specified;

(j) all references to a particular entity shall include a reference to such entity's successors and permitted assigns but, if applicable, only if such successors and assigns are permitted by this Agreement;

(k) references to any agreement, document or instrument shall mean a reference to such agreement, document or instrument as the same may be amended, modified, supplemented or replaced from time to time;

(l) the word "or" will have the inclusive meaning represented by the phrase "and/or;"

(m) the words "shall" and "will" mean "must", and shall and will have equal force and effect and express an obligation; and

(n) the words "writing," "written" and comparable terms refer to printing, typing, and other means of reproducing in a visible form.

ARTICLE 2
TERM

2.1 *Term.*

The "**Initial Term**" of this Agreement shall commence on the date hereof and continue until the latter of (a) the date the Agreement is terminated in accordance with its terms, or (b) the date that is 20 Contract Years following the Commercial Operation Date. Buyer shall have the option to extend the term of the Agreement twice (each, a "**Renewal Term**") by providing Seller written notice of extension no less than 365 days prior to the end of the Initial Term or the first Renewal Term, as applicable. Each Renewal Term shall commence at HE 0100 on the date immediately following the last day of the Initial Term or first Renewal Term, as applicable, and extend for a period of 5 years, unless sooner terminated in accordance with the terms hereof.

ARTICLE 3
OBLIGATIONS AND DELIVERIES

3.1 *Product.*

The "Product" to be delivered and sold by Seller and received and purchased by Buyer under this Agreement is the Delivered Energy and all associated Environmental Attributes and Capacity Attributes.

3.2 *Purchase and Sale.*

Unless specifically excused by the terms of this Agreement during the Delivery Term, Seller shall sell and deliver, or cause to be delivered, and Buyer shall purchase and receive, or cause to be received, the Product at the Delivery Point, and Buyer shall pay Seller for the Product in accordance with the terms hereof.

3.3 *Contract Price.*

(a) Seller shall provide no less than ten (10) days' notice prior to the Initial Energy Delivery Date, which shall not occur prior to the Transmission Service Deadline without the prior written consent of Buyer.

(b) Buyer shall pay Seller the Contract Price for all Test Energy.

(c) On and after the Commercial Operation Date, Buyer shall pay Seller for the Product an amount equal to the Contract Price for each MWh of Delivered Energy.

(d) In addition to the amounts otherwise payable by Buyer in accordance with this Section 3.3, Buyer shall pay all applicable sales, use excise, ad valorem, transfer and other similar taxes associated with the sale of Product by Seller to Buyer ("**Transfer Taxes**"), but excluding in all events taxes based on or measured by net income, that are imposed by any taxing authority arising out of or with respect to the purchase or sale of Product (regardless of whether such Transfer Taxes are imposed on Buyer or Seller), together with any interest, penalties or additions to tax payable with respect to such Transfer Taxes.

3.4 *Project Capacity.*

The "**Expected Project Capacity**" is the expected nameplate capacity of the Project as of the Effective Date, as set forth in Exhibit B. The "**Installed Capacity**" shall be the actual capacity of the Project that is able to generate and deliver Energy to the Delivery Point and has otherwise achieved Commercial Operation as of the Commercial Operation Date. Throughout the Delivery Term, Seller shall sell all Product solely to Buyer, except in the case of an Event of Default of Buyer or other failure of Buyer to receive the Product, or during a Force Majeure Event where Buyer is prevented from accepting delivery of the Product.

3.5 *Performance Excuses.*

(a) The obligations of Seller to deliver or make available the Product to Buyer at the Delivery Point shall be excused only (i) during periods of Force Majeure, (ii) by Buyer's failure to perform its obligation to receive the Product at the Delivery Point or other Buyer Event of Default, (iii) during Curtailment Periods, (iv) during Buyer Curtailment Periods, and (v) during Planned Outages ("**Seller Excuses**").

(b) The obligations of Buyer to receive and pay for the Product shall be excused only (i) during periods of Force Majeure, (ii) by Seller's failure to perform its obligations to generate and deliver Product to the Delivery Point or other Seller Event of Default, or (iii) during a Transmission Interruption event ("**Buyer Excuses**").

(c) If Buyer fails to receive all or part of the Product and such failure is not excused due to Buyer Excuses, then Buyer shall pay Seller, on the date payment would otherwise be due in respect of the Month in which the failure occurred, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price ("**Seller's Replacement Costs**").

(d) Seller shall include in a monthly invoice delivered to Buyer pursuant to Section 8.1 the amounts owed by Buyer pursuant to Section (a) and a description, in reasonable detail, of the calculation of Seller's Replacement Costs.

3.6 *Offsets, Allowances and Environmental Attributes.*

(a) Buyer shall be entitled to all Environmental Attributes resulting from the generation of Energy that is actually purchased by Buyer pursuant to this Agreement. Buyer shall not be entitled to any Environmental Attributes resulting from the generation of Energy that Buyer, for any reason, does not accept and purchase under this Agreement. Upon no less than twenty (20) Business Days' advance notice, Buyer may request Seller provide Buyer or Buyer's designee evidence of the transfer of the RECs on a quarterly basis during the Delivery Term in an Environmental Attributes Attestation and Bill of Sale substantially in the form attached as Exhibit I or, as applicable, an attestation that is the then-currently required attestation of the Applicable REC Program.

(b) Seller shall be entitled to all (i) federal and state production tax credits, investment tax credits and any other tax credits which are or will be generated by the Project, (ii) any cash payments, grants under Section 1603 of the American Recovery and Reinvestment Tax Act of 2009 or outright grants of money relating in any way to the Project or Environmental Attributes, and (iii) any Environmental Attributes that the Buyer is not entitled to pursuant to the provisions of Section 3.6(a). Buyer acknowledges that Seller has the right to sell any Environmental Attributes to which it is entitled pursuant to this Section 3.6(b) to any Person other than Buyer at any rate and upon any terms and conditions that Seller may determine in its sole discretion without liability to Buyer hereunder. Buyer shall have no claim, right or interest in such Environmental Attributes or in any amount that Seller realized from the sale of such Environmental Attributes.

(c) Seller shall bear all risks, financial and otherwise throughout the Term, associated with Seller's or the Project's eligibility to receive any Tax Attributes, or to qualify for accelerated or bonus depreciation for Seller's accounting, reporting or tax purposes, except to the extent Buyer incurs liability under this Agreement in connection with relevant Losses and indemnification obligations. The obligations of the Parties hereunder, including those obligations set forth herein regarding the sale, purchase and price for and Seller's obligation to generate and deliver the Product and Environmental Attributes, shall be effective regardless of whether the generation of Product or sale and delivery of any Delivered Energy from the Project is eligible for, or receives Tax Attributes or to qualify for accelerated or bonus depreciation during the Term.

3.7 *Station Service.*

If Buyer or any of its Affiliates provides retail electric service in the service territory in which the Project is located, then if requested by Seller, Buyer or such Affiliate shall provide Station Service to the Project (including Seller's Interconnection Facilities) as requested by Seller during construction and operation of the Project at the rates and on the terms set forth in the applicable tariff(s) on a non-discriminatory basis with other customers in the same rate class as Seller.

3.8 *Transmission.*

(a) Seller shall be responsible for obtaining interconnection service for the Project so that Seller can deliver the Product to the Delivery Point in accordance with applicable Transmission Provider interconnection requirements. Seller shall be responsible for all costs to design, equip, construct and maintain the interconnection facilities necessary to deliver Energy from the Project to the Delivery Point. Seller shall be responsible for receiving Network Resource Interconnection Service (or its equivalent) from the Transmission Provider in accordance with the Transmission Provider's Large Generator Interconnection Procedures ("**LGIP**") including funding of any Network Upgrades, as defined in therein. In the event that Seller is not repaid all Seller-funded amounts for such Network Upgrades within five (5) years after the Commercial Operation Date, Seller may, subject to Buyer's consent, such consent not to be unreasonably withheld, assign to Buyer its rights under the LGIP and Interconnection Agreement to repayment of such unpaid amounts. For the avoidance of doubt, Buyer's consent may be withheld if, without otherwise limiting its right to reasonably withhold consent, Buyer is not reasonably satisfied with the terms and conditions of the Interconnection Agreement or other relevant agreement between Buyer and the Transmission Provider with regard to the Network Upgrade refunding or transmission credit procedures. If Buyer consents to such assignment, then Buyer shall pay to Seller each month an amount equal to the amount Buyer receives from Transmission Provider as a transmission credit or other form of reimbursement for such Network Upgrades during the preceding month until such time as Seller has been fully reimbursed for its Network Upgrade finding. Notwithstanding anything in this Section 3.8(a), Buyer shall not be obligated to pay Seller any amount related to the Network Upgrades for which Buyer has not received a related transmission credit or other form of reimbursement from the Transmission Provider.

(b) Buyer shall be responsible for arranging for all transmission services required to effectuate Buyer's receipt of the Product at and from the Delivery Point, including, without limitation, obtaining firm transmission service, in an amount of capacity equal to the Expected Project Capacity, and shall be responsible for the payment of any charges related to such transmission services hereunder, including, without limitation, charges for transmission or wheeling services, ancillary services, imbalance, control area services, congestion charges, transaction charges and line losses. The Parties acknowledge that the Contract Price does not include charges for such transmission services, all of which shall be paid by Buyer.

(c) In the event that the Transmission Provider or any other properly authorized Person exercising control over the Transmission Owner's Interconnection Facilities or the Transmission System takes any action or orders Seller or Buyer to take any action that affects Buyer's ability to take delivery of Energy hereunder not caused by or resulting from Seller's act or omission, a Curtailment Period, Transmission Interruption, or Force Majeure, Buyer shall use its Commercially Reasonably Efforts to attempt (at its own cost and expense) to mitigate the adverse effects of such action(s) on Buyer's ability to perform its obligations hereunder, including, without limitation, redispatching its other generation resources, if any.

3.9 *Scheduling.*

Buyer shall be responsible for the scheduling of all Delivered Energy during the Delivery Term, including, without limitation, arranging any Open Access Same Time Information Systems (OASIS), tagging, transmission scheduling or similar protocols with the Transmission Provider, Transmission Owner, or any other Persons. Buyer shall be responsible for the payment of all charges associated with such scheduling activities, including, without limitation, any imbalance charges.

3.10 *Sales for Resale.*

All Delivered Energy delivered to Buyer hereunder shall be sales for resale. Buyer shall provide Seller with any documentation reasonably requested by Seller to evidence that the deliveries of Delivered Energy hereunder are sales for resale.

3.11 *Operating Procedures.*

Seller and Buyer will endeavor to develop written operating procedures ("**Operating Procedures**") not less than sixty (60) days before the Initial Energy Delivery Date, which Operating Procedures shall only be effective if made by mutual written agreement of Seller and Buyer. The Parties agree that the Operating Procedures that they will endeavor to establish will cover the protocol under which the Parties will perform certain obligations under this Agreement and will include, but will not be limited to, procedures concerning the following: (1) the method of day-to-day communications; (2) key contacts for Seller and Buyer; and (3) reporting of scheduled maintenance, maintenance outages, Buyer Curtailment Orders, Force Majeure Events, and Forced Outages of the Project.

3.12 *Regulatory Approvals.*

(a) Seller and Buyer each agree to use their Commercially Reasonable Efforts to apply for promptly and to pursue diligently any required acceptances or approvals from Governmental Authorities for the consummation of the transactions contemplated by this Agreement or for the giving of effect to the expiration of this Agreement or any termination of this Agreement. This provision is not intended to subject this Agreement to the jurisdiction of any Governmental Authority that does not have such jurisdiction over this Agreement as of the Effective Date.

(b) Buyer shall apply for and shall diligently pursue designation of the Expected Project Capacity as a network resource or otherwise secure a firm delivery path for the Delivered Energy from the Delivery Point to and over the Transmission System. Buyer shall use Commercially Reasonable Efforts to submit an application to obtain a network resource designation or similar firm transmission rights for the Expected Project Capacity not later than thirty (30) Business Days following the Effective Date and to secure such rights no later than the Transmission Service Deadline. Notwithstanding anything to the contrary herein, Seller shall not incur liability for any delays hereunder to the extent such delays are caused by Buyer's failure or inability to secure transmission service in accordance with this Section 3.13(b). Upon Buyer's request, Seller shall use Commercially Reasonable efforts to cooperate with Buyer and provide such information as necessary to assist Buyer in obtaining firm transmission service.

(c) Following the Effective Date of this Agreement, each Party shall promptly seek to obtain all other licenses, permits and approvals necessary to perform its obligations hereunder.

3.13 ***Standards of Care.***

(a) Seller shall comply with all applicable requirements of Applicable Law, the Transmission Provider and NERC relating to the Project (including those related to construction, ownership, interconnection and operation of the Project).

(b) As applicable, each Party shall perform all generation, scheduling and transmission services in compliance with all applicable operating policies, criteria, rules, guidelines, tariffs and protocols of the Transmission Provider and Prudent Operating Practices.

(c) Seller agrees to abide by all applicable (i) NERC reliability requirements, including all such reliability requirements for generator owners and generator operators, and (ii) all applicable requirements regarding interconnection of the Project, including the requirements of the interconnected Transmission Owner and the Transmission Provider.

3.14 ***Buyer Curtailment.***

Except to the extent compliance would directly cause loss or recapture of any Tax Attributes, Seller shall reduce Buyer's Share of generation from the Project as required pursuant to a Buyer Curtailment Order, provided that (a) the Buyer Curtailment Period shall not exceed the Buyer Curtailment Cap cumulatively per Contract Year (which may be consecutive or non-consecutive); and (b) Buyer shall pay Seller the Contract Price for Deemed Delivered Energy associated with a Buyer Curtailment Period. If multiple Project Offtakers issue overlapping Buyer Curtailment Orders, then any Deemed Delivered Energy during such period shall be allocated to Buyer on a pro rata basis in accordance with its Buyer's Share.

3.15 ***Outage Notification.***

(a) Seller shall schedule Planned Outages for the Project in accordance with Prudent

Operating Practices and with the prior written consent of Buyer, which consent may not be unreasonably withheld, conditioned or delayed. The Parties acknowledge that in all circumstances, Prudent Operating Practices shall dictate when Planned Outages should occur. Seller shall notify Buyer of its proposed Planned Outage schedule for the Project for the following calendar year by submitting a written Planned Outage schedule no later than August 1st of each year during the Delivery Term. The Planned Outage schedule is subject to Buyer's approval, which approval may not be unreasonably withheld, conditioned or delayed. Buyer shall promptly respond with its approval or with reasonable modifications to the proposed Planned Outage schedule and Seller shall use its best efforts in accordance with Prudent Operating Practices to accommodate Buyer's requested modifications and deliver the final Planned Outage schedule to Buyer. Seller shall contact Buyer with any requested changes to the Planned Outage schedule if Seller believes the Project must be shut down to conduct maintenance that cannot be delayed until the next scheduled Planned Outage consistent with Prudent Operating Practices. Seller shall not change its Planned Outage schedule without Buyer's approval, not to be unreasonably withheld, conditioned or delayed. Seller shall use its best efforts in accordance with Prudent Operating Practices not to schedule Planned Outages during the period of April 1st through October 31st. Seller shall not substitute Energy from any other source for the output of the Project during a Planned Outage.

(b) In addition to Planned Outages, Seller shall use Commercially Reasonable Efforts to promptly notify Buyer of any Forced Outage lasting for more than sixty (60) consecutive minutes. Such Notices shall contain information describing the nature of the Forced Outage, the beginning date and time of such Forced Outage, the expected end date and time of such Forced Outage, the amount of Energy that Seller expects will be provided to the Delivery Point during such Forced Outage, and any other information reasonably requested by Buyer. With respect to any such Forced Outage, Seller shall provide Buyer with such Notice by any reasonable means requested by Buyer, including by telephone or electronic mail.

3.16 ***Operations Logs and Access Rights.***

(a) Seller shall maintain a complete and accurate log of all material operations and maintenance information on a daily basis. Such log shall include, but not be limited to, information on power production, efficiency, availability, maintenance performed, Planned Outages, Forced Outages, results of inspections, manufacturer recommended services, replacements, electrical characteristics of the generators, control settings or adjustments of equipment and protective devices. Seller shall maintain this information for at least two (2) years and, to the extent consistent with Applicable Law, shall provide this information electronically to Buyer within fifteen (15) days of Buyer's reasonable request.

(b) Buyer, its authorized agents, employees or inspectors shall have the right to visit the Site up to five (5) times per calendar year during normal business hours upon reasonable advance Notice and for any purposes reasonably connected with this Agreement; *provided*, that Buyer shall observe all applicable Project safety rules that Seller has communicated to Buyer; provided further, that Buyer, subject to and without waiving its rights to sovereign immunity under Florida Statutes, shall indemnify Seller for damage to property or injury to persons to the extent caused by the negligent or wrongful act or omission of Buyer, its authorized agents, employees, contractors, inspectors and other representatives while Buyer or such authorized individuals are at the Site or the Project. Buyer may request additional Site visits with Seller's consent, which shall not be unreasonably withheld, conditioned, or delayed.

3.17 *Forecasting.*

(a) Seller shall provide Buyer with forecasts of the delivery of Energy under this Agreement as described below. Such forecasts shall include the updated status of all Project equipment that may impact availability and production of Product, and other information reasonably requested by Buyer. Seller shall use Commercially Reasonable Efforts to forecast daily by 5:00 a.m. (EDT) the hourly delivery of Energy under this Agreement accurately and to transmit such information in the format agreed to by the Parties as set forth in the Operating Procedures. Buyer and Seller shall agree upon reasonable changes to the requirements and procedures set forth below from time-to-time, as necessary to accommodate changes to operating and scheduling procedures of Buyer and will document such updated requirements and procedures in the Operating Procedures.

(b) No later than: (i) forty-five (45) Days prior to the commencement of the first Contract Year; and (ii) September 1 of each calendar year for every subsequent Contract Year, Seller shall provide to Buyer a non-binding forecast of the hourly delivery of Energy under this Agreement for an average day in each month of the following calendar year in a form reasonably acceptable to Buyer.

(c) Ten (10) Business Days before the commencement of the first Contract Year, and thereafter ten (10) Business Days before the beginning of each month during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of the hourly energy deliveries under this Agreement for each day of the following month in a form reasonably acceptable to Buyer.

(d) No later than 5:00 a.m. of each day, Seller shall provide Buyer a non-binding forecast of hourly Energy deliveries under this Agreement for the remainder of such day and the following seven (7) days in a form reasonably acceptable to Buyer. Each such Notice shall clearly identify, for each hour, Seller's forecast of all deliveries of Energy pursuant to this Agreement. In the event that Seller foresees that actual deliveries under this Agreement for any hour will be materially different than a forecast previously provided for such day, Seller shall, as soon as reasonably possible, provide Notice to Buyer of such change and an updated forecast.

3.18 *Weather Station.*

(a) No later than sixty (60) Days prior to the Commercial Operation Date, Seller, at its own expense, shall install and maintain at least one stand-alone meteorological station at the Site to monitor, measure, communicate and report the meteorological data required under Section 3.18(b). Seller shall maintain and replace the meteorological station as necessary to provide accurate data with respect to the location of the Project.

(b) Upon the Commercial Operation Date, and continuing through the end of the Delivery Term, Seller shall record and maintain the following data:

(i) real and reactive power production by the Project for each hour;

(ii) changes in operating status, outages and maintenance events;

(iii) any unusual conditions found during inspections;

(iv) any significant events related to the operation of the Project; and

(v) fifteen (15) minute and hourly time-averaged measurements from data samples at sixty (60) seconds or greater frequency for the following parameters at the Project: total global horizontal irradiance, total global radiation within the plane of the array, air temperature, relative humidity, wind direction and speed, back of module surface temperature, and other pertinent meteorological conditions.

(c) Buyer shall have real-time access to the required meteorological data at a frequency not to exceed every fifteen (15) minutes. Seller shall provide Buyer a report within thirty (30) days after the end of each month that provides the foregoing information for such month as well as any other additional information that Buyer reasonably requests regarding conditions at the Site and the operation of the Project that is collected and maintained by Seller in the ordinary course of Project operations.

(d) Seller shall make available to Buyer all data from any weather monitoring portals Seller elects to install at the Site.

(e) Subject to procedures agreed upon in the Operating Procedures, Buyer shall have the right to install equipment and associated communication infrastructure to enable Buyer to monitor, measure and communicate pertinent operation and weather data.

3.19 *Compliance Cost Cap.*

Costs applicable to the Compliance Cost Cap are only those costs applicable under the definition of "Compliance Costs" and are new costs associated with a Change of Law occurring after the Effective Date. The Parties agree that the Compliance Costs Seller shall be required to bear during the Delivery Term shall be capped annually at $[redacted] per MW of Installed Capacity and in the aggregate throughout the Delivery Term at $[redacted] per MW of Installed Capacity (collectively, the "**Compliance Cost Cap**"). In the event and to the extent that the Compliance Costs incurred by Seller exceed the Compliance Cost Cap, Buyer shall either reimburse Seller for such Compliance Costs that exceed the Compliance Cost Cap, or excuse Seller from performing the obligations of this Agreement that would otherwise cause it to incur Compliance Costs in excess of the Compliance Cost Cap. Within sixty (60) Days after the Change of Law that Seller anticipates will cause it to incur Compliance Costs in excess of the Compliance Cost Cap, Seller shall provide to Buyer Notice with an estimate of the expected annual Compliance Costs caused by such Change of Law. Within thirty (30) Days of the delivery of such Notice with the estimate, Buyer shall provide Seller Notice of (i) Buyer's request for Seller to incur the Compliance Costs in excess of the Compliance Cost Cap, (ii) Buyer's initiation of dispute resolution under ARTICLE 17, or (iii) Buyer's waiver of Seller's performance of such obligations.

3.20 *Production Guarantee.*

Seller shall cause the Project to be operated in accordance with Prudent Operating Practices. Seller guarantees that the Delivered Energy will equal or exceed the Annual Energy Output Guarantee of Energy in at least one of every two rolling Contract Years. If there is a Production Shortfall in any two rolling consecutive Contract Years, then Seller shall owe Buyer liquidated damages in an amount equal to (i) the Production Shortfall that occurred in the later of the two relevant Contract Years, multiplied by (ii) the Damages Rate (the "**Production Guarantee Damages**").

ARTICLE 4
PROJECT DESIGN AND CONSTRUCTION

4.1 *Project Development.*

Seller, at no cost to Buyer shall:

(a) Design and construct the Project.

(b) Establish and maintain interconnection rights for the Project that permit the full Expected Project Capacity to interconnect to the Transmission System in compliance with the Transmission Provider's transmission tariff and the Interconnection Agreement.

(c) Acquire all material Governmental Approvals for the construction, operation, and maintenance of the Project.

(d) Complete any environmental impact studies necessary for the construction, operation, and maintenance of the Project.

(e) At Buyer's reasonable request, provide to Buyer Seller's electrical specifications and design drawings pertaining to the Project.

(f) Within thirty (30) days after each calendar quarter following the Effective Date until the Commercial Operation Date, provide to Buyer a construction progress report substantially in the form attached in Exhibit L advising Buyer of the current status of the Project, the status of obtaining required Governmental Approvals, any significant developments or delays along with an action plan for making up delays, and Seller's best estimate of the Commercial Operation Date.

4.2 *Commercial Operation.*

(a) Seller shall cause the Project to achieve the Commercial Operation Date by the Target Commercial Operation Date, unless extended in accordance with Section 4.2(b).

(b) Permitted Extensions to the Target Commercial Operation Date are as follows (the "**Permitted Extensions**"):

(i) The Target Commercial Operation Date may be extended on a day-for-day basis for a cumulative period equal to no more than [redacted]) days if Seller has used Commercially Reasonable Efforts to have the Project physically interconnected to the Transmission System and to complete all Transmission Owner's Interconnection Facilities, if any, but such interconnection or Transmission Owner's Interconnection Facilities cannot be completed by the Target Commercial Operation Date for reasons beyond Seller's reasonable control and Seller has worked diligently to resolve the delay ("**Interconnection Delay**");

(ii) The Target Commercial Operation Date may be extended on a day-for-day basis for a cumulative period equal to no more than [redacted]) days if Seller has used commercially reasonable efforts to obtain permits necessary for the construction and operation of the Project, but is unable to obtain such permits and Seller has worked diligently to resolve the delay ("**Permitting Delay**");

(iii) The Target Commercial Operation Date may be extended on a day-for-day basis for a cumulative period equal to no more than [redacted]) days in the event of Force Majeure ("**Force Majeure Extension**"); provided that Seller works diligently to resolve the effect of the Force Majeure and provides evidence of its efforts promptly to Buyer upon Buyer's written request; and

(iv) The Target Commercial Operation Date may be extended on a day-for-day basis for each day Buyer is liable to Seller for Transmission Delay Damages pursuant to Section 4.3(b).

(c) Notwithstanding the foregoing, if Seller claims more than one Permitted Extension under Section 4.2(b)(i)-(iii), such extensions cannot cumulatively exceed [redacted]) days and all Permitted Extensions taken shall be concurrent, rather than consecutive, during any overlapping days.

(d) If Seller claims a Permitted Extension, Seller shall provide Buyer Notice sixty (60) Days prior to the Target Commercial Operation Date, which Notice must clearly identify the Permitted Extension being claimed and include information necessary for Buyer to verify the length and qualification of the extension; provided that, in the event sixty (60) Days is impracticable or impossible, Seller shall provide as much advanced Notice as is reasonably possible.

4.3 ***Cure Period and Delay Damages.***

(a) Seller shall cause the Project to achieve the Commercial Operation Date by the Target Commercial Operation Date. If the Commercial Operation Date occurs after the Target Commercial Operation Date after giving effect to Permitted Extensions and for reasons other than Buyer's failure to obtain transmission service by the Transmission Service Deadline in accordance with Section 3.8(b), then Buyer shall be entitled to draw upon the Seller's Performance Assurance for liquidated damages equal to Daily Delay Damages for each day or portion of a day that the Commercial Operation Date occurs after the Target Commercial Operation Date after giving effect to Permitted Extensions until the earlier of (i) the date that is [redacted] days after such date, and (ii) the Commercial Operation Date (the "**Project Cure Period**").

(b) Beginning on the Transmission Service Deadline, in the event that Buyer's failure to obtain transmission service in accordance with Section 3.8(b) results in Buyer's inability to receive Delivered Energy, then, subject to Section 4.3(c), Buyer shall owe Seller liquidated damages equal to the Transmission Delay Damages for each day or portion of a day that Buyer fails to receive such Delivered Energy.

(c) Notwithstanding Buyer's failure to obtain transmission service pursuant to Section 3.8(b) and resulting inability to receive all or part of the Delivered Energy, Seller shall use Commercially Reasonable Efforts to commence operations and deliver electricity from the Project, which shall include, if available, selling the Project output to a utility pursuant to the Public Utility Regulatory Policies Act.

(d) Transmission Delay Damages shall be calculated as follows: (i) to the extent Seller sells electricity from the Project to a third party in accordance with Section 4.3(c), Buyer shall pay Seller only the positive difference between the Contract Price and sums received from the utility for any electricity sold pursuant to this Section 4.3; (ii) to the extent Seller is unable to deliver or sell any electricity that the Project is capable of generating despite using Commercially Reasonable Efforts as a result of Buyer's failure to obtain transmission service, Buyer shall pay Seller the full Contract Price for such electricity. In addition, in calculating the Transmission Delay Damages, Buyer shall pay Seller any reasonably incurred and documented costs corresponding to its efforts to sell the Delivered Energy to a third party. For the avoidance of doubt, Buyer shall also be liable to Seller pursuant to Section 11.3 to the extent Buyer's failure to obtain transmission service results in the full or partial loss or recapture of Tax Attributes.

(e) Each Party agrees and acknowledges that (i) the damages that the other Party would incur due to the delays described in this Section 4.3 would be difficult or impossible to predict with certainty and (ii) the Daily Delay Damages and Transmission Delay Damages are an appropriate approximation of such damages.

4.4 ***Project Capacity, Default Commercial Operation Date, and Termination Option.***

(a) Seller shall provide Notice to Buyer no later than thirty (30) days prior to the Default Commercial Operation Date if it anticipates a Capacity Shortfall. Seller shall then provide Notice to Buyer no later than ten (10) Business Days after the Default Commercial Operation Date of the actual Capacity Shortfall, if any. Buyer shall have twenty (20) days after receipt of such notice to either: (i) elect to waive the obligation of Seller to complete the Capacity Shortfall, and neither Party shall have any further obligations with respect to the development, sale, delivery, receipt, or purchase of the Capacity Shortfall (the "**Termination Option**"); or (ii) elect to purchase any amount of Capacity Shortfall that achieves Commercial Operation in accordance with the terms of this Agreement after the Default Commercial Operation Date at the Option Price (the "**Continuation Option**"). For avoidance of doubt, the Agreement shall remain in full force and effect at the Contract Price with respect to any Project capacity that achieved Commercial Operation as of the Default Commercial Operation Date.

(b) If Buyer elects the Continuation Option, then Seller shall continue to pursue Commercial Operation of any Capacity Shortfall. If there remains a Capacity Shortfall as of the Commercial Operation Date, Seller shall then provide Notice to Buyer no later than ten (10) Business Days after the Commercial Operation Date specifying the Installed Capacity. Subject to

Seller's payment of both the Capacity Shortfall Damages as provided below and all applicable Daily Delay Damages pursuant to Section 4.3, the Seller's Performance Assurance will be reduced to reflect the Installed Capacity and all of Seller's Performance Assurance posted in excess of such Installed Capacity shall be promptly returned to Seller. Seller shall pay Buyer, as liquidated damages and not as a penalty, an amount (the "**Capacity Shortfall Damages**") equal to (i) (1) the Capacity Shortfall as of the Commercial Operation Date, in MW, multiplied by (2) $[redacted] per MW, minus (ii) all Daily Delay Damages previously paid by Seller to Buyer for such amount of Capacity Shortfall.

(c) Each Party agrees and acknowledges that (i) the damages that Buyer would incur due to the Capacity Shortfall would be difficult or impossible to predict with certainty, and (ii) the Capacity Shortfall Damages is an appropriate approximation of such damages. In order to satisfy the Capacity Shortfall Damages, Buyer shall have the right to immediately draw upon and apply the Seller's Performance Assurance to the payment of the Capacity Shortfall Damages. Seller's payment of the Capacity Shortfall Damages hereunder shall constitute Buyer's sole remedy for Seller's failure to achieve Commercial Operation of the Capacity Shortfall.

ARTICLE 5
METERING AND MEASUREMENT

5.1 *Metering System.*

The Parties shall ensure the Metering System is designed, located, constructed, installed, owned, operated and maintained in accordance with the Interconnection Agreement and Prudent Operating Practices in order to measure and record the amount of Energy delivered from the Project to the Delivery Point. The meters shall be of a mutually acceptable accuracy range and type. Seller shall be responsible for the cost of all metering that will be installed, owned, operated and maintained by the Meter Owner for the purpose of determining the amount of Energy delivered to the Delivery Point. Except in the event of a System Emergency or any order of a Governmental Authority, no one other than the Meter Owner shall make adjustments to the Metering System without the written consent of Meter Owner, which consent shall not be unreasonably withheld, conditioned or delayed. If Buyer is the Meter Owner, then Seller, may, at its own cost, install additional meters or other such facilities, equipment or devices on Seller's side of the Delivery Point as Seller deems necessary or appropriate to monitor the measurements of the Metering System; provided, however, that in all cases Buyer will be entitled to rely upon its own Metering System.

5.2 *Inspection and Adjustment.*

(a) The Meter Owner shall inspect and test the Metering System at such times as will conform to Prudent Operating Practices, but not less often than every Contract Year. Upon reasonable written request to the Meter Owner, the other Party may request, at its own expense, inspection or testing of any such meters more frequently than once every Contract Year.

(b) If any seal securing the metering is found broken, if the Metering System fails to register, or if the measurement made by a metering device is found upon testing to vary by more than one percent (1.0%) from the measurement made by the standard meter used in the test, an adjustment shall be made correcting all measurements of energy made by the Metering System during: (i) the actual period when inaccurate measurements were made by the Metering System, if that period can be determined to the mutual satisfaction of the Parties; or (ii) if such actual period cannot be determined to the mutual satisfaction of the Parties, the second half of the period from the date of the last test of the Metering System to the date such failure is discovered or such test is made ("**Adjustment Period**"). If the Parties are unable to agree on the amount of the adjustment to be applied to the Adjustment Period, the amount of the adjustment shall be determined: (A) by correcting the error if the percentage of error is ascertainable by calibration, tests or mathematical calculation; or (B) if not so ascertainable, by estimating on the basis of deliveries made under similar conditions during the period since the last test. Within thirty (30) Days after the determination of the amount of any adjustment, Buyer shall pay Seller any additional amounts then due for deliveries of Energy during the Adjustment Period or Buyer shall be entitled to a credit against any subsequent payments for Energy, as the case may be.

(c) The Parties and their representatives shall be entitled to be present at any test, inspection, maintenance, adjustments and replacement of any part of the Metering System relating to obligations under this Agreement and the Meter Owner shall use commercially reasonable efforts to provide no less than ten (10) Business Days' prior notice of any such test, inspection or other event.

ARTICLE 6
EARLY TERMINATION

6.1 ***Early Termination.***

(a) In addition to applicable termination rights otherwise expressly provided in this Agreement, this Agreement may be terminated prior to the expiration of the Term as follows:

(i) By Seller within thirty (30) days after receipt of the final facilities study report from the Transmission Owner, if the estimated cost of Transmission Owner's Interconnection Facilities (as identified by the Transmission Owner) exceeds [redacted] and Buyer has not agreed in writing to reimburse Seller for any overages;

(ii) By Seller if an Interconnection Agreement in form and substance satisfactory to Seller, in its sole commercially reasonable discretion, is not executed on or before on or before December 31, 2022 or

(iii) By Seller, in the event that Seller has not obtained the necessary fee, leasehold or other title to or interest in the Site and all Governmental Approvals necessary to construct and operate the Project in the manner contemplated by this Agreement and which are final and no longer subject to appeal or legal challenge, on or before September 30, 2022; *provided* that Seller gives Buyer Notice of such termination within fifteen (15) Days after such date.

(b) Notwithstanding any provision of this Agreement to the contrary, in the event of termination pursuant to this Section 6.1, the Parties shall be released and discharged from any obligations arising or accruing hereunder from and after the date of such termination and shall not incur any additional liability to each other as a result of such termination, *provided* that such termination shall not discharge or relieve either Party from any obligation that has accrued prior to such termination or otherwise limit the survival provisions set forth in Section 19.1.

ARTICLE 7
EVENTS OF DEFAULT

7.1 *Events of Default.*

An "**Event of Default**" shall mean,

(a) with respect to a Party that is subject to the Event of Default the occurrence of any of the following:

(i) the failure by such Party to make, when due, any payment required pursuant to this Agreement and such failure is not remedied within ten (10) Business Days after Notice thereof;

(ii) the failure by such Party to satisfy, when due, any Performance Assurance requirements within ten (10) Business Days after receipt of Notice of such failure;

(iii) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated, and such default is not remedied within thirty (30) Days after Notice thereof;

(iv) the failure by such Party to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default) and such failure is not remedied within thirty (30) Days after Notice thereof; provided, however, that if such failure is not reasonably capable of being remedied within the thirty (30) Day cure period, such Party shall have such additional time (not exceeding an additional ninety (90) Days) as is reasonably necessary to remedy such failure, so long as such Party promptly commences and diligently pursues such remedy;

(v) such Party becomes Bankrupt;

(vi) such Party assigns this Agreement or any of its rights hereunder other than in compliance with Section 14.1;

(vii) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of Law or pursuant to an agreement reasonably satisfactory to the other Party; or

(b) with respect to Buyer as the Defaulting Party, the failure to obtain firm transmission service sufficient to receive the Delivered Energy at the Delivery Point in accordance with Section

3.13(b) by the Transmission Service Deadline, except to the extent Buyer secures interim transmission service sufficient to receive the Delivered Energy from the Transmission Service Deadline at the Delivery Point that becomes firm transmission service no later than the Default Commercial Operation Date; or

(c) with respect to Seller as the Defaulting Party, the occurrence of any of the following:

(i) if at any time, Seller delivers or attempts to deliver to the Delivery Point for sale under this Agreement Energy or Environmental Attributes that was not generated by or associated with the Project; or

(ii) Seller Abandons the Project.

7.2 ***Remedies; Declaration of Early Termination Date.***

If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party ("**Non-Defaulting Party**") shall have the right to one or more of the following:

(a) send Notice, designating a day, no earlier than the day such Notice is deemed to be received and no later than twenty (20) days after such Notice is deemed to be received, as an early termination date of this Agreement ("**Early Termination Date**");

(b) collect in connection with such Early Termination Date a Termination Payment;

(c) accelerate all amounts owing between the Parties and end the Delivery Term effective as of the Early Termination Date;

(d) withhold any payments due to the Defaulting Party under this Agreement;

(e) suspend performance; and

(f) exercise its rights pursuant to Section 9.3 to draw upon and retain Performance Assurance.

7.3 ***Termination Payment.***

On or as soon as reasonably practicable following the occurrence of an Early Termination Date, the Non-Defaulting Party will calculate the Termination Payment, which shall equal the Settlement Amount, net of any sums owed by the Non-Defaulting Party to the Defaulting Party. If the Termination Payment calculation yields a positive number, then the Defaulting Party shall owe the Termination Payment to the Non-Defaulting Party. If the Termination Payment calculation results in a negative number, then the Termination Payment shall be zero. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, the Settlement Amount as of the Early Termination Date. Third parties supplying information for purposes of the calculation of Gains or Losses may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. The Settlement Amount shall not include consequential, incidental, punitive, exemplary, indirect or business interruption damages; provided, however, that any lost Environmental Attributes shall be deemed direct damages covered by this Agreement. Without prejudice to the Non-Defaulting Party's duty to mitigate, the Non-Defaulting Party shall not have to enter into replacement transactions to establish a Settlement Amount. Each Party agrees and acknowledges that (a) the actual damages that the Non-Defaulting Party would incur in connection with the termination of this Agreement would be difficult or impossible to predict with certainty, (b) the Termination Payment described in this section is a reasonable and appropriate approximation of such damages, and (c) the Termination Payment described in this section is the exclusive remedy of the Non-Defaulting Party in connection with the termination of this Agreement but shall not otherwise act to limit any of the Non-Defaulting Party's rights or remedies if the Non-Defaulting Party does not elect to terminate this Agreement as its remedy for an Event of Default by the Defaulting Party.

7.4 *Notice of Payment of Termination Payment.*

As soon as practicable after a designation of the Early Termination Date, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment and whether the Termination Payment is due to the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount and the sources for such calculation. The Termination Payment shall be made to the Non-Defaulting Party, as applicable, within ten (10) Business Days after such Notice is effective.

7.5 *Disputes with Respect to Termination Payment.*

If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall, within five (5) Business Days of receipt of the Non-Defaulting Party's calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. Disputes regarding the Termination Payment shall be determined in accordance with ARTICLE 17. The Defaulting Party shall pay all undisputed portions of the Termination Payment and provide Performance Assurance equal to the disputed portion until final resolution of the dispute.

7.6 *Rights and Remedies Are Cumulative.*

Except where liquidated damages are provided as the exclusive remedy, the rights and remedies of a Party pursuant to this ARTICLE 7 shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

7.7 *Mitigation.*

Any Non-Defaulting Party shall be obligated to use Commercially Reasonable efforts to mitigate its Costs and Losses resulting from any Event of Default of the other Party under this Agreement.

ARTICLE 8
PAYMENT

8.1 *Billing and Payment.*

On or about the tenth (10^{th}) day of each month beginning with the month following the Initial Energy Delivery Date and every month thereafter, and continuing through and including the first month following the end of the Delivery Term, Seller shall provide to Buyer an invoice covering the Product delivered in the preceding month determined in accordance with Article 4 (which may include preceding months), with all component charges and unit prices identified and all calculations used to arrive at invoiced amounts described in reasonable detail. Buyer shall pay the undisputed amount of such invoices on or before thirty (30) Days after date of the invoice. If either the invoice date or payment date is not a Business Day, then such invoice or payment shall be provided on the next following Business Day. Each Party will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any undisputed amounts not paid by the due date will be deemed delinquent and will accrue interest at the Interest Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full. Invoices may be sent by regular mail, facsimile, or e-mail.

8.2 ***Disputes and Adjustments of Invoices.***

A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Interest Rate from and including the original due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived if the other Party is not notified in accordance with this Section 8.2 within twelve (12) months after the invoice is rendered or subsequently adjusted, except to the extent any misinformation was from a third party not Affiliated with any Party and such third party corrects its information after the twelve-month period. If an invoice is not rendered within twelve (12) months after the close of the month during which performance occurred, the right to payment for such performance is waived.

ARTICLE 9
INSURANCE, CREDIT AND COLLATERAL REQUIREMENTS

9.1 ***Insurance.***

In connection with Seller's performance of its duties and obligations under this Agreement, during the Delivery Term, Seller shall maintain insurance in accordance with Exhibit G.

9.2 ***Grant of Security Interest.***

To the extent a PA Provider delivers Performance Assurance hereunder, it hereby grants to the other Party (the "**PA Beneficiary**") a present and continuing first priority security interest in, and lien on (and right of setoff against), and assignment of, all cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, the PA Beneficiary, and each Party agrees to take such action as the other Party reasonably requires in order to perfect the PA Beneficiary's first-priority security interest in, and lien on (and right of setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof. Upon or any time after the occurrence and during the continuation of an Event of Default by the PA Provider or an Early Termination Date as a result thereof, the PA Beneficiary may do any one or more of the following: (i) exercise any of the rights and remedies of a secured party with respect to all Performance Assurance, including any such rights and remedies under Applicable Law then in effect; (ii) exercise its rights of setoff against such collateral and any and all proceeds resulting therefrom or from the liquidation thereof; (iii) draw on any outstanding Letter of Credit issued for its benefit; and (iv) liquidate all or any portion of any Performance Assurance then held by or for the benefit of the PA Beneficiary free from any claim or right of any nature whatsoever of PA Provider, including any equity or right of purchase or redemption. PA Beneficiary shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce the PA Provider's obligations under the Agreement (the PA Provider remaining liable for any amounts owing to the PA Beneficiary after such application), subject to PA Beneficiary's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

9.3 ***Performance Assurance.***

(a) Seller's Performance Assurance. Seller agrees to deliver to Buyer and thereafter maintain in full force and effect for the remainder of the Term, Performance Assurance in the amount of [redacted] dollars per MW [redacted]) of Buyer's Share of the Expected Project Capacity or Installed Capacity, as applicable, within thirty (30) Days following the Effective Date.

(b) Buyer's Performance Assurance. If Buyer is not a Creditworthy Entity as of the Effective Date or at any time after the Effective Date is subject to a Downgrade Event, then, within thirty (30) days after the Effective Date or Downgrade Event, as applicable, and for such periods as Buyer is not a Creditworthy Entity, Buyer shall provide Seller with Performance Assurance in the amount of [redacted] dollars per MW ([redacted] MW) of Buyer's Share of the Expected Project Capacity or Installed Capacity, as applicable.

(i) If at any time during the Term Buyer becomes a Creditworthy Entity, then Buyer will not be required to provide Buyer's Performance Assurance and Seller shall refund any unused portion of Buyer's Performance Assurance within thirty (30) Days of receipt of Notice and verification of its status as a Creditworthy Entity.

(c) Any sum due under this Agreement (other than disputed amounts) and not satisfied within thirty (30) Days of becoming due and owing may be satisfied by a Party by a draw on Performance Assurance until such Performance Assurance has been exhausted. In addition, upon termination, a Party shall have the right to draw upon Performance Assurance for any undisputed amounts owed under this Agreement if not paid when due pursuant to Section 8.1. Performance Assurance shall not be subject to replenishment.

(d) A PA Beneficiary shall pay interest on cash held as Performance Assurance at the Prime Rate.

(e) If, during the Term, there shall occur a Downgrade Event in respect to a Party's Guarantor, then the applicable PA Provider shall deliver to the PA Beneficiary replacement Performance Assurance within ten (10) Days of such Downgrade Event.

(f) A Party's obligation to maintain Performance Assurance shall terminate upon the occurrence of the following: (i) the Term of the Agreement has ended, or an the Agreement has been terminated pursuant to Section 7.2, as applicable; and (ii) all payment obligations of the PA Provider arising under this Agreement, Termination Payment, indemnification payments or other damages are paid in full. Upon the occurrence of the foregoing, each Party shall promptly return to the other Party the unused portion of the applicable Performance Assurance, including the payment of any interest due thereon.

(g) Any Letter of Credit provided pursuant to this Agreement must provide, among other things, that the PA Beneficiary is entitled to draw the full amount of such Letter of Credit if: (i) the Letter of Credit has not been renewed or replaced within thirty (30) days prior to the expiration date of the Letter of Credit; or (ii) the issuer of the Letter of Credit fails to maintain a credit rating of at least A- from S&P and a rating of at least A3 from Moody's and the Party required to provide the Letter of Credit has failed, within ten (10) Business Days after receipt of Notice thereof by the PA Beneficiary to replace such Letter of Credit with another Letter of Credit, in a form reasonably acceptable to the issuer of the Letter of Credit and PA Beneficiary. Costs of a Letter of Credit shall be borne by the PA Provider.

ARTICLE 10
REPRESENTATIONS, WARRANTIES AND COVENANTS

10.1 *Representations and Warranties.*

On the Effective Date, each Party represents and warrants to the other Party that:

(a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

(b) it has or will obtain in accordance herewith all Governmental Approvals necessary for it to perform its obligations under this Agreement, other than those Governmental Approvals that are not required to be obtained, and, as to Seller, all Governmental Approvals and all rights, title and interest in and to the Site and as otherwise necessary to construct, operate and maintain the Project and related interconnection facilities, as of the Effective Date;

(c) the execution, delivery and performance of this Agreement is within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any Applicable Law;

(d) this Agreement and each other document executed and delivered in accordance with this Agreement constitutes a legally valid and binding obligation enforceable against it in accordance with its terms, subject to any Equitable Defenses;

(e) it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt;

(f) except as may be set forth in its reports filed with the SEC, there is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could reasonably be expected to materially adversely affect its ability to perform its obligations under this Agreement; and

(g) it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement.

10.2 ***General Covenants.***

Each Party covenants that throughout the Term:

(a) it shall continue to be duly organized, validly existing and in good standing under the Applicable Laws of the jurisdiction of its formation;

(b) it shall maintain (or obtain from time to time as required, including through renewal, as applicable) all Governmental Approvals necessary for it to legally perform its obligations under this Agreement; and

(c) it shall perform its obligations under this Agreement in a manner that does not violate any of the terms and conditions in its governing documents, any material contracts to which it is a party or any Applicable Law or Governmental Approval.

10.3 ***Seller Covenants.***

Seller covenants as follows:

(a) that, from the Initial Energy Delivery Date through the expiration or termination of this Agreement, the Project shall be operated and maintained in all material respects in accordance with this Agreement, Applicable Laws, Governmental Approvals and Prudent Operating Practices; and

(b) throughout the Term that it, or its permitted successors or assigns, shall maintain ownership of a fee, easement, long-term leasehold interest, or other similar asset ownership interest in the Project.

10.4 ***Buyer's Covenants.***

Buyer covenants as follows:

(a) from the date hereof through the expiration or termination of this Agreement, Buyer shall comply in all material respects with this Agreement and Applicable Laws.

(b) Buyer will, at Seller's expense, reasonably cooperate with Seller in opposing, and will not support any action of any regulatory body having jurisdiction thereover that could result in the modification or vitiation of any of the terms or conditions hereof or have any other material adverse effect on Seller, the Project or this Agreement.

(c) Buyer shall not treat this Agreement for tax purposes as a lease of the Project rather than a service contract; Buyer shall not take an ownership interest in the Project during the first five (5) Contract Years following the Commercial Operation Date (for the avoidance of doubt, nothing in this Agreement permits Buyer to take an ownership interest in the Project); and Buyer shall not take any action or inaction in breach of this Agreement or otherwise fail to obtain transmission service in a manner that would prevent the Project from being placed in service for tax purposes prior to the Default Commercial Operation Date.

(d) Buyer's obligations under this Agreement shall qualify as operating expenses which enjoy first priority payment at all times under any and all bond or other ordinances or indentures to which Buyer is a party and shall be included as part of the rate calculations required by any rate-related debt covenants to which Buyer is bound.

(e) Buyer covenants that Buyer's obligations under this Agreement shall qualify as operating expenses which enjoy first priority payment at all times under any and all bond or other ordinances or indentures to which Buyer is a party relating to electric utility operations and shall be included as part of the rate calculations required by any rate-related debt covenants to which Buyer is bound.

(f) Buyer covenants that from the date hereof through the expiration or termination of this Agreement, Buyer shall (i) establish and maintain FMPA Solar Project Participant payment obligations pursuant to the FMPA Solar Project Power Sales Contracts at amounts sufficient to meet FMPA's costs and liabilities lawfully owed under this Agreement; (ii) deliver written Notice to Seller of (A) any defaults occurring under any FMPA Solar Project Power Sales Contract that are not cured by the applicable cure period and (B) any changes to the list of FMPA Solar Project Participants set forth in Exhibit K; and (iii) not agree to any amendment, modification or alteration of any FMPA Solar Project Power Sales Contract that would materially adversely affect the FMPA Solar Project Participant Covenants without the prior written consent of Seller, which consent shall not be unreasonably withheld, conditioned or delayed.

(g) Buyer shall enforce the provisions of the FMPA Solar Project Power Sales Contracts and duly perform its covenants and agreements thereunder; provided, however, that notwithstanding any provision of this Agreement to the contrary, in the event of the failure of an FMPA Solar Project Participant to observe the FMPA Solar Project Participant Covenants, such failure shall be considered a Downgrade Event (without limiting Events of Default) and the sole and exclusive remedy of Seller for such failure shall be the delivery by Buyer to Seller of

Performance Assurance in the form of a Letter of Credit or cash in an amount equal to the then applicable amount of Buyer's Performance Assurance.

(h) Buyer covenants that from the Effective Date through the expiration or termination of this Agreement, Buyer shall (i) establish and maintain FMPA Solar II Project Participant payment obligations pursuant to the FMPA Solar II Project Power Sales Contracts at amounts sufficient to meet FMPA's costs and liabilities lawfully owed under this Agreement; (ii) deliver written Notice to Seller of (A) any defaults occurring under any FMPA Solar II Project Power Sales Contract that are not cured by the applicable cure period and (B) any changes to the list of FMPA Solar II Project Participants set forth in Exhibit K; and (iii) not agree to any amendment of any FMPA Solar II Project Power Sales Contract that would materially adversely affect the FMPA Solar II Project Participant Covenants without the prior written consent of Seller, which consent shall not be unreasonably withheld, conditioned or delayed.

ARTICLE 11
TITLE, RISK OF LOSS, INDEMNITIES

11.1 *Title and Risk of Loss.*

Title to and risk of loss related to the Product shall transfer from Seller to Buyer at the Delivery Point. Seller warrants that it will deliver to Buyer the Product free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person arising prior to or at the Delivery Point.

11.2 *Indemnities by Seller.*

Seller shall release, indemnify, defend, and hold harmless Buyer, its Affiliates, and its and their directors, officers, employees, agents, and representatives against and from any and all actions, suits, losses, costs, damages, injuries, liabilities, claims, demands, penalties and interest, including reasonable costs and attorneys' fees ("**Claims**") resulting from, or arising out of or in any way connected with (i) any event, circumstance, act, or incident relating to the Product delivered under this Agreement up to and at the Delivery Point, (ii) Seller's development, permitting, construction, ownership, operation and/or maintenance of the Project, (iii) the failure by Seller or the failure of the Project to comply with Applicable Laws, (iv) any Governmental Charges for which Seller is responsible hereunder, or (v) any liens, security interests, encumbrances, or other adverse claims against the Product delivered hereunder made by, under, or through Seller, in all cases including, without limitation, any Claim for or on account of injury, bodily or otherwise, to or death of persons, or for damage to or destruction of property belonging to Buyer, Seller, or others, excepting only such Claim to the extent caused by the willful misconduct or gross negligence of Buyer, its Affiliates, and its and their directors, officers, employees, agents, and representatives.

11.3 *Indemnities by Buyer.*

To the fullest extent permitted by Florida law, subject to and without waiving its rights to sovereign immunity under Florida law, Buyer shall release, indemnify, defend, and hold harmless Seller, its Affiliates, and its and their directors, officers, employees, agents, and representatives against and from any and all Claims resulting from, or arising out of or in any way connected with (i) any event, circumstance, act, or incident relating to the Product received by Buyer under this Agreement after the Delivery Point, (ii) the failure by Buyer to comply with Applicable Laws, (iii) Buyer's breach of this Agreement, or (iv) any Governmental Charges for which Buyer is responsible hereunder, in all cases including, without limitation, any Claim for or on account of injury, bodily or otherwise, to or death of persons, or for damage to or destruction of property belonging to Buyer, Seller, or others, excepting only such Claim to the extent caused by the willful misconduct or gross negligence of Seller, its Affiliates, and its and their directors, officers, employees, agents, and representatives.

ARTICLE 12
GOVERNMENTAL CHARGES

12.1 *Cooperation.*

Each Party shall use reasonable efforts to implement the provisions of and to administer this Agreement in accordance with the intent of the Parties to minimize all taxes, so long as neither Party incurs any cost, expense, risk, obligation or liability or is otherwise materially adversely affected by such efforts.

12.2 *Governmental Charges.*

Seller shall pay or cause to be paid all taxes imposed by any governmental authority ("**Governmental Charges**") on or with respect to the Product or the transaction under this Agreement arising prior to and at the Delivery Point, including, but not limited to, ad valorem taxes and other taxes attributable to the Project, land, land rights or interests in land for the Project. Buyer shall pay or cause to be paid all Governmental Charges on or with respect to the Product or the transaction under this Agreement at and after the Delivery Point. In the event Seller is required by Applicable Law or regulation to remit or pay Governmental Charges which are Buyer's responsibility hereunder, Buyer shall promptly reimburse Seller for such Governmental Charges. If Buyer is required by Applicable Law or regulation to remit or pay Governmental Charges which are Seller's responsibility hereunder, Buyer may deduct such amounts from payments to Seller with respect to payments under the Agreement; if Buyer elects not to deduct such amounts from Seller's payments, Seller shall promptly reimburse Buyer for such amounts upon request. Nothing shall obligate or cause a Party to pay or be liable to pay any Governmental Charges for which it is exempt under Applicable Law.

ARTICLE 13
CONFIDENTIAL INFORMATION

13.1 *Confidential Information.*

(a) The Parties have and will develop certain information, processes, know-how, techniques and procedures concerning the Project that they consider confidential and proprietary (together with the terms and conditions of this Agreement, the "Confidential Information"). Notwithstanding the confidential and proprietary nature of such Confidential Information, the

Parties (each, the "**Disclosing Party**") may make such Confidential Information available to the other (each, a "**Receiving Party**") subject to the provisions of this Section 13.1.

(b) Upon receiving or learning of Confidential Information, the Receiving Party shall:

(i) Treat such Confidential Information as confidential and use reasonable care not to divulge such Confidential Information to any third party except as required by law, subject to the restrictions set forth below;

(ii) Restrict access to such Confidential Information to only those employees, subcontractors, suppliers, vendors, and advisors whose access is reasonably necessary for the development, construction, operation or maintenance of the Project and for the purposes of this Agreement who shall be bound by the terms of this Section 13.1;

(iii) Use such Confidential Information solely for the purpose of developing the Project and for purposes of this Agreement; and

(iv) Upon the termination of this Agreement, destroy or return any such Confidential Information in written or other tangible form and any copies thereof; provided, however, that either Party shall be entitled to keep a record copy of such information to the extent required by Florida law.

(c) The restrictions of this Section 13.1 do not apply to:

(i) Release of this Agreement or Confidential Information to any Governmental Authority required for obtaining any approval or making any filing pursuant to Sections 3.12 or 12.2, *provided* that each Party agrees to cooperate in good faith with the other to maintain the confidentiality of the provisions of this Agreement and the Confidential Information by requesting confidential treatment with all filings to the extent appropriate and permitted by Applicable Law;

(ii) Information which is, or becomes, publicly known or available other than through the action of the Receiving Party in violation of this Agreement;

(iii) Information which is in the possession of the Receiving Party prior to receipt from the Disclosing Party or which is independently developed by the Receiving Party, *provided* that the Person or Persons developing such information have not had access to any Confidential Information;

(iv) Information which is received from a third party which is not known (after due inquiry) by Receiving Party to be prohibited from disclosing such information pursuant to a contractual, fiduciary or legal obligation; and

(v) Information which is, in the reasonable written opinion of counsel of the Receiving Party, required to be disclosed pursuant to Applicable Law (including, without limitation, any request pursuant to Chapter 119 of the Florida Statutes, or other state or federal public records law, freedom of information act, or other similarly title law); *provided, however,* that the Receiving Party, prior to such disclosure, shall provide reasonable advance Notice to the Disclosing Party of the time and scope of the intended disclosure in order to provide the Disclosing Party an opportunity to obtain, at its sole expense, a protective order or otherwise seek to prevent, limit the scope of, or impose conditions upon such disclosure.

(d) Notwithstanding the foregoing, Seller may disclose Confidential Information to the Project Investors and any other financial institutions expressing an interest in providing equity or debt financing or refinancing and/or credit support to Seller, and the agent or trustee of any of them, any advisors, consultants, insurance providers, brokers of Seller, Project Investors or other financial institutions.

(e) Neither Party shall issue any press or publicity release or otherwise release, distribute or disseminate any information, with the intent that such information will be published (other than information that is, in the reasonable written opinion of counsel to the Disclosing Party, required to be distributed or disseminated pursuant to Applicable Law, *provided* that the Disclosing Party has given Notice to, and an opportunity to prevent disclosure by, the other Party as provided in Section 13.1(c)(v)), concerning this Agreement or the participation of the other Party in the transactions contemplated hereby without the prior written approval of the other Party, which approval will not be unreasonably withheld or delayed. This provision shall not prevent the Parties from releasing information which is required to be disclosed in order to obtain permits, licenses, releases and other approvals relating to the Project or as are necessary in order to fulfill such Party's obligations under this Agreement.

(f) The obligations of the Parties under this Section 13.1 shall remain in full force and effect for three (3) years following the expiration or termination of this Agreement.

ARTICLE 14
ASSIGNMENT

14.1 *Successors and Assigns; Assignment.*

(a) This Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns. This Agreement shall not be assigned or transferred by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed.

(b) Notwithstanding the foregoing, no consent shall be required for the following:

(i) Any assignment of this Agreement by Seller to any Project Investors as collateral security for obligations under the financing documents entered into with such Project Investors;

(ii) Any assignment by the Project Investors to a third party after the Project Investors have exercised their foreclosure rights with respect to this Agreement or the Project;

(iii) Any assignment or transfer of this Agreement by Seller to an Affiliate of Seller; or

(iv) Any assignment or transfer of this Agreement by Seller to a Person succeeding to all or substantially all of the assets of Seller, provided that such Person is a Qualified Transferee.

(c) An assignee shall be afforded no additional rights, interests or remedies beyond those specifically granted to the assignor in this Agreement. The Party seeking to assign or transfer this Agreement shall be solely responsible for paying all costs and expenses, including attorney's and advisor fees of any such assignment.

(d) Buyer acknowledges that upon an event of default under any financing documents relating to the Project, subject to receipt by Buyer of Notice, any of the Project Investors may (but shall not be obligated to) assume, or cause its designee or a new lessee or buyer of the Project that is a Qualified Transferee to assume, all of the interests, rights and obligations of Seller thereafter arising under this Agreement, provided that Buyer's interests, rights and obligations under this Agreement will remain in full force and effect.

(e) If the rights and interests of Seller in this Agreement shall be assumed, sold or transferred as herein provided, and the assuming party shall agree in writing to be bound by and to assume, the terms and conditions hereof and any and all obligations to Buyer arising or accruing hereunder from and after the date of such assumption, then Seller shall be released and discharged from the terms and conditions hereof and each such obligation hereunder from and after such date, and Buyer shall continue this Agreement with the assuming party as if such Person had been named as Seller under this Agreement. Notwithstanding any such assumption by any of the Project Investors or a designee thereof, Seller shall not be released and discharged from and shall remain liable for any and all obligations to Buyer arising or accruing hereunder prior to such assumption.

(f) The provisions of this ARTICLE 14 are for the benefit of the Project Investors as well as the Parties hereto, and shall be enforceable by the Project Investors as express third-party beneficiaries hereof. Buyer hereby agrees that none of the Project Investors, nor any bondholder or participant for whom they may act or any trustee acting on their behalf, shall be obligated to perform any obligation or be deemed to incur any liability or obligation provided in this Agreement on the part of Seller or shall have any obligation or liability to Buyer with respect to this Agreement except to the extent any of them becomes a party hereto pursuant to this ARTICLE 14.

14.2 ***Collateral Assignment.***

(a) Seller, without approval of Buyer, may, by security, charge or otherwise encumber its interest under this Agreement in favor of a Project Investor for the purposes of financing the development, construction and/or operation of the Project and the Seller's Interconnection Facilities.

(b) Promptly after making such encumbrance, Seller shall notify Buyer in writing of the name, address, and telephone and facsimile numbers of each Project Investor to which Seller's interest under this Agreement has been encumbered. Such Notice shall include the names of the account managers or other representatives of the Project Investors to whom all written and telephonic communications should be addressed.

(c) After giving Buyer such initial Notice, Seller shall promptly give Buyer Notice of any change in the information provided in the initial Notice or any revised Notice.

(d) If Seller encumbers its interest under this Agreement as permitted by this Section 14.2, the following provisions shall apply:

(i) The Parties, except as provided by the terms of this Agreement, shall not modify or cancel this Agreement without the prior written consent of the Project Investors;

(ii) The Project Investors or their designees shall have the right, but not the obligation, to perform any act required to be performed by Seller under this Agreement to prevent or cure an Event of Default by Seller and such act performed by the Project Investors or their designees shall be as effective to prevent or cure an Event of Default as if done by Seller, provided that, if any such Project Investor or its designee elects to perform any act required to be performed by Seller under this Agreement to prevent or cure an Event of Default by Seller, Buyer will not be deemed to have waived or relinquished its rights and remedies as provided in this Agreement;

(iii) Buyer shall upon request by Seller execute statements certifying that this Agreement is unmodified (or, modified and stating the nature of the modification), in full force and effect and, to the knowledge of Buyer, the absence or existence (and the nature thereof) of Events of Default hereunder by Seller and documents of consent to such assignment to the encumbrance and any assignment to such Project Investors; and

(iv) Upon the receipt of a written request from Seller or any Project Investor, Buyer shall use Commercially Reasonable Efforts to execute, or arrange for the delivery of, such certificates, opinions and other documents as may be reasonably necessary in order for Seller to consummate any financing or refinancing of the Project or any part thereof and will enter into reasonable agreements with such Project Investor, which agreements will grant certain rights to the Project Investors as more fully developed and described in such documents, including (a) this Agreement shall not be terminated (except for termination pursuant to the terms of this Agreement) without the consent of Project Investor, which consent is not to be unreasonably withheld or delayed, (b) Project Investors shall be given notice of, and the opportunity to cure as provided in Section 14.2(d)(ii), any breach or default of this Agreement by Seller, (c) that if the Project Investor forecloses, take a deed in lieu of foreclosure or otherwise exercise its remedies pursuant to any security documents, then (i) Buyer shall, at Project Investor's request, continue to perform all of its obligations hereunder, and Project Investor or its nominee may perform in the place of Seller, and may assign this Agreement to another Person in place of Seller, provided that such other Person is a Qualified Transferee, (ii) Project Investor shall have no liability under this Agreement except during the period of such Project Investor's ownership or operation of the Project and (iii) that Buyer shall accept performance in accordance with this Agreement by Project Investor or its nominee, and (d) that Buyer shall make the same representations and warranties to Project Investor as Buyer made to Seller pursuant to this Agreement. The Parties agree that an agreement substantially in the form of Exhibit J shall be reasonable.

ARTICLE 15
FORCE MAJEURE

15.1 *Force Majeure Events.*

To the extent either Party is prevented by a Force Majeure Event from carrying out, in whole or part, its obligations under this Agreement and such Party gives Notice and details of the Force Majeure Event to the other Party as detailed below, then, the Party impacted by the Force Majeure Event shall be excused from the performance of its obligations to the extent impacted. As soon as practicable after commencement of a Force Majeure Event, the non-performing Party shall provide the other Party with oral notice of the Force Majeure Event, and within two (2) weeks of the commencement of a Force Majeure Event (or such longer period as reasonably required given the nature of the Force Majeure Event), the non-performing Party shall provide the other Party with Notice in the form of a letter describing in detail the particulars of the occurrence giving rise to the Force Majeure Event claim and the anticipated impact on the non-performing Party's ability to perform its obligations and the non-performing Party's anticipated plan to resume full performance of the obligations impacted by the Force Majeure Event. Seller shall not substitute Product from any other source for Buyer’s Share of the output of the Project during an outage resulting from a Force Majeure Event. The suspension of performance due to a claim of a Force Majeure Event must be of no greater scope and of no longer duration than is required by the Force Majeure Event. Buyer shall not be required to make any payments for any Product that Seller fails to schedule, deliver or provide as a result of a Force Majeure Event during the term of such Force Majeure Event.

15.2 *Extended Force Majeure Events.*

This Agreement may be terminated by either Party with no further obligation to the other Party if a Force Majeure Event prevents the performance of a material portion of the obligations hereunder and such Force Majeure Event is not resolved and full performance is resumed within twelve (12) months after the commencement of such Force Majeure Event, subject to Seller’s right to extend in this Section 15.2. If Seller is the non-performing Party due to damage to the Project caused by a Force Majeure Event, Seller shall have up to [redacted]) Days following the start of such Force Majeure Event to obtain a report from an independent, third party engineer stating whether the Project is capable of being repaired or replaced within [redacted]) additional months from the date of the report. Seller shall promptly provide Buyer a copy of the engineer’s report at no cost to Buyer. If such engineer’s report concludes that the Project is capable of being repaired or replaced within such [redacted]) month period and Seller undertakes and continues such repair or replacement with due diligence, then Buyer shall not have the right to terminate this Agreement pursuant to this Section until the expiration of the period deemed necessary by the engineer’s report (not to exceed [redacted]) months), after which time, either Party may terminate by Notice to the other Party unless the Project has been repaired or replaced, as applicable, and the Seller has resumed and is satisfying its performance obligations under this Agreement.

ARTICLE 16
LIMITATIONS ON LIABILITY

16.1 ***Disclaimer of Warranties.***

EXCEPT AS SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED.

16.2 ***Limitations on Liability.***

THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED, UNLESS THE PROVISION IN QUESTION PROVIDES THAT THE EXPRESS REMEDIES ARE IN ADDITION TO OTHER REMEDIES THAT MAY BE AVAILABLE. EXCEPT FOR A PARTY'S INDEMNITY OBLIGATION IN RESPECT OF THIRD PARTY CLAIMS OR AS OTHERWISE EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. UNLESS EXPRESSLY HEREIN PROVIDED, AND SUBJECT TO THE PROVISIONS OF ARTICLE 11, IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

16.3 ***Buyer Liability.***

(a) This Agreement is a liability and financial obligation of the Solar II Project only. No liability or obligation under this Agreement shall inure to or bind any of the funds, accounts, monies, property, instruments, or rights of the Florida Municipal Power Agency generally, any individual FMPA member, or any of any other project designated by FMPA in accordance with Article II of the Interlocal Agreement.

(b) Each FMPA Solar II Project Participant has commitments under the FMPA Solar II Project Power Sales Contracts with regard to the payment obligations to the FMPA Solar II Project for all costs related to this Agreement in the event of a default by one or more other FMPA Solar II Project Participants, as more fully described in the Power Sales Contracts.

ARTICLE 17
DISPUTE RESOLUTION

17.1 *Intent of the Parties*

Except as provided in the next sentence, the sole procedure to resolve any claim arising out of or relating to this Agreement or any related agreement (a "**Dispute**") is the dispute resolution procedure set forth in this Article 12. Either Party may seek a preliminary injunction or other provisional judicial remedy if such action is necessary to prevent irreparable harm or preserve the status quo, in which case both Parties nonetheless will continue to pursue resolution of the Dispute by means of the dispute resolution procedure set forth in this ARTICLE 17.

17.2 *Management Negotiations*

(a) The Parties will attempt in good faith to resolve any Dispute by prompt negotiations between each Party's authorized representative designated in writing as a representative of the Party (each a "**Manager**"). Either Manager may, by Notice to the other Party, request a meeting to initiate negotiations to be held within ten (10) Business Days of the other Party's receipt of such request, at a mutually agreed time and place (either in person or telephonically). If the matter is not resolved within fifteen (15) Business Days of their first meeting ("**Initial Negotiation End Date**"), the Managers shall refer the matter to the designated senior officers of their respective companies that have authority to settle the dispute ("**Executives**"). Within five (5) Business Days of the Initial Negotiation End Date ("**Referral Date**"), each Party shall provide one another Notice confirming the referral and identifying the name and title of the Executive who will represent the Party.

(b) Within five (5) Business Days of the Referral Date, the Executives shall establish a mutually acceptable location and date, which date shall not be greater than thirty (30) Days from the Referral Date, to meet. After the initial meeting date, the Executives shall meet, as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute.

(c) All communication and writing exchanged between the Parties in connection with these negotiations shall be confidential and shall not be used or referred to in any subsequent binding adjudicatory process or judicial proceeding between the Parties. The Parties shall bear their respective costs, expenses and fees relating to the activities under this Section 17.2.

(d) If the matter is not resolved within forty-five (45) days of the Referral Date, or if the Party receiving the Notice to meet, pursuant to Section 17.2(a) above, refuses or does not meet within the ten (10) Business Day period specified in Section 17.2(a) above, and subject to Sections 16.2, 19.7 and 19.8 of this Agreement, either Party may pursue all remedies available to it at law or in equity. Venue for any action or proceeding shall be state and federal courts in Leon County, Florida.

17.3 *Specific Performance and Injunctive Relief.*

Each Party shall be entitled to seek a decree compelling specific performance with respect to, and shall be entitled, without the necessity of filing any bond, to seek the restraint by injunction of, any actual or threatened breach of any material obligation of the other Party under Article 13. The Parties in any action for specific performance or restraint by injunction agree that they shall each request that all expenses incurred in such proceeding, including, but not limited to, reasonable counsel fees, be apportioned in the final decision based upon the respective merits of the positions of the Parties.

ARTICLE 18
NOTICES

18.1 ***Notices.***

Whenever this Agreement requires or permits delivery of a "**Notice**" (or requires a Party to "notify"), the Party with such right or obligation shall provide a written communication in the manner specified in herein and to the addresses set forth below; provided, however, that Notices of Outages or other Scheduling or dispatch information or requests, shall be provided in accordance with the terms set forth in the relevant section of this Agreement or the Operating Procedures, as applicable. Invoices may be sent by facsimile or e-mail in addition to overnight mail or courier. A Notice sent by facsimile transmission or e-mail will be recognized and shall be deemed received on the Business Day on which such Notice was transmitted if received before 5:00 p.m. (and if received after 5:00 p.m., on the next Business Day) and a Notice of overnight mail or courier shall be deemed to have been received two (2) Business Days after it was sent or such earlier time as is confirmed by the receiving Party. Each Party shall provide Notice to the other Party of the persons authorized to nominate and/or agree to a Schedule or Dispatch Order for the delivery or acceptance of the Product or make other Notices on behalf of such Party and specify the scope of their individual authority and responsibilities, and may change its designation of such persons from time to time in its sole discretion by providing Notice.

If to Seller: FL Solar 8, LLC

800 Brickell Avenue, Suite 1100
Miami, FL 33131
Attn: President

With a copy to:
c/o Origis Energy
800 Brickell Avenue, Suite 1100
Miami, FL 33131
Attention: General Counsel

If to Buyer: Florida Municipal Power Agency

Chief Operating Officer
8553 Commodity Circle
Orlando, FL 32819
Telephone: 407-355-7767
Email: ken.rutter@fmpa.com

ARTICLE 19
MISCELLANEOUS

19.1 ***Effectiveness of Agreement; Survival.***

This Agreement shall be in full force and effect, enforceable and binding in all respects as of the Effective Date until the conclusion of the Term or earlier termination pursuant to the terms of this Agreement; provided however, that the relevant provisions of this Agreement shall remain in effect until (i) the Parties have fulfilled all obligations under this Agreement, including payment in full of amounts due for the Product delivered prior to the end of the Term, the Settlement Amount, indemnification payments or other damages (whether directly or indirectly such as through set-off or netting) and (ii) the undrawn portion of Performance Assurance is released and/or returned as applicable (if any is due). Notwithstanding any provisions herein to the contrary, the obligations set forth in Sections 6.1(b) and 13.1 and ARTICLE 16, the indemnity obligations set forth in ARTICLE 11, and the limitations on liabilities set forth herein shall survive (in full force) the expiration or termination of this Agreement.

19.2 ***Audits.***

Each Party has the right, at its sole expense and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any statement or payment will be made unless objection to the accuracy thereof was made prior to the lapse of twelve (12) months from the rendition thereof, and thereafter any objection shall be deemed waived except to the extent any misinformation was from a third party not affiliated with any Party and such third party corrects its information after such twelve (12)-month period.

19.3 ***Amendments.***

This Agreement shall not be modified nor amended unless such modification or amendment shall be in writing and signed by authorized representatives of both Parties.

19.4 ***Waivers.***

Failure to enforce any right or obligation by any Party with respect to any matter arising in connection with this Agreement shall not constitute a waiver as to that matter nor to any other matter. Any waiver by any Party of its rights with respect to a breach or default under this Agreement or with respect to any other matters arising in connection with this Agreement must be in writing. Such waiver shall not be deemed a waiver with respect to any subsequent breach or default or other matter.

19.5 ***Severability.***

If any of the terms of this Agreement are finally held or determined to be invalid, illegal or void, all other terms of the Agreement shall remain in effect; *provided* that the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any Applicable Law and the original intent and original economic benefit of the Parties.

19.6 ***Standard of Review.***

(a) Absent the agreement of the Parties to the proposed change, the standard of review for changes to this Agreement proposed by a Party, a Person or the FERC acting sua sponte shall be the "public interest" application of the "just and reasonable" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956), as clarified by Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish, 554 U.S. 527 (2008) (the "Mobile-Sierra" doctrine).

(b) Notwithstanding any provision of Agreement, and absent the prior written agreement of the Parties, each Party, to the fullest extent permitted by Applicable Laws, for itself and its respective successors and assigns, hereby also expressly and irrevocably waives any rights it can or may have, now or in the future, whether under Sections 205, 206, or 306 of the Federal Power Act or otherwise, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation, supporting a third party seeking to obtain or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain, an order from FERC changing any Section of this Agreement specifying any rate or other material economic terms and conditions agreed to by the Parties.

19.7 ***Governing Law.***

THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF FLORIDA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. THE SOLE AND EXCLUSIVE VENUE FOR ANY DISPUTE, CLAIM OR CONTROVERSY RELATING TO THIS AGREEMENT SHALL BE THE STATE AND FEDERAL COURTS IN LEON COUNTY, FLORIDA.

19.8 ***Waiver of Trial by Jury.***

EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY DISPUTE ARISING OUT OF OR RELATING TO THIS AGREEMENT AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS AGREEMENT.

19.9 *Attorneys' Fees.*

In any proceeding brought to enforce this Agreement or because of the breach by any Party of any covenant or condition herein contained, the prevailing Party shall be entitled to reasonable attorneys' fees (including reasonably allocated fees of in-house counsel) in addition to court costs and any and all other costs recoverable in said action.

19.10 *No Third-Party Beneficiaries.*

Except as set forth in Article 14, this Agreement is intended solely for the benefit of the Parties hereto and nothing contained herein shall be construed to create any duty to, or standard of care with reference to, or any liability to, or any benefit for, any Person not a Party to this Agreement.

19.11 *No Agency.*

This Agreement is not intended, and shall not be construed, to create any association, joint venture, agency relationship or partnership between the Parties or to impose any such obligation or liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act as or be an agent or representative of, or otherwise bind, the other Party.

19.12 *Cooperation.*

The Parties acknowledge that they are entering into a long-term arrangement in which the cooperation of both of them will be required. If, during the Term, changes in the operations, facilities or methods of either Party will materially benefit a Party without detriment to the other Party, the Parties commit to each other to make Commercially Reasonable Efforts to cooperate and assist each other in making such change, including engaging in good-faith negotiations to revise or supplement this Agreement as appropriate.

19.13 *Further Assurances.*

Upon the receipt of a written request from the other Party, each Party shall execute such additional documents, instruments and assurances and take such additional actions as are reasonably necessary and desirable to carry out the terms and intent hereof. Neither Party shall unreasonably withhold, condition or delay its compliance with any reasonable request made pursuant to this Section. No Party shall be required to take any action or execute any document under this Section 19.13 that would negatively change that Party's risk or benefit under this Agreement.

19.14 *Captions; Construction.*

All indexes, titles, subject headings, section titles, and similar items are provided for the purpose of reference and convenience and are not intended to affect the meaning of the content or scope of this Agreement. This Agreement was prepared jointly by the Parties, each Party having had access to advice of its own counsel, and not by either Party to the exclusion of the other Party, and shall not be construed against one Party or the other as a result of the manner in which this Agreement was prepared, negotiated or executed.

19.15 *Entire Agreement.*

This Agreement shall supersede all other prior and contemporaneous understandings or agreements, both written and oral, between the Parties relating to the subject matter of this Agreement.

19.16 *Forward Contract.*

The Parties acknowledge and agree that this Agreement constitutes a "forward contract" within the meaning of the United States Bankruptcy Code.

19.17 *Service Contract.*

Each Party intends this Agreement to be a "service contract" within the meaning of Section 7701(e) of the Internal Revenue Code of 1986.

19.18 *Counterparts.*

This Agreement may be executed in several counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK –
SIGNATURES APPEAR ON FOLLOWING PAGE]**

IN WITNESS WHEREOF the Parties have executed this Agreement in the manner appropriate to each as of the Effective Date set forth above.

FL Solar 8, LLC

By:______________________________

Name: Chad VANHEE

Title: CCO

Florida Municipal Power Agency

By:______________________________

Name: Jacob A. Williams

Title: GM & CEO

Signature Page

EXHIBIT A

CONTRACT PRICE & OPTION PRICE

I. CONTRACT PRICE

A. Initial Term

PERIOD	CONTRACT PRICE ($/MWh)
From and including the Initial Energy Delivery Date through the remainder of the Initial Term	$[redacted]

B. Renewal Terms

Renewal Term 1	
Contract Year	**Contract Price ($/MWh)**
21	[redacted]
22	[redacted]
23	[redacted]
24	[redacted]
25	[redacted]
Renewal Term 2	
Contract Year	**Contract Price ($/MWh)**
26	[redacted]
27	[redacted]
28	[redacted]
29	[redacted]

30	[redacted]

II. OPTION PRICE TABLE

Price addition to the PPA Rate Post ITC ([redacted])		
-		
ITC % Assumption	**Delta PPA Rate ($ / MWh) Per MWac in year 1**	**PPA Rate Post ITC for each MWac that is placed in service at the applicable ITC %**
[redacted]	[redacted]	
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]

EXHIBIT B

<u>DESCRIPTION OF PROJECT</u>

Seller intends to build, own and operate a single axis tracking photovoltaic solar energy generation facility on a site located in Alachua County, Florida, which may be referred to at times in this Agreement as the "Whistling Duck" solar facility. As presently planned, the Expected Project Capacity will be 74.9 MW, and will consist of:

- 74.9 MWac solar PV plant with single-axis tracker, (1) 53/70/88MVA 230/34.5/13.8-kV, three-winding transformer (Ynynd)
- (24) PE HEM FS3350M inverters, each with an integrated pad mount transformer 3465kVA, 34.5/0.63-kV Dy
- 1x15 MVAR capacitor bank at the 34.5kV bus of the substation to which the Project interconnects

Point(s) of Interconnection: The Project will interconnect with the transmission facilities of Duke Energy Florida at a point to be determined in the interconnection study process.

Real Property Description which shall be subject to adjustment to reflect the final survey and any modifications made in accordance with Prudent Operating Practices:

Located in the County of Alachua, Florida (to be updated by Seller in accordance with the Interconnection Agreement).

Nothing in this Agreement or Exhibit B is intended to either (i) limit the right of Seller to make any changes to the Project it determines to undertake, or (ii) grant any rights to Buyer regarding the description, nature or components of the Project.

EXHIBIT C

DESCRIPTION OF DELIVERY POINT

Following is a preliminary description of the Delivery Point. Seller shall update as necessary.

The Delivery Point will be at the point the Project interconnects to Duke Energy Florida's transmission system, which (as of the Effective Date) is anticipated to be located at a new substation along the Archer-Martin West 230kV transmission line.

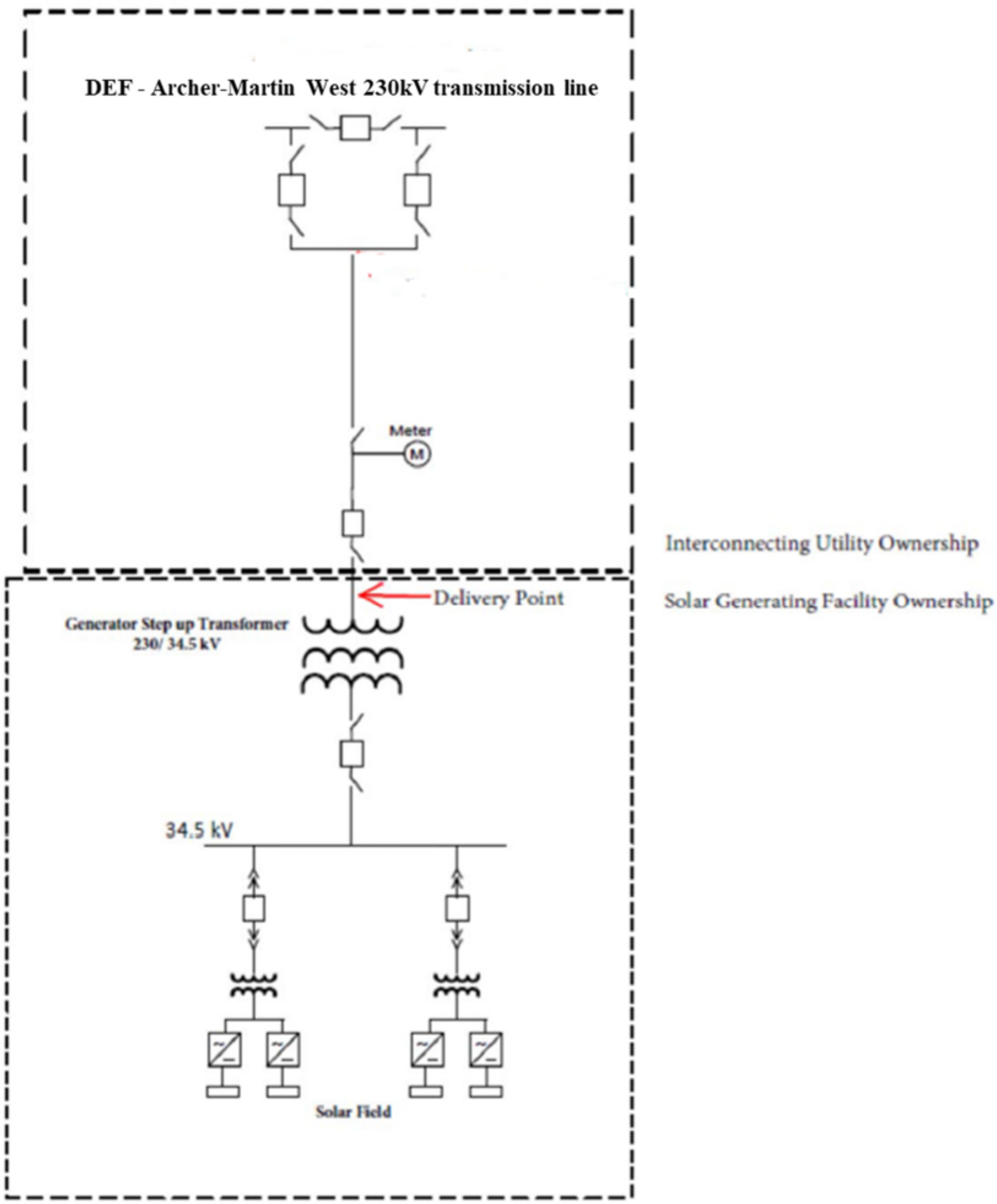

EXHIBIT D

PRODUCTION GUARANTEE

I. **Definitions.** The following defined terms shall apply to this Exhibit D. Capitalized terms used in this Exhibit D and not defined herein will have the meaning assigned in Section 1.1 of the Agreement.

"Actual Energy Output" means, for any Contract Year, the amount of Energy the Seller delivered or made available to Buyer at the Delivery Point during such Contract Year, measured in MWh.

"Annual Energy Output Guarantee" means, for any Contract Year, (i) Buyer's Share of the amount set forth in the following Table A for such Contract Year, less (ii) any Excused Energy.

Table A	
Contract Year	**Annual Energy Output (MWh)**
	Whistling Duck
1	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
Renewal Terms (if applicable)	
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]

	[redacted]			[redacted]	
	[redacted]			[redacted]	
	[redacted]			[redacted]	
	[redacted]			[redacted]	
	[redacted]			[redacted]	
	[redacted]			[redacted]	

“Damages Rate” means [redacted] per MWh of Production Shortfall.

“<u>Excused Energy</u>” means (a) any Energy, measured in MWh, that Seller is unable to schedule or deliver to the Delivery Point as a result of Buyer Curtailment Orders, Buyer’s failure to obtain transmission service or Buyer’s failure to perform, including for reasons outside its control, as contemplated in Section 3.8(c) (other than due to a breach by Seller of its obligations under the Agreement); plus (b) Buyer’s Share of any Energy, measured in MWh, that Seller is unable to schedule or deliver to the Delivery Point as a result of a (i) Curtailment Period, (ii) System Emergency (other than a System Emergency caused by Seller’s breach of the Interconnection Agreement), (iii) Force Majeure Event, or (iv) Planned Outages [redacted]

“<u>Production Shortfall</u>” means, for any Contract Year, the positive difference (if any) between the Annual Energy Output Guarantee and the Actual Energy Production for that Contract Year.

II. <u>Guarantee and Damages</u>.

a. <u>Production Guarantee Damages</u>. If there is a Production Shortfall in any two rolling consecutive Contract Years, then Seller shall owe Buyer liquidated damages in an amount equal to (i) the Production Shortfall that occurred in the later of the two relevant Contract Years, multiplied by (ii) the Damages Rate (the “**Production Guarantee Damages**”).

b. <u>Annual Report</u>. No later than 45 days after each Contract Year, Seller shall deliver to Buyer: (i) a calculation showing Seller’s computation of the Actual Energy Output for the previous two Contract Years and the Production Guarantee Damages, if any, owed to Buyer, and (ii) payment in full of any Production Guarantee Damages owed to Buyer. Production Guarantee Damages shall be Buyer’s sole remedy for the failure of Seller to satisfy the production guarantee set forth in this Exhibit D.

EXHIBIT E
<u>FORM OF GUARANTY</u>

THIS SOLAR POWER PURCHASE AGREEMENT GUARANTY, dated as of ______________ (this "<u>Guarantee</u>"), is issued by [name of guarantor], a __________ ("<u>Guarantor</u>") in favor of [___________] ("<u>Guaranteed Party</u>"). [BENEFICIARY], a Delaware limited liability company ("<u>Obligor</u>") is a wholly owned subsidiary of Guarantor.

A. RECITALS

Obligor and Guaranteed Party have entered into a Solar Power Purchase Agreement, dated as of _____________ (the "<u>Agreement</u>").

This Guarantee is delivered to Guaranteed Party by Guarantor pursuant to the Agreement. All terms defined in the Agreement and not otherwise defined in this Guarantee have the meanings given to them in the Agreement.

<u>AGREEMENT</u>

<u>Guarantee</u>.

<u>Guarantee of Obligations Under the Agreement</u>. For value received, Guarantor absolutely, unconditionally and irrevocably, as primary Obligor and not as surety, subject to the express terms hereof, guarantees the payment and performance when due of all obligations, whether now in existence or hereafter arising, by Obligor to Guaranteed Party pursuant to the Agreement (the "<u>Obligations</u>"). This Guarantee is one of payment and not of collection and shall apply regardless of whether recovery of all such Obligations may be or become discharged or uncollectible in any bankruptcy, insolvency or other similar proceeding, or otherwise unenforceable.

<u>Maximum Guaranteed Amount</u>. Notwithstanding anything to the contrary, Guarantor's aggregate obligation to Guaranteed Party hereunder is limited to [**insert applicable Required Security Amount**] (the "<u>Maximum Guaranteed Amount</u>") (it being understood for purposes of calculating the Maximum Guaranteed Amount of Guarantor hereunder that any payment by Guarantor either directly or indirectly to the Guaranteed Party, pursuant to a demand made upon Guarantor by Guaranteed Party or otherwise made by Guarantor pursuant to its obligations under this Guarantee, including any indemnification obligations, shall reduce Guarantor's maximum aggregate liability hereunder on a dollar-for-dollar basis), excluding costs and expenses incurred by Guaranteed Party in enforcing this Guarantee, and shall not either individually or in the aggregate be greater or different in character or extent than the obligations of Obligor to Guaranteed Party under the terms of the Agreement.

<u>Payment; Currency</u>. All sums payable by Guarantor hereunder shall be made in freely transferable and immediately available funds and shall be made in the currency in which the Obligations were due.

<u>Waiver of Certain Defenses</u>. Guarantor waives: (a) notice of acceptance of this Guarantee and of the Obligations and any action taken with regard thereto; (b) presentment, demand for payment,

protest, notice of dishonor or non-payment, suit, or the taking of any other action by Guaranteed Party against Obligor, Guarantor or others; (c) any right to require Guaranteed Party to proceed against Obligor or any other person, or to require Guaranteed Party first to exhaust any remedies against Obligor or any other person, before proceeding against Guarantor hereunder; and (d) any defense based upon (i) an election of remedies by Guaranteed Party; (ii) a change in the financial condition, corporate existence, structure or ownership of the Guarantor or Obligor; (iii) the institution by or against Obligor or any other person or entity of any bankruptcy, winding-up, liquidation, dissolution, insolvency, reorganization or other similar proceeding affecting Obligor or its assets or any resulting release, stay or discharge of any Obligations; (iv) any lack or limitation of power, incapacity or disability on the part of Obligor or of its directors, partners or agents or any other irregularity, defect or informality on the part of Obligor in the authorization of the Obligations; (v) any lack of validity or enforceability of the Obligations; (vi) any amendment, release, discharge, substitution or waiver of the Agreement or any of the Obligations and (v) any duty of Guaranteed Party to disclose to Guarantor any facts concerning Obligor, the Agreement or the Project, or any other circumstances that might increase the risk to Guarantor under this Guarantee, whether now known or hereafter learned by Guaranteed Party, it being understood that Guarantor is capable of and assumes the responsibility for being and remaining informed as to all such facts and circumstances.

Without limitation to the foregoing, Guaranteed Party shall have the right to at any time and from time to time without notice to or consent of Guarantor and without impairing or releasing the obligations of Guarantor hereunder: (a) renew, compromise, extend, accelerate or otherwise change, substitute or supersede the Obligations; (b) take or fail to take any action of any kind in respect of any security for the Obligations, or impair, exhaust, exchange, enforce, waive or release any such security; (c) exercise or refrain from exercising any rights against Obligor or others in respect of the Obligations; or (d) compromise or subordinate the Obligations, including any security therefor, or grant any forbearances or waivers, on one or more occasions, for any length of time, or accept settlements with respect to Obligor's performance of any of the Obligations.

Except as expressly set forth in this paragraph, Guarantor shall be entitled to assert any and all rights, setoffs, counterclaims and other defenses that Obligor may have to payment or performance of any of the Obligations and also shall be entitled to assert any and all rights, setoffs, counterclaims and other defenses that the Guarantor may have against the Guaranteed Party, other than (a) defenses arising from the insolvency, reorganization or bankruptcy of Obligor, (b) defenses expressly waived in this Agreement by Guarantor, (c) defenses arising by reason of (i) Guarantor's direct or indirect ownership interests in Obligor or (ii) legal requirements applicable to Obligor that prevent the payment by Obligor of its payment obligations that constitute Obligations, and (d) defenses previously asserted by Obligor against such claims to the extent such defenses have been resolved in favor of Guaranteed Party by a court of last resort.

Term. This Guarantee shall continue in full force and effect until the earlier to occur of (a) the substitution of an alternative form of Security by Obligor, (b) the satisfaction of all Obligations of Obligor under the Agreement, or (c) the payment by Guarantor, without reservation of rights, of an aggregate amount equal to the Maximum Guaranteed Amount, together with any other amounts required to be paid by Guarantor pursuant to this agreement. Guarantor further agrees that this Guarantee shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of any Obligation is rescinded or must otherwise be restored or returned due to bankruptcy or insolvency laws or otherwise.

Subrogation. Until all Obligations are indefeasibly paid in full, unless otherwise provided herein, Guarantor waives all rights of subrogation, reimbursement, contribution and indemnity from Obligor with respect to this Guarantee and any collateral held therefor, and Guarantor subordinates all rights under any debts owing from Obligor to Guarantor, whether now existing or hereafter arising, to the prior payment of the Obligations. Any amount paid to Guarantor on account of any purported subrogation rights prior to the termination of this Guaranty shall be held in trust for the benefit of Guaranteed Party and shall immediately thereafter be paid to Guaranteed Party.

Expenses. Whether or not legal action is instituted, Guarantor agrees to reimburse Guaranteed Party on written demand for all reasonable attorneys' fees and all other reasonable costs and expenses incurred by Guaranteed Party in enforcing its rights under this Guarantee. Notwithstanding the foregoing, the Guarantor shall have no obligation to pay any such costs or expenses if, in any action or proceeding brought by Guaranteed Party giving rise to a demand for payment of such costs or expenses, it is finally adjudicated that the Guarantor is not liable to make payment.

Assignment. Guarantor shall not be permitted to assign its rights or delegate its obligations under this Guarantee in whole or part without written consent of Guaranteed Party. Guaranteed Party shall not be permitted to assign its rights hereunder except in connection with a permitted assignment of its rights and obligations under the Agreement.

Non-Waiver. The failure of Guaranteed Party to enforce any provisions of this Guarantee at any time or for any period of time shall not be construed to be a waiver of any such provision or the right thereafter to enforce same. All remedies of Guaranteed Party under this Guarantee shall be cumulative and shall be in addition to any other remedy now or hereafter existing at law or in equity. The terms and provisions hereof may not be waived, altered, modified or amended except in a writing executed by Guarantor and Guaranteed Party.

Entire Agreement. This Guarantee and the Agreement are the entire and only agreements between Guarantor and Guaranteed Party with respect to the guarantee of the Obligations of Obligor by Guarantor. All prior or contemporaneous agreements or undertakings made, which are not set forth in this Guarantee, are superseded.

Notice. Any demand for payment, notice, request, instruction, correspondence or other document to be given hereunder by Guarantor or by Guaranteed Party shall be in writing and shall be deemed received (a) if given personally, when received; (b) if mailed by certified mail (postage prepaid and return receipt requested), five (5) days after deposit in the U.S. mails; (c) if given by facsimile, when transmitted with confirmed transmission; or (d) if given via overnight express courier service, when received or personally delivered, in each case with charges prepaid and addressed as follows (or such other address as either Guarantor or Guaranteed Party shall specify in a notice delivered to the other in accordance with this Section):

If to Guarantor:

Attn: _____________

If to Guaranteed Party:

Attn: _____________

<u>Counterparts</u>. This Guarantee may be executed in counterparts, each of which when executed and delivered shall constitute one and the same instrument.

<u>Governing Law; Jurisdiction</u>. This Guarantee shall be governed by and construed in accordance with the laws of the State of Florida without giving effect to principles of conflicts of law. Guarantor and Guaranteed Party submit to the jurisdiction and venue of the Superior Court of the District of Columbia or of any federal district court located in the District of Columbia over any disputes relating to this Guarantee.

<u>Further Assurances</u>. Guarantor shall cause to be promptly and duly taken, executed, acknowledged and delivered such further documents and instruments as Guaranteed Party may from time to time reasonably request in order to carry out the intent and purposes of this Guarantee.

<u>Limitation on Liability</u>. Except as specifically provided in this Guarantee, Guaranteed Party shall have no claim, remedy or right to proceed against Guarantor or against any past, present or future stockholder, partner, member, director or officer thereof for the payment of any of the Obligations, as the case may be, or any claim arising out of any agreement, certificate, representation, covenant or warranty made by Obligor in the Agreement.

<u>Effectiveness</u>. This Guarantee shall be effective as of the date set forth in the first paragraph hereof upon its execution by both Guarantor and Guaranteed Party.

IN WITNESS WHEREOF, Guarantor and Guaranteed Party have executed and delivered this Guarantee.

[**Guarantor**]

By:__________________________________
Name:
Title:

Acknowledged and agreed

[**Guaranteed Party**]

By: __________________________________
Name:
Title:

EXHIBIT F
FORM OF IRREVOCABLE LETTER OF CREDIT

Irrevocable Standby Letter of Credit No.

Date of Issuance:

Beneficiary:

[Buyer Name]

Applicant/Account Party:

Amount: USD Amount ([Amount] and 00/100)

Initial expiration date at our counter (unless evergreen):

Final expiration date at our counter:

Ladies and Gentlemen:

We, [Bank Name]

("Issuer"), do hereby issue this Irrevocable Transferable Standby Letter of Credit No. {______} by order of, for the account of, and on behalf of [_________] ("Account Party") and in favor of [Buyer Name]. The term "Beneficiary" includes any successor by operation of law of the named beneficiary including without limitation any liquidator, receiver or conservator.

This Letter of Credit is issued, presentable and payable at the office of the Issuing Bank and we guarantee to YOU that drafts and documents drawn under and in compliance with the terms of this Letter of Credit will be honored on presentation pursuant to the terms of this Letter of Credit.

This Letter of Credit is available in one or more drafts drawn on [Bank Name] and may be drawn hereunder for the account of up to an aggregate amount not exceeding [$Amount]. This Letter of Credit is drawn against by presentation to us at our office located at [Bank Address] of a drawing certificate (i) signed by an officer of the Beneficiary; (ii) dated the date of presentation; and (iii) the following statement:

"The undersigned hereby certifies to [Bank Name] ("Issuer"), with reference to its Irrevocable Transferable Standby Letter of Credit No.[____], dated , issued on behalf of [______________] ("Account Party") and in favor of the [Buyer Name], ("Beneficiary") that:

> [said Account Party has failed to perform in accordance with the terms and provisions of the Solar Power Purchase Agreement dated [ ] to which Account Party and Beneficiary are parties, as such agreement may be amended and supplemented from time to time, and any replacements or substitutions thereof, (collectively, the "Agreement").]

☐ --or--

[(i) Beneficiary has received notice from the Issuing Bank pursuant to the terms of the Letter of Credit that Issuing Bank elects not to extend the Letter of Credit for an additional one-year period, and (ii) the Letter of Credit will expire in fewer than thirty (30) days from the date hereof. As such, as of the date hereof Beneficiary is entitled to draw under the Letter of Credit.]

The Beneficiary hereby draws upon the Letter of Credit in an amount equal to $[insert amount in figures] (United States Dollars [insert amount in words])."

If presentation of any drawing certificate is made on a Business Day and such presentation is made on or before 10:00 a.m. Eastern Time, Issuer shall satisfy such drawing request on the second Business Day. If the drawing certificate is received after 10:00 a.m. Eastern Time, Issuer will satisfy such drawing request on the third Business Day.

It is a condition of the letter of credit that it will be automatically extended without amendment for additional one-year periods until [ ] (the "Final Expiration Date"), unless at least one hundred twenty (120) days prior to any expiration date we send you written notice at the above address by registered mail or overnight courier service that we elect not to consider this Letter of Credit extended for any such period.

This Letter of Credit may be transferred in its entirety (but not in part) by Issuing Bank only upon presentation to us of a Request for Transfer signed by the Beneficiary in the form of Exhibit A accompanied by this Original Letter of Credit and any amendment(s), in which the Beneficiary irrevocably transfers to such transferee all of its rights hereunder, whereupon we agree to either issue a Transferred letter of credit to such transferee or endorse such transfer on the reverse of this Letter of Credit. Any transfer fees assessed by the issuer will be payable solely by the applicant.

Payments under the Letter of Credit shall be in accordance with the following terms and conditions:

All commissions and charges will be borne by the Account Party.

This Letter of Credit shall be governed by the International Standby Practices Publication No. 590 of the International Chamber of Commerce, (the "ISP"), except to the extent that terms hereof are inconsistent with the provisions of the ISP, in which case the terms of the Letter of Credit shall govern. This Letter of Credit shall be governed by the internal laws of the State of Florida to the extent that the terms of the ISP are not applicable; provided that, in the event of any conflict between the ISP and such Florida laws, the ISP shall control.

This Letter of Credit may not be amended, changed or modified without the express written consent of the Beneficiary and the Issuer.

The Beneficiary shall not be deemed to have waived any rights under this Letter of Credit, unless the Beneficiary shall have signed a written waiver.

No such waiver, unless expressly so stated therein, shall be effective as to any transaction that occurs subsequent to the date of the waiver, nor as to any continuance of a breach after the waiver.

Partial drawings and multiple drawings are permitted.

A failure to make any drawing at any time shall not impair or reduce the availability of this Letter of Credit in any subsequent period or our obligation to honor your subsequent demands for payment made in accordance with the terms of this Letter of Credit.

Original Letter of Credit and all amendments need to be presented for a drawing. If it's a partial drawing, we will endorse the drawing amount on the back of the Original Letter of Credit and return the same to beneficiary.

EXHIBIT A UNDER STANDBY LETTER OF CREDIT NO.

REQUEST FOR TRANSFER OF LETTER OF CREDIT IN ITS ENTIRETY

Date: ________________

[Bank Name and Address]
Re: Standby Letter of Credit No.

For value received, the undersigned beneficiary hereby irrevocably transfers to:

NAME OF TRANSFEREE ____

ADDRESS OF TRANSFEREE _____________________________________

CITY, STATE/COUNTRY ZIP ____________________________________

(hereinafter, the "transferee") all rights of the undersigned beneficiary to draw under above letter of credit, in its entirety.

By this transfer, all rights of the undersigned beneficiary in such Letter of Credit are transferred to the transferee and the transferee shall have the sole rights as beneficiary hereof, including sole rights relating to any amendments, whether increases or extensions or other amendments and whether now existing or hereafter made. All amendments are to be advised directly to the transferee without necessity of any consent of or notice to the undersigned beneficiary.

The original of such letter of credit and all amendment(s), if any, are returned herewith, and we ask you to issue a Transferred Letter of Credit or endorse the transfer on the reverse thereof, and forward it directly to the transferee with your customary notice of transfer.

In payment of your transfer commission in amount equal to ¼% of the amount transferred, minimum of $250.00

The applicant has wired funds to you through_________________________________ bank and in addition thereto, we agree to pay you on demand any expenses which may be incurred by you in connection with this transfer

Very truly yours, [BENEFICIARY NAME]

____

Authorized Signature

The signature(s) of ______________________________ with title(s) as stated conforms to those on file with us; are authorized for the execution of such instrument; and the beneficiary has been approved under our bank's Customer Identification Program.

____

____

(Signature of Authenticating Bank) (Name of Bank)

____

____

(Printed Name/Title) (Date)

____

____

(1) FOR BANK USE ONLY

Confirmation of Authenticating Bank's signature performed by:

____

Date: Time: a.m./p.m.

Addl Info.:

EXHIBIT G
INSURANCE REQUIREMENTS

General Liability Insurance. Seller must obtain the following insurance coverage, which can be exceeded by Seller and may be met through any combination of primary insurance and following form excess or umbrella insurance so long as the combined limits meet requirements of this Agreement:

Commercial general liability insurance in an "occurrence" form with bodily injury and property damage combined liability limits of not less than [redacted]) per occurrence; provided, however: (i) Seller may use any combination of primary or excess policies to satisfy the overall limit requirements; and (ii) if Seller uses a "claims-made" policy, it must maintain continuous coverage in effect for at least two (2) years beyond termination of this Agreement, through continuous renewal of the original policy or by purchasing extended discovery period or retroactive insurance dated back to the Effective Date of this Agreement.

Specific coverage for broad form contractual liability and a separation of insured provision.

Additional Insurance. In addition to the requirements above, Seller must acquire and maintain throughout the Term, the following additional types of insurance:

Workers' Compensation. Workers' compensation insurance in accordance with statutory requirements including employer's liability insurance with limits not less than [redacted] per occurrence and endorsement providing insurance for obligations under the U.S. Longshoremen's and Harbor Worker's Compensation Act and the Jones Act, where applicable.

Auto Liability. Automobile liability insurance including owned, non-owned and hired automobiles with combined bodily injury and property damage limits of at least [redacted].

All Risk Property. All Risk Property insurance covering the Facility against physical loss or damage, with a minimum limit sufficient to cover replacement of the Facility, except physical loss or damage caused by flood, wind, or earthquake, which shall be insured up to $10 million, to be procured at commercially reasonable terms and limits available in the marketplace. A deductible may be carried, which will be the absolute responsibility of Seller.

EXHIBIT H
FORM OF SURETY BOND

BOND NUMBER ____________________

POWER PURCHASE AGREEMENT BOND

KNOW ALL MEN BY THESE PRESENTS, That we ____ (hereinafter called "Principal"), and [_________________________] authorized to do business in the State of ______________________ (hereinafter called "Surety") are held and firmly bound unto ____ (hereinafter called "Obligee") as Obligee, for such monetary amount as incurred by the Obligee, not to exceed the penal sum of ____($__________________) DOLLARS, good and lawful money of the United States of America, the payment of which, well and truly to be made, we do bind ourselves, our heirs, administrators, executors, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS the above bounded Principal has entered into a certain written agreement with the above named Obligee, effective the ________ day of __________________, 20____, for the ____ (hereinafter called "Agreement") which Agreement is hereby referred to and made a part hereof as fully and to the same extent as if copies at length were attached herein.

The obligation of this Bond shall be null and void unless: (1) the above Agreement is in writing, and has been fully executed by both the Principal and the Obligee; (2) the Principal is actually in Default under the above Agreement (hereinafter called "Default"), and is declared by the Obligee thereafter to be in Default; and (3) the Obligee has provided written notice of the Default to the Surety as promptly as possible, and in any event, within fifteen (15) days after such Default.

The Surety, at the sole election and discretion of the Surety, may take any of the following actions:

1. Determine the amount for which the Surety may be liable to the Obligee, and as soon as practicable thereafter, tender payment thereof to the Obligee; or
2. Pay the full amount of the above penal sum in complete discharge and exoneration of this Bond, and of all liabilities of the Surety relating hereto.

PROVIDED HOWEVER, that this Bond is executed by the Surety and accepted by the Obligee subject to the following expressed conditions:

1. This bond may be cancelled by providing sixty days (60) written notice of cancellation given by certified mail to the Obligee and to the Principal at the addresses stated below. Such cancellation shall in no way limit the liability of the Surety for subsequent defaults of the Principal's obligation incurred prior to such termination. In the event of cancellation, the Principal is responsible for providing alternate security to the Obligee thirty (30) days prior to the termination date, otherwise to be considered in Default under the Agreement and the Obligee shall be entitled to submit a Demand and receive payment under this Bond.
2. A reorganization under Chapter 11 of the US Bankruptcy Code by the Principal shall not constitute an event of Default recoverable under this Bond if they continue to perform their obligations under the Agreement.
3. In the event the Principal fails to make any payments due to the Obligee which would constitute the basis of a Default, within Ten (10) business days of Surety's receipt of a Demand for payment under this Bond (hereinafter called "Demand"), Surety shall pay to the Obligee the amount of such Demand. The Surety shall cause to be paid all payments then past due, and in so doing cure any Default under the Agreement. The Obligee may present one or more Demands at any time in its sole discretion, provided however, Surety shall not be obligated to pay an aggregate amount in excess of the penal sum of the Bond less any amounts previously paid by the surety.

4. Surety's liability under this Bond issued in connection therewith shall not be cumulative and shall in no event exceed the amount as set forth in this bond or in any additions, riders, or endorsements properly issued by the Surety as supplements thereto.
5. No claim, action, suit or proceeding, except as herein set forth, shall be had or maintained against the Surety on this Bond unless same be brought or instituted and process served upon the Surety within six (6) months following the effective cancellation date of this Bond.
6. Any notice given or required under this Agreement will be made to the following representatives of the Parties:
    a. To: {Principal}

    b. To: {Obligee}

    c. To: {Surety}

In the event of conflict or inconsistency between the provisions of this Bond and the provisions of the above Agreement, the provisions of this Bond shall control. The Obligee's acceptance of this Bond and reliance upon it as security constitutes its acknowledgement and agreement as to the explicit terms stated herein under which it is offered and issued by the Surety.

Sealed with our seals and dated this ________________ day of ________________________________ 20____.

WITNESS:	PRINCIPAL:
________________________________	________________________________(SEAL)
(Name & Title)	(Signature)
	________________________________
	(Name & Title)

WITNESS:	SURETY:
________________________________	________________________________(SEAL)
(Name & Title)	(Signature)
	________________________________
	(Name, as Attorney-in-Fact)

EXHIBIT I

ENVIRONMENTAL ATTRIBUTES ATTESTATION AND BILL OF SALE

I. Seller Information

Name of Seller:____

Address of Seller:____

Contact Person: _________________________________ Title:___________________________

Telephone: _________________ Fax: ______________ Email Address:____________________

II. Declaration

I, **[NAME AND TITLE]** declare that the Environmental Attributes listed below were sold in accordance with that [**AGREEMENT**] dated as of [**DATE**] ("Agreement") exclusively from: _____("Seller") to [________________] ("Buyer").

# MWhs Environmental Attributes Transferred	Period of Generation (mm/yy)

I further declare that:

1) all the Environmental Attributes were generated by Seller;

2) to the best of my knowledge, the Environmental Attributes were not sold, marketed or otherwise claimed by a third party;

3) Seller transferred the Environmental Attributes only once, to Buyer;

4) the Environmental Attributes were not used to meet any federal, state or local renewable energy requirement, renewable energy procurement, renewable portfolio standard, or other renewable energy mandate by Seller, nor, to the best of my knowledge, by any other entity;

5) all of the Environmental Attributes transferred to Buyer (as listed above) were generated at the [_____] facility, a [____]-powered generation facility located in [County, State]; and

6) Environmental Attributes transferred to Buyer include RECs which shall be registered and eligible under the Applicable REC Program specified in the Agreement.

As an authorized agent of Seller, I attest that the above statements are true and correct.

____ ______________________________
Signature Date

____
Place of Execution

EXHIBIT J

FORM OF LENDER CONSENT

In the event Seller collaterally assigns its rights hereunder to the Lender as security, any related Lender Consent will contain provisions substantially as follows:

Buyer will not terminate the Agreement other than as provided therein, without the prior written consent of the Lender.

In connection with the exercise of its rights under the Financing Documents, the Lender shall have the right, but not the obligation, to do any act required to be performed by Seller under the Agreement, and Buyer shall accept any such performance by the Lender any such performance by the Lender to the same extent as if such performance was rendered by Seller itself.

Lender shall not assume, sell or otherwise dispose of the Agreement (whether by foreclosure sale, conveyance in lieu of foreclosure or otherwise) unless, on or before the date of any such assumption, sale or disposition, Lender or any third party, as the case may be, assuming, purchasing or otherwise acquiring the Agreement (a) executes and delivers to Buyer a written assumption of all of Seller's rights and obligations under the Agreement in form and substance reasonably satisfactory to Buyer, which include the obligation to cure any and all defaults of Seller under the Agreement which are capable of being cured and which are not personal to Seller; (b) satisfies and complies with all requirements of the Agreement; (c) if applicable, delivers to Buyer a replacement for any Credit Support that is required to be delivered and maintained by Seller under the Agreement; and (d) is a Permitted Transferee (as defined below). Lender further acknowledges that the assignment of the Agreement to Lender is for security purposes only and that Lender has no rights under the Agreement to enforce the provisions of the Agreement unless and until an event of default has occurred and is continuing under the Financing Documents (a "Financing Default") or under this Agreement, in which case Lender shall be entitled to all of the rights and benefits and subject to all of the obligations which Seller then has or may have under the Agreement to the same extent and in the same manner as if Lender were an original party to the Agreement.

"Permitted Transferee" means any person or entity who (i) meets the Required Credit Rating set forth in the Agreement, (ii) has, or is the subsidiary of an entity that has, a record of owning and/or operating, for a period of at least [redacted], solar photovoltaic generating facilities with an aggregate nameplate capacity of no less than [redacted] MW, and (iii) is not a Prohibited Person or Entity. Lender may from time to time, following the occurrence of a Financing Default, notify Buyer in writing of the identity of a proposed transferee of the Agreement, which proposed transferee may include Lender, in connection with the enforcement of Lender's rights, which notice shall include evidence reasonably acceptable to Buyer that the proposed transferee satisfies the criteria set forth above. Upon receipt of such notice, Buyer shall, within thirty (30) Days of its receipt of such written notice, confirm to Lender whether or not such proposed transferee is a "Permitted Transferee" (together with a written statement of the reason(s) for any negative determination) it being understood that if Buyer fails to so respond within such thirty (30) Day period such proposed transferee shall be deemed to be a "Permitted Transferee".

If Buyer becomes entitled to terminate the Agreement due to an uncured Event of Default by Seller, Buyer shall not terminate the Agreement unless it has first given notice of such uncured Event of Default to the Lender and has given the Lender an Additional Cure Period to cure such Event of Default. For the purposes of this Agreement, "Additional Cure Period" means (i) with respect to a monetary default, ten (10) Business Days in addition to the cure period (if any) provided to Seller in the Agreement, and (ii) with respect to a non-monetary default, thirty (30) Days in addition to the cure period (if any) provided to Seller in the Agreement. However, if the Lender requires possession of the Project in order to cure the Event of Default and commences foreclosure proceedings against Seller within thirty (30) Days of receiving notice of an Event of Default from Buyer or Seller, whichever is received first, Lender shall be allowed a reasonable additional period to complete such foreclosure proceedings, such period not to exceed ninety (90) Days; provided, however, that Lender shall provide a written notice to Buyer that it intends to commence foreclosure proceedings with respect to Seller within ten (10) Business Days of receiving a notice of such Event of Default from Buyer or Seller, whichever is received first.

Neither the Lender nor any other participant in the Project Debt shall be obligated to perform or be liable for any obligation of Seller under the Agreement until and unless any of them assumes the Agreement.

Any party taking possession of the Project through the exercise of the Lender's rights and remedies shall remain subject to the terms of the Agreement and shall assume all of Seller's obligations under the Agreement, both prospective and accrued, including the obligation to cure any then-existing defaults capable of cure by performance or the payment of money damages. In the event that the Lender or its successor assumes the Agreement in accordance with this paragraph, Buyer shall continue the Agreement with the Lender or its successor, as the case may be, substituted wholly in the place of Seller.

Within sixty (60) Days of any termination of the Agreement in connection with any bankruptcy or insolvency Event of Default of Seller, upon the request of Lender, the Lender (or its successor) and Buyer shall enter into a new power purchase agreement on the same terms and conditions as the Agreement and for the period that would have been remaining under the Agreement but for such termination.

Buyer agrees to execute an estoppel certificate substantially in the form of Attachment A.

[ATTACHMENT A TO EXHIBIT J]

[**Buyer shall have the right to qualify and/or revise any representation, warranty and other statement that such representation, warranty or other statement is a true statement as of the date of this certificate.**]

[Date]

Reference is made to that certain Power Purchase Agreement dated as of [____] (the "PPA"), by and between [____], a [____] organized and existing under the laws of [_____] ("Buyer"); and [___], LLC, a [___] ("Seller"). Terms used herein but not defined herein have the same meanings as in the PPA.

Buyer hereby confirms and agrees as of the date hereof as follows:

1. Buyer is a [____] duly organized, validly existing and in good standing (if applicable) under the laws of the State of [____]. The execution and delivery by Buyer of this Estoppel Certificate have been duly authorized by all necessary action on the part of Buyer and do not require any further internal approval or consent of Buyer and do not violate any provision of any law, regulation, order, judgment, injunction or similar matters or breach any agreement presently in effect with respect to or binding on Buyer.

The copy of the PPA, as amended, attached as Exhibit [___], constitutes a true and complete copy of the PPA.

To Buyer's knowledge, as of the date hereof, the PPA is in full force and effect and the PPA has not been assigned or amended by Buyer. All representations and warranties of Buyer under the PPA were true and correct (as may be qualified by the terms of the Agreement) when made, and, to Buyer's knowledge, remain true and correct in all material respects as of the date hereof, except for those that, by their nature or terms, apply only as of the date originally made[, except: __________________].

As of the date hereof, (A) no default or event of default with respect to Buyer nor, to the Buyer's knowledge, Seller, has occurred under the PPA, and (B) to Buyer's knowledge, there are no material defaults (including breach(es) of the PPA existing as of the date hereof that are not yet defaults under the PPA because applicable cure periods have not yet expired) or circumstances which with the passage of time and/or giving of notice would constitute a default.

To Buyer's knowledge, there is no event, act, circumstance or condition constituting an event of force majeure under the PPA.

To Buyer's knowledge, Buyer has no existing counterclaims, offsets or defenses against Seller under the PPA. Buyer has no present knowledge of any facts entitling Buyer to any material claim, counterclaim or offset against Seller in respect of the PPA. As of the date hereof, there is no pending or, to Buyer's knowledge, threatened action or proceeding involving or relating to Buyer before any court, tribunal, governmental authority or arbitrator which purports to materially affect the legality, validity or enforceability of the PPA. There exist no pending or to the Buyer's knowledge, threatened disputes or legal proceedings under the PPA or otherwise between Buyer and Seller.

All payments due, if any, under the PPA by Buyer have been paid in full through the period ending on the date hereof.

[*Signature page follows*]

IN WITNESS WHEREOF, Buyer has caused this Certificate to be duly executed by its officer thereunto duly authorized as of the date first set forth above.

____

By:

Title:

Name:

EXHIBIT K

PARTICIPANT LIST

FMPA Solar II Project Participants	Share of Whistling Duck Solar
Homestead Public Services	3.338%
City of Lake Worth Beach Utilities	17.723%
City of Mount Dora	1.335%
New Smyrna Beach Utilities Commission	6.676%
Winter Park Electric Utility	6.676%
Total	**35.748%**

For reference only:

FMPA All-Requirements Power Supply Project Participants	Share of Whistling Duck Solar
Beaches Energy Services	10.013%
Fort Pierce Utilities Authority	10.013%
Town of Havana	0.167%
Keys Energy Services	16.689%
Kissimmee Utility Authority	13.351%
City of Newberry	0.668%
Ocala Utility Services	13.351%
Total	**64.252%**

EXHIBIT L

FORM OF PROGRESS REPORT

Project:
Recipient:

PROJECT PROGRESS REPORT

Pursuant to Section 4.1(f) of the Agreement, after the Effective Date and before the Commercial Operation Date, Seller will provide Buyer with quarterly progress reports advising Buyer of the current status of the Project, the status of obtaining required Governmental Approvals, any significant developments or delays along with an action plan for making up delays, and Seller's best estimate of the Commercial Operation Date.

I. Overview

Milestone	Expected Completion	Status	Notes
Interconnect Screening Study		Pending	
Start of Permitting		Pending	
Completion of Site Studies		Pending	
Interconnection Application		Pending	
System Impact Study		Pending	
Local Permitting Complete		Pending	
Facilities Study		Pending	
Interconnection Agreement		Pending	
Construction NTP		Pending	
Start of Major Equipment Delivery to Site		Pending	
85% Capacity Available		Pending	
Back Feed Available		Pending	
COD		Pending	

II. Status Updates

- **Interconnection Agreement**
  - **Status update**
    - March 2020:

  - **Discussion of any foreseeable disruptions or delays**
    - March 2020:

- **Permits, Licenses, Easements and Approvals to Construct**
  - **Status update**
    - March 2020:

  - **Discussion of any foreseeable disruptions or delays**
    - March 2020:

- **Construction Notice To Proceed**
  - **Status update**
    - March 2020:

  - **Discussion of any foreseeable disruptions or delays**
    - March 2020:

- **Major Equipment Delivered to Site**
  - **Status update**
    - March 2020:

  - **Discussion of any foreseeable disruptions or delays**
    - March 2020:

- **Commercial Operation Date**
  - **Status update**
    - March 2020:

  - **Discussion of any foreseeable disruptions or delays**
    - March 2020:

Report Completed: [*Date, Sender Initials*]

EXHIBIT M

FORM OF SOLAR II PROJECT POWER SALES CONTRACT

ATTACHMENT B

FMPA PROCESS FOR DETERMINING ALLOCABLE A&G COSTS

FMPA uses a process to determine the Administrative and General costs (A&G) that will be incurred to effectively manage its non-ARP power supply projects. FMPA's Board approves the process and the allocations to power supply project participants when the Board approves each annual power supply project budget. The process is subject to annual review and approval by the Board, and thus, may change from time to time.

The total A&G allocated to the Solar II Project will not exceed 100% of the cost associated with the single highest cost non-executive level FMPA position essential to the effective management of the Projects, and annual increases in total A&G allocated shall be commensurate with annual salary increases of such highest costs non-executive level FMPA position. Any revision to this approach shall require the approval of the Solar II Project Committee. As of the Effective Date of this Agreement, the amount equal to 100% of the cost associated with the single highest cost non-executive level FMPA position essential to the effective management of the Projects is $232,447.

The following describes the power supply project A&G cost determination process for the FY2018 Budget and provides an example of how A&G costs will be allocated to Solar II Project and ARP Solar Participants, starting with the FY2020 budget:

1) Staff determines the FMPA positions that are essential to effective management of the Projects.
2) Staff determines the percent time each position spends serving the needs of each the Projects and the ARP.
3) The allocable cost of each position to each of the Projects is the percent time this position spends serving the needs of each the Projects determined in 2) multiplied by the current mid-point of the salary range of the position as maintained by FMPA's Human Resources Department and approved by the Board, and multiplied by FMPA's overhead adder percentage.
4) The total A&G allocated to each Project is the sum of the allocable costs of each position essential to effective management of the Project.
5) Once the annual A&G costs to be allocated to the Solar II Project is determined, the amount is divided by 12 to arrive at the monthly allocable A&G costs.
6) For Solar II Project, the monthly allocable A&G costs will be divided by the total amount of the solar energy received by the Solar II Project for the billing month to determine a monthly allocable A&G rate ($/MWh). Each Solar II Project pays this rate times the amount of solar energy each Participant received during the billing month.
7) The table below is an example of the calculation of annual and monthly allocable A&G costs to each power supply project and the Solar II Project for the FY2020 Budget using cost data and the process approved for the FY2020 Budget. This allocation process is subject to Board approval each year.

		Example A&G Allocation for FY 2020 Budget						
Position	**FY 2019 Mid Point Salary**	**ARP**	**STN**	**Tri-City**	**STN 2**	**St Lucie**	**Solar**	**Solar 2**
General Manager	$225,000	19.2%	19.2%	19.2%	19.2%	19.2%	2.0%	2.0%
Admin Asst.	$57,712	19.2%	19.2%	19.2%	19.2%	19.2%	2.0%	2.0%
Director of Engineering	$196,197	19.2%	19.2%	19.2%	19.2%	19.2%	2.0%	2.0%
Engineer	$116,129	18.0%	18.0%	18.0%	18.0%	18.0%	5.0%	5.0%
Engineering Assistant	$57,712	19.2%	19.2%	19.2%	19.2%	19.2%	2.0%	2.0%
Director of Finance	$185,092	16.0%	16.0%	16.0%	16.0%	16.0%	10.0%	10.0%
Mgr. Contracts Compliance	$123,097	16.0%	16.0%	16.0%	16.0%	16.0%	10.0%	10.0%
Accountant III	$116,129	16.0%	16.0%	16.0%	16.0%	16.0%	10.0%	10.0%
Accounting Clerk	$43,126	16.0%	16.0%	16.0%	16.0%	16.0%	10.0%	10.0%
Payroll Clerk PT	$45,714	19.2%	19.2%	19.2%	19.2%	19.2%	2.0%	2.0%
Total	$1,165,908	$207,503	$207,503	$207,503	$207,503	$207,503	$64,198	$64,198
Overhead Adder	88.83%	88.83%	88.83%	88.83%	88.83%	88.83%	88.83%	88.83%
Annual Allocable A&G	$2,201,616	$391,833	$391,833	$391,833	$391,833	$391,833	$121,226	$121,226
Monthly Allocable A&G	$183,468	$32,653	$32,653	$32,653	$32,653	$32,653	$10,102	$10,102

ATTACHMENT C

WORKING CAPITAL ALLOWANCE

In order to provide for working capital for the Solar II Project, and to provide for the Solar II Project's ability to pay Seller in the event that of non-payment by one or more Project Participants, the Solar II Project shall maintain a working capital fund in the principal amount of $250,000 as cash on hand, or other financial instrument as determined by the Solar II Project Committee. The working capital fund will be funded at the time solar energy starts to be provided under the Solar PPA and will remain in place for the remaining term of this Power Sales Contract. Working capital expenses, including payment of interest on any amounts drawn on any financial instruments, shall constitute Project Related Costs.

ATTACHMENT D

PROJECT DEVELOPMENT FUND COSTS

As of the Effective Date of this Agreement, FMPA has incurred $0 in Project Development Fund costs.

The amount of Project Development Fund costs allocable to Project Participants shall be calculated by dividing the total balance of Development Fund Costs incurred for solar development by the total expected energy production allocated to the Solar II Project over the first 20 years of the Solar PPA. The resulting dollar per MWh cost shall be allocated as a Project Related Cost.

Project Development Fund Cost	Units	Value
Total Development Fund Expenditure	$	
Participant Capacity	MW-AC	
Est. Annual Capacity Factor	%	
Est. Annual Project Energy	MWh	
20 Year Buy down Per Year	$	
20 Year Buy down Per MWh	$/MWh	

SCHEDULE 1

SCHEDULE OF PROJECT PARTICIPANTS

Name of Project Participant	Solar Entitlement Share (MW)	Solar Entitlement Share (%)
Homestead Public Services	5	9.337%
City of Lake Worth Beach	26.55	49.580%
City of Mount Dora	2	3.735%
New Smyrna Beach Utilities Commission	10	18.674%
Winter Park Electric Utility	10	18.674%
Total	**53.55**	**100%**

Notice Information of Project Participants

Homestead Public Services George Gretsas, City Manager The City of Homestead 100 Civic Court Homestead, FL 33033	**City of Lake Worth Beach** City of Lake Worth Beach Electric Utilities Director 1900 2nd Avenue North Lake Worth, FL 33461 Tel: (561) 586-1670 With a copy to: City of Lake Worth Attn: City Attorney 7 N. Dixie Highway Lake Worth, FL 33460
City of Mount Dora City of Mount Dora City Hall 510 Baker Street Mount Dora, FL 32757	**City of New Smyrna Beach Utilities Commission** Utilities Commission, City of New Smyrna Beach 200 Canal Street New Smyrna Beach, FL 32168
Winter Park Electric Utility City of Winter Park Randy Knight, City Manager 401 South Park Avenue Winter Park, FL 32789-4386	

December 20, 2022

Patrick Comiskey, City Manager
Steve Langley, Electric Utility Director
City of Mount Dora
510 North Baker Street
Mount Dora, FL 32757

Re: Amendment to the Solar Power Sales Contract

Dear Gentlemen,

The purpose of this Letter Agreement is to acknowledge Amendment Number One to the Renewable Energy Power Purchase Agreement between Florida Municipal Power Agency and Florida Solar 7, LLC, dated as of December 12, 2019 (the “FL Solar 7 REPPA”) and Amendment Number One to the Renewable Energy Power Purchase Agreement between Florida Municipal Power Agency and Florida Solar 8, LLC, dated as of December 12, 2019 (the “FL Solar 8 REPPA”) (the Fl Solar 7 REPPA and FL Solar 8 REPPA hereinafter referred to as the “REPPAs”), and to effectuate an amendment to the Solar Power Sales Contract between FMPA and City of Mount Dora, dated as of December 12, 2019 (the “Power Sales Contract”), by revising and replacing Attachment A to the Power Sales Contract, as further detailed below.

Pursuant to the REPPAs, FMPA-Solar II Project agreed to purchase and receive the output of a 74.9 MW solar facility to be located in Alachua County, Florida and a 74.9 MW solar facility to be located in Putnam County, Florida. Pursuant to the Power Sales Contract, FMPA agreed to sell and deliver, and City of Mount Dora agreed to purchase and receive a certain energy entitlement share to such solar energy.

In response to unforeseen market conditions that threatened the viability of the project, FMPA and Origis Energy (the parent company of Florida Solar 7, LLC and Florida Solar 8, LLC) agreed to in principle certain amendments to the REPPAs regarding the purchase price of energy to be delivered under the REPPAs, subject to approval by the FMPA Board of Directors and the Solar Project Participants.

On August 1, 2022, the Solar II Project Committee, which includes a representative of City of Mount Dora approved by unanimous vote the revised pricing terms as stated in a Letter of Intent between FMPA and Origis, and recommended approval of the same to the Board of Directors. On August 18, 2022, the FMPA Board of Directors approved the revised pricing terms, and granted FMPA’s General Manager & CEO the authority to execute revised REPPAs.

The FMPA Board of Directors vote, and authority for the FMPA General Manager and CEO to execute on behalf of FMPA, was conditioned upon receiving final approval of the Solar II Project Participants.

FMPA and City of Mount Dora hereby agree to amend Attachment A to the Power Sales Contract between FMPA and City of Mount Dora by replacing the FL Solar 7 REPPA Exhibit A and FL Solar 8 REPPA Exhibit A with the attached revised Exhibit As. Except for the revised Exhibit As to the REPPAs, there shall be no further changes to the Power Sales Contract by virtue of this Letter Agreement, and the remaining terms and conditions of the Power Sales Contract shall remain in full force and effect.

If City of Mount Dora agrees to the foregoing, please so indicate by having an authorized representative of City of Mount Dora execute below.

By signing below, FMPA and City of Mount Dora agree to the forgoing as of the date last signed by a Party below.

FLORIDA MUNICIPAL POWER AGENCY	**CITY OF MOUNT DORA**
Jacob a. Williams	______________________________
Jacob Williams FMPA General Manager and CEO	Crissy Stile Mayor, City of Mount Dora
Date: December 20, 2022	Date: __________

REPPA

EXHIBIT A (FL Solar 7 – Rice Creek)

CONTRACT PRICE & OPTION PRICE

I. CONTRACT PRICE

A. Initial Term

PERIOD	CONTRACT PRICE ($/MWh)
From and including the Initial Energy Delivery Date through the remainder of the Initial Term	$[redacted], escalating at a rate of [redacted]% each Contract Year

B. Renewal Term Options

Contract Year	Contract Price ($/MWh) (Buyer and Seller Agreement required)	Contract Price ($/MWh) (Unilateral FMPA Option)	Contract Price ($/MWh) (Unilateral FMPA Option)
21	[redacted]	[redacted]	[redacted]
22	[redacted]	[redacted]	[redacted]
23	[redacted]	[redacted]	[redacted]
24	[redacted]	[redacted]	[redacted]
25	[redacted]	[redacted]	[redacted]
26	[redacted]	[redacted]	[redacted]
27	[redacted]	[redacted]	[redacted]
28	[redacted]	[redacted]	[redacted]
29	[redacted]	[redacted]	[redacted]
30	[redacted]	[redacted]	[redacted]

II. OPTION PRICE TABLE

<u>**Price addition to the PPA Rate Post ITC (escalating at [redacted]% thereafter)**</u>		
ITC % Assumption	**Delta PPA Rate ($ / MWh) Per MWac in year 1**	**PPA Rate Post ITC for each MWac that is placed in service at the applicable ITC %**
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]

EXHIBIT A (FL Solar 8 – Whistling Duck 1)

CONTRACT PRICE & OPTION PRICE

I. CONTRACT PRICE

A. Initial Term

PERIOD	CONTRACT PRICE ($/MWh)
From and including the Initial Energy Delivery Date through the remainder of the Initial Term	$[redacted], escalating at a rate of [redacted]% each Contract Year

B. Renewal Term Options

Contract Year	Contract Price ($/MWh) (Buyer and Seller Agreement Required)	Option 1 ($/MWh) (Buyer's discretion)	Option 2 ($/MWh) (Buyer's discretion)
21	[redacted]	[redacted]	[redacted]
22	[redacted]	[redacted]	[redacted]
23	[redacted]	[redacted]	[redacted]
24	[redacted]	[redacted]	[redacted]
25	[redacted]	[redacted]	[redacted]
26	[redacted]	[redacted]	[redacted]
27	[redacted]	[redacted]	[redacted]
28	[redacted]	[redacted]	[redacted]
29	[redacted]	[redacted]	[redacted]
30	[redacted]	[redacted]	[redacted]

II. OPTION PRICE TABLE

Price addition to the PPA Rate Post ITC (escalating at 2% thereafter)		
ITC % Assumption	**Delta PPA Rate ($ / MWh) Per MWac in year 1**	**PPA Rate Post ITC for each MWac that is placed in service at the applicable ITC %**
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]

510 N. Baker St.
Mount Dora, FL 32757
352-735-7126

DATE: **January 3, 2023**

TO: **Honorable Mayor and City Council Members**

FROM: **Patrick C. Comiskey, City Manager** Patrick C. Comiskey

SUBJECT: Request Approval of Meeting Minutes

- December 20, 2022

Introduction:
This is a request for City Council to approve meeting minutes.

Discussion:
The City Clerk prepares minutes and presents them to City Council as an opportunity to make suggestions or corrections prior to final approval.

Budget Impact:
N/A

Strategic Impact:
N/A

Recommendation:
City Council to approve Meeting Minutes.

Attachment(s):
1. December 20, 2022 Regular City Council Minutes_DRAFT

Prepared by: Jeanann Hand, City Clerk
Reviewed by: Jeanann Hand, City Clerk Final Approval - 12/23/2022

CITY OF
MOUNT DORA, FLORIDA
CITY COUNCIL
MINUTES

December 20, 2022
City Hall
510 N. Baker St.
Mount Dora, FL 32757

CALL TO ORDER

Having been duly advertised as required law, Mayor Crissy Stile called to order the December 20, 2022 City Council Regular Session at 6:00 P.M. in the Mount Dora City Hall Council Chambers.

MOMENT OF SILENCE & PLEDGE OF ALLEGIANCE

·A moment of silence and the Pledge of Allegiance was led by Councilmember Cataldo.

ROLL CALL

Members Present
Crissy Stile, Mayor
Marc Crail, Vice Mayor
John Cataldo, District 1
Cal Rolfson, District 2
Dennis Dawson, District 3
Nate Walker, District 5
At Large, Doug Bryant

Also Present
Patrick Comiskey, City Manager
Sherry G. Sutphen, City Attorney
Jeanann Hand, City Clerk

PRESENTATIONS

1. **Rotary Centennial Proclamation**
   Mayor Stile read the proclamation into the record.
2. **Charles Edgerton Memorial Fountain Renovation**
   Parks and Recreation Director Troy Shonk explained the project and the City accepted a $30,600.00 check from the Mount Dora Community Trust.
3. **Mount Dora Fun Fact**
   Mayor Stile shared a fact regarding how much ice is required for the City's Snow in the Park event.

PUBLIC COMMENTS

Mayor Stile opened public comment.

James Graber, 8664 Bridgeport Bay Circle, a resident of the Lakes of Mount Dora, spoke about the noise at the medical marijuana facility. He urged the City to adopt Resolution No. 2022-81, the resolution on the agenda regarding the issue.

John Tucker, 1826 Overlook Drive, spoke about the City's response to First Amendment Auditors. He urged the City to exhibit professionalism when dealing with the media.

Lee Awesome, 4980 Southeast 140 Street, Summerfield, Florida, spoke about the First Amendment Auditors at the library meeting.

Lyndon Hillman, 8420 Bridgeport Bay Circle, spoke in favor of Resolution No. 2022-81.

Josh Hemingway, 1177 East Fifth Avenue, criticized individuals who exploit City staff for social media attention.

Mayor Stile reminded City Councilmembers that the charter designates the mayor as the spokesperson for the City.

Mayor Stile closed public comment.

APPROVAL OF AGENDA

MOTION BY COUNCILMEMBER DAWSON TO APPROVE THE AGENDA; COUNCILMEMBER ROLFSON SECONDED THE MOTION. MOTION APPROVED BY A UNANIMOUS VOICE VOTE.

BOARD APPOINTMENTS

1. **Advisory Board Appointments**

The following appointments were proposed:
Jack Whitakker to represent District 3 on the CRA Advisory Board; John Miller to represent District 3 and Amanda Kelly to represent At Large on the Historic Preservation Board; Marcia Ford to represent District 3 and Robert Cooper to represent At Large on the Library Advisory Board; Ozell Ward to represent At Large on the Northeast CRA Advisory Board; Derrick Campbell to represent District 2, Marsha Blum to represent District 3, and Elizabeth Bourassa to represent At Large on the Parks and Recreation Advisory Board; Barbara Cowher Teitmeyer to represent District 2, Adrian Coombes to represent District 3, and Miles Beach to represent At Large on the Planning and Zoning Commission.

MOTION BY COUNCILMEMBER ROLFSON TO APPROVE THE PROPOSED ADVISORY BOARD APPOINTMENTS; VICE-MAYOR CRAIL SECONDED THE MOTION. MOTION APPROVED BY A UNANIMOUS VOICE VOTE.

CONSENT AGENDA

1. Request Approval of Amendment 1 to the Agreement Between the City of Mount Dora and Accurate Power and Technology, Inc.

2. Request Approval of Revised Agreement between the State of Florida and the City of Mount Dora for the Simpson Farmhouse Project

3. Request Adoption of **Resolution 2022-81** Supporting Medical Marijuana Facility Regulation Legislation

4. Request Approval of **Resolution No. 2022-79**, Adding Monday, July 3, 2023 to the City's Observed Holiday Schedule

5. Request Approval of Meeting Minutes

    - December 5, 2022

MOTION BY COUNCILMEMBER ROLFSON TO APPROVE THE CONSENT AGENDA; COUNCILMEMBER DAWSON SECONDED THE MOTION. MOTION APPROVED BY A UNANIMOUS VOICE VOTE.

PUBLIC HEARINGS - RESOLUTIONS/ORDINANCES

1. Request Approval of the Final Reading (Adoption) of **Ordinance No. 2022-20, Final PUD** Master Plan for Vista Hills.

   City Attorney Sutphen read Resolution 2022-20 Final PUD Master Plan for Vista Hills by title only.

   AN ORDINANCE OF THE CITY OF MOUNT DORA, FLORIDA, PERTAINING TO THE ZONING DISTRICT CLASSIFICATION CHANGE FOR THAT PROPERTY GENERALLY LOCATED ON THE NORTH SIDE OF SR 46 AND THE WEST SIDE OF NORTON LANE; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR ZONING DISTRICT CLASSIFICATION CHANGE AND ZONING

MAP AMENDMENT; PROVIDING FOR IMPLEMENTATION OF ADMINISTRATIVE ACTIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR NON-CODIFICATION AND SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

City Attorney Sutphen announced there had been no changes since the first reading.

City Planning Director Vince Sandersfeld explained the purpose of the ordinance and briefly described the history of the project. The applicant was present to entertain questions.

Mayor Stile opened public comment. No one spoke. Mayor Stile closed public comment.

MOTION BY COUNCILMEMBER ROLFSON TO APROVE THE FINAL READING AND ADOPTION OF ORDINANCE NO. 2022-20, FINAL PUD MASTER PLAN FOR VISTA HILLS; COUNCILMEMBER WALKER SECONDED THE MOTION. MOTION APPROVED BY A ROLL CALL VOTE.

YES Councilmember Rolfson
Councilmember Walker
Councilmember Cataldo
Councilmember Dawson
Councilmember Bryant
Vice-mayor Crail
Mayor Stile

NO None

CITY MANAGER'S REPORT

The City Manager mentioned the City Hall roof replacement that would take place starting January 9th. The City Hall building will be closed on Friday, January 13th. He explained the staff would meet at the music hall for training sessions on that day.

1. **Request Approval of 2023 Calendar Year Meeting Dates for City Council Regular Session**

   City Manager Comiskey directed attention to the meeting schedule attached to this item. He explained the occurrence of just one meeting during the month of July 2023 since the first Tuesday of the month is the Fourth of July. He pointed out the City Charter allowance for this schedule.

2. **Lobbyist Update**

At the City Manager's request, Councilmember Rolfson provided a legislative update.

CITY ATTORNEY'S REPORT

City Attorney Sutphen provided to Councilmembers a review of Sunshine Law, Public Records Law, and Ethics.

COMMUNICATIONS AND REPORTS

1. **Councilmember John Cataldo**
   Councilmember Cataldo delivered holiday greetings.

2. **Councilmember Dennis Dawson**
   Councilmember Dawson delivered holiday greetings. He asked about a comprehensive plan to address the speeding on 11th Avenue and Old 441.

3. **Council Member Cal Rolfson**
   Councilmember Rolfson expressed holiday wishes, and complimented and thanked City staff.

4. **Council Member Nate Walker**
   Councilmember Walker expressed holiday wishes. He also expressed appreciation for City staff.

   City Attorney Sutphen interjected two items that were meant to be included in her City Attorney Report. The December 20th Lake County meeting to discuss the Joint Planning Agreement has been moved to January 3rd. The City has responded to the County response to the City's comments. The City is now awaiting the County's next response.

   The CRA expansion will be discussed by the County at their January 10th meeting.

5. **Council Member Doug Bryant**
   Councilmember Bryant thanked staff for their work at events over the past few weeks.

6. **Vice-mayor Marc Crail**

Vice-mayor Crail welcomed Councilmember Dawson. He thanked the Council, the City Manager and the Florida Department of Transportation for the District 4 traffic light. He also expressed holiday wishes.

7. **Mayor Crissy Stile**

Mayor Stile expressed holiday wishes and appreciation for City staff, especially for their work during the holidays.

FUTURE MEETING DATES

1. January 3, 2023, 6:00 PM, Regular Session

2. January 17, 2023, 6:00 PM, Regular Session

3. February 7, 2023, 6:00 PM, Regular Session

4. February 21, 2023, 6:00 PM, Regular Session

ADJOURNMENT

There being no further business for discussion, the meeting adjourned at approximately 7:28 P.M.

MOTION BY COUNCILMEMBER ROLFSON TO ADJOURN; COUNCILMEMBER WALKER SECONDED THE MOTION. MOTION APPROVED BY A UNANIMOUS VOICE VOTE.

____
CRISSY STILE, MAYOR
City of Mount Dora

____
JEANANN HAND, CITY CLERK
City of Mount Dora

510 N. Baker St.
Mount Dora, FL 32757
352-735-7126

DATE: January 3, 2023

TO: Honorable Mayor and City Council Members

FROM: Patrick C. Comiskey, City Manager Patrick C. Comiskey

SUBJECT: Request Approval of Amendment 4 to the Lease Agreement between Nickmax Properties, LLC, and the City of Mount Dora for the Robie Street Property

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Introduction:

This is a request for City Council to approve Amendment 4 to the existing 1501 Robie Avenue Property lease agreement between Nickmax Properties and the City of Mount Dora. This amendment allows for the extension of the lease through September 30, 2024, while the new Public Works Facility is being constructed.

Discussion:

On October 1, 2018, Council approved Resolution No. 2018-136 (Attachment #1), authorizing the lease agreement for the Robie property at 1501 Robie Avenue while the new Public Works Facility was being constructed. On July 2, 2019, Council approved Resolution No. 2019-73 (Attachment #2), approving the first amendment to the lease to add property adjacent to the leased property for employee parking. Then on July 7, 2020, Council approved Resolution No. 2020-77 (Attachment #3), approving the second amendment to the lease, providing for an extension through September 20, 2021. On October 5, 2021, Council approved the fourth amendment to the lease, providing for an extension through September 20, 2022. Both properties are the temporary location for the city's operations. In order to give more time for the Public Works facility to be constructed, this lease needs to be amended to extend the term an additional two years. The new Public Works facility on Limit is expected to be ready by the summer of 2024. The additional cost for the extended lease is a 3% increase for 2022-2023 and a 5% increase for 2023-2024 to the term rent in the agreement.

Budget Impact:

The extended lease is an additional $565.62 per month for the remainder of FY23-24. The cost details are shown below:

Extension Period	Monthly Base Rent	Total Annually	Total (Monthly)	Increase

10/01/2022-9/30/2023	$10,752.43 $ 560.03 **$11,312.46**	$129,029.20 $ 6.720.24 **$135,749.52** -	$11,312.45	3.0%
10/01/2023-9/30/2024	$11,290.05 $ 588.03 **$11,878.08**	$135,480.62 $ 7,076.24 **$142,536.96**	$11,878.08	5.0%

This extended lease will be part of the 2023/2024 budget and is divided between the following funds:
Electric 35%
Water/Wastewater 35%
General Fund 30%

Strategic Impact:
This resolution has a direct impact on the City's infrastructure improvement as the Robie Property is the temporary operation complex until the new Public Works Facility is built.

Recommendation:
City Council approve Amendment 4, extending the Robie Lease Agreement through September 30, 2024.

Attachment(s):
1. Attachment 1 - Reso No. 2018-136 Lease Agreement for 1501 Robie Avenue to Temporarily Replace Public Works Complex During New Construction
2. Attachment 2 - Reso No. 2019-73 Nickmax
3. Attachment 3 - Reso No. 2020-77, Robie Street Property Lease Agreement - Amendment #2
4. Attachment 4 - Third Amended Lease Agreement with Nickmax Properties for Robie Warehouse
5. Agreement.Lease.Extension.Nickmax.Robie Warehouse.01.03.2023

Prepared by:	Jeanann Hand, City Clerk	
Reviewed by:	Steve Langley, Electric Utility Director	Approved - 11/28/2022
	Aneta Barton, Budget Director	Approved - 11/28/2022
	Sherry Sutphen, City Attorney	Approved - 12/14/2022
	Jeanann Hand, City Clerk	Approved - 12/20/2022
	Patrick Comiskey, City Manager	Final Approval - 12/23/2022

RESOLUTION NO. 2018-136

A RESOLUTION OF THE CITY OF MOUNT DORA, FLORIDA, PERTAINING TO THAT PROPERTY LOCATED AT 1501 ROBIE AVENUE, MOUNT DORA, FLORIDA; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR APPROVAL OF THE LEASE AGREEMENT; PROVIDING FOR IMPLEMENTATION OF ADMINISTRATIVE ACTIONS; PROVIDING FOR SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, at its work session on March 15, 2018, the City Council authorized Bentley Architects to proceed with the design of a new Public Works Building; and

WHEREAS, in order to reduce construction costs on the new building, it is imperative for the Public Works Department to vacated the Highland Street facility; and

WHEREAS, it has been determined that the facilities located at 1501 Robie Avenue, Mount Dora, are suitable as a temporary location for the City's Public Works operations; and

WHEREAS, staff has negotiated this lease agreement for a two-year term with three one year extensions.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOUNT DORA, FLORIDA, AS FOLLOWS:

SECTION 1. Legislative Findings and Intent. The City Council of the City of Mount Dora has complied with all requirements and procedures of Florida law in processing this Resolution and the above recitals are hereby adopted.

SECTION 2. Approval of Lease Agreement. The City Council of the City of Mount Dora hereby authorizes the Mayor to execute the Lease Agreement with Nickmax Properties LLC, attached hereto as Exhibit A, for the lease of certain facilities on that property located at 1501 Robie Avenue, Mount Dora, Florida.

SECTION 3. Implementation of Administrative Actions. The City Manager is hereby authorized and directed to take such actions as may be deemed necessary and appropriate in order to implement the provisions of this Resolution. The City Manager may, as deemed appropriate, necessary and convenient, delegate the powers of implementation as herein set forth to such City employees as deemed effectual and prudent.

SECTION 4. Scrivener's Errors. Typographical errors and other matters of a similar nature that do not affect the intent of this Resolution, as determined by the City Clerk and City Attorney, may be corrected.

SECTION 5. Conflicts. All Resolutions or parts of Resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 6. Severability. If any Section or portion of a Section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Resolution.

SECTION 7. Effective Date. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED this 13th day of September, A.D., 2018.

Nick Girone

NICK GIRONE
MAYOR of the City of Mount Dora, Florida

ATTEST:

Gwen Keough-Johns

GWEN KEOUGH-JOHNS, MMC
CITY CLERK

For the use and reliance of City of Mount Dora only
Approved as to form and legal sufficiency

S Sutphen

City Attorney

By: Sherry Sutphen

EXHIBIT "A"

LEASE

THIS LEASE (the "Lease") is made as of the 1 day of October, 2018, between **NICKMAX PROPERTIES, LLC**, a Florida Limited Liability Company more fully identified in Section 1.1 as landlord (the "Landlord"), and **CITY OF MOUNT DORA**, a Municipal Corporation of the State of Florida, more fully identified in Section 1.2 as tenant (the "Tenant" or "City").

In consideration of the undertakings of the parties contained herein, Landlord leases to Tenant, and Tenant leases from Landlord, the premises described in Sections 1.3 and 2 (the "Premises"), on the following terms and conditions:

1. Basic Lease Provisions: This Section contains or refers to certain basic provisions of this Lease (the "Basic Lease Provisions"). Other Sections of this Lease explain, define and are to be read in conjunction with the Basic Lease Provisions.

1.1 **Landlord:** **NickMax Properties, LLC**
Attn:Cassadra Villamil, President
7578 Green Mountain Way
Winter Garden, FL 34787

1.2 **Tenant:** **City of Mount Dora**
510 N. Baker Street
Mount Dora, FL 32757
Attn: Robin Hayes, City Manager

1.3 **Premises:**

(a) Address: 1501 Robie Avenue, Mount Dora, Fl.

(b) A Site Plan of the Leased Premises is attached hereto as Exhibit A.

(c) Physical Description: Approximately 19,652 square feet of warehouse and office space located on approximately 2.5 acres of land as shown on Exhibit A.

(d) Permitted Use: warehouse storage and office space for government purposes.

1.4 **Term**:

(a) **Primary Term**. The Primary Term for lease of the Premises, as described in Sections 1.3 and 2, shall be an initial term of two years, from October 1, 2018, through September 30, 2020.

(b) **Extension Term**. Any extension shall be Subject to Section 3.2 hereof. Tenant shall have the option to extend the Primary Term for three additional years through September 30, 2023, in one-year renewal periods.

1.5 **Rent**:

(a) **Primary Term Rent**: Gross Rent, shall be paid monthly in advance, subject to yearly increases in accordance with the following schedule:

Lease Period	Monthly Base Rent	Sales Tax	Total (Annually)	Total (Monthly)	Increase
10/01/2018 – 9/30/2019	$9,600.00	N/A	$115,200.00	$9,600.00	N/A
10/01/2019 – 9/30/2020	$9,840.00	N/A	$118,080.00	$9,840.00	2.50%

The parties agree and understand that pursuant to FS §196.199, Tenant is tax-exempt and not responsible for any taxes. The City shall not agree to pay any taxes not mandated specifically by law to be paid by governmental municipal entities, to the extent allowed by law and which are specifically declared by law to be non-exempt.

(b) **Extension Term Rent**: Gross Rent shall be paid monthly in advance, in accordance with the following schedule:

Extension Period	Monthly Base Rent	Sales Tax	Total (Annually)	Total (Monthly)	Increase
10/01/2020 – 9/30/2021	$10,135.20	N/A	$121,622.40	$10,135.20	3.0%
10/01/2021 – 9/30/2022	$10,439.26	N/A	$125,271.07	$10,439.26	3.0%
10/01/2022 – 9/30/2023	$10,752.43	N/A	$129,029.20	$10,752.43	3.0%

The parties agree and understand that pursuant to FS §196.199, Tenant is tax-exempt and not responsible for any taxes. The City shall not agree to pay any taxes not mandated specifically by law to be paid by governmental municipal entities, to the extent allowed by law and which are specifically declared by law to be non-exempt.

(a) **Final Month's Rent and Security Deposit**: Landlord acknowledges receipt of $15,000.00, $9,840.00 in the amount of final month's rent and remainder of $5,160.00 as security deposit.

1.6 **Rent Commencement Date**: October 1, 2018

1.7 **Tenant Possession Date**: October 1, 2018 (subject to early occupancy set forth in Section 3.4)

1.8 **Casualty Insurance**:

(a) Amount: Full Replacement Value

(b) Insuring Party: Landlord

1.9 **Liability Insurance**:

(a) Amount: $3,000,000 Combined Aggregate
Property Damage: $100,000

(b) Insuring Party: Tenant

1.10 **Exercise Date:**

(a) The date on which written notice of Tenant's election of the Extension Term must be received by Landlord, which date shall be at least ninety (90) days prior to the expiration of the Primary Term.

(b)	Exercise Date for First Extension Term:	On or before July 2, 2020.
	Exercise Date for Second Extension Term:	On or before July 2, 2021.
	Exercise Date for Third Extension Term:	On or before July 2, 2022.

1.11 **Mechanical and Utility Systems**: Heating, ventilating, air conditioning ("HVAC"), lighting, electrical, plumbing, gas, water supply, sanitary sewers, septic systems, storm sewers, sprinkler systems, overhead doors and doors shall be delivered in working condition. Landlord will service HVAC system prior to occupancy. In addition, during the first three (3) months of the Tenant's occupancy of the leased Premises, the Tenant shall pay any and all amounts of the total electric bill received by the Landlord for each such month, which exceeds Six Hundred Fifty Dollars ($650.00), as its portion of electric utility costs. After the third (3rd) electric bill is received by the Landlord, the parties shall evaluate the formula for determining the Tenant's portion of electric utility costs. In the event the structure of the Tenant's contribution needs to be adjusted, the parties shall in good faith amend this Lease Agreement accordingly. Regardless of whether the Tenant's contribution changes, neither party shall be entitled to a retroactive change related to the initial electric utility portions paid.

1.12

Exhibits: These Exhibits are attached to this Lease and are hereby incorporated by reference:

EXHIBIT "A"	Site Plan
EXHIBIT "B"	Broom Clean Condition and Landlord Repair Requirements
EXHIBIT "C"	Broom Clean Condition and Tenant Repair Requirements

2. Premises:

2.1 **Letting**: Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises, for the Term, at the rate of Rent, and upon all of the terms, covenants, and conditions set forth in this Lease. During the Lease Term, the Premises shall consist of the use of the warehouse and office space in Landlord's building (as referenced in Section 1.3) and use of certain adjoining parking and drive areas shown on the attached Exhibit A, Site Plan, and the right to continuous access to all adjoining public streets. The Premises are demised and let subject to the following "Permitted Exceptions":

(a) All zoning regulations, restrictions, rules and ordinances, building or use restrictions and other laws and regulations now in effect or hereafter adopted by any governmental authority having jurisdiction thereof;

(b) All easements, rights-of-way, restrictions and covenants, of which Landlord has provided notice to the City, affecting the title to the Premises (provided, to the extent any easements, rights-of-way, restrictions and covenants of record are proposed by Landlord after the Tenant Possession Date other than as legally required by a governmental entity, Landlord shall obtain approval from Tenant prior to entering into any such agreement, which approval shall not be unreasonably withheld or delayed); and

(c) The liens of Landlord's lenders.

2.2. **Use:** Tenant shall use the Premises for the Permitted Use only. Tenant shall not use the Premises in such a manner as to violate any applicable law, rule, ordinance or regulation of any governmental body, or in violation of the certificate of occupancy or other similar certificate or permit issued for the Premises. Tenant shall, upon five days' written notice from Landlord, discontinue any use of the Premises which is declared by any governmental authority having jurisdiction, or reasonably determined by the Landlord, to be in violation of law or said certificate of occupancy or which imposes any additional material duty upon Tenant or Landlord with respect to the Premises or with respect to the use or occupation thereof.

3. Term:

3.1 **Primary Term**: The Primary Term of this Lease shall be for the period specified in Section 1.4 (the "Term") unless this Lease shall be earlier terminated as hereinafter provided.

3.2 **Extension Term**: Provided Tenant is not in Default and provided further that Tenant substantially has performed all of its covenants and obligations hereunder on its part to be performed in all material respects, Tenant shall have the right and option to extend the Primary Term for the Extension Term(s) set forth in Section 1.4, upon the same terms and conditions of this Lease, except as otherwise provided in Section 1.5. Tenant shall deliver to Landlord notice of its election so to extend the Primary Term or Extension Term(s) in accordance with the Exercise Dates set forth in Section 1.10.

3.3 **Lease Term**: The Primary Term and all Extension Terms elected by Tenant sometimes shall be referred to hereinafter as the "Lease Term".

3.4 **Early Occupancy**: Tenant shall have the right to enter but not occupy the Premises 30 days prior to the Commencement Date only upon the following terms and conditions:

(a) All terms and conditions of the Lease shall apply and shall be in full force and effect upon the date of early occupancy, other than the terms and conditions regarding payment of Rent, which shall be in full force and effect as of the Commencement Date.

(b) Tenant may take occupancy of the Premises upon receipt of written notice of delivery of the Premises from Landlord, but only after delivering to Landlord the following: (i) the Final Month's Rent and Security Deposit; (ii) first month's Rent (although not credited until the Commencement Date); and (iii) certificate(s) of insurance pursuant to terms contained above herein of the Lease.

(c) Tenant's activities within the Premises during the early occupancy period shall be at Tenant's sole risk, and Landlord shall not be responsible for the safety of Tenant or Tenant's employees or the condition or loss of any personal property brought on to the

Premises during the early occupancy period.

4. Rent:

4.1 **Manner of Payment**: During the Lease Term, Tenant shall pay Rent to Landlord at the address set forth in Section 1.1, or at such other address as Landlord may designate in writing at any time or from time to time, in monthly installments as set forth in Section 1.5 (the "Rent"). Such monthly installments of Rent shall be payable in advance on or before the Rent Commencement Date as set forth in Section 1.6, (the "Rent Commencement Date") and on or before the first business day of each calendar month thereafter. Rent for partial months at the inception or the termination of the Lease shall be prorated. Rent during the Primary Term shall increase annually as set forth in Section 1.5 hereof. Rent shall be made in the form of an automated clearing house (ACH) on or before the first business day of the month or the term of the lease.

4.2 **Extension Term Rent**: The Extension Term Rent to be paid during the Extension Term, and the yearly increases thereto, shall be as set forth in Section 1.5.

4.3 **Security Deposit**: To secure the faithful performance by Tenant of all the terms, covenants and conditions in this Lease set forth and contained on the part of the Tenant to be fulfilled, kept, observed and performed, including, but without limiting the generality of the foregoing, such terms, covenants and conditions which become applicable upon the expiration or termination of the same or upon termination of Tenant's right to possession pursuant to any provision of this Lease, Tenant has deposited herewith the Security Deposit with Landlord (in the amount set forth in Section 1.5) on the understanding: (a) that the Security Deposit or any portion thereof not previously applied, or from time to time such other portions thereof, may be applied by Landlord to the curing of any default that may then exist, without prejudice to any other remedy or remedies which Landlord may have on account thereof, and upon such application Tenant shall pay Landlord on demand the amount so applied which shall be added to the Security Deposit so the same may be restored to its original amount; (b) that should the Premises be conveyed by Landlord, the Security Deposit or any portion thereof not previously applied may be turned over to Landlord's grantee, and if the same be turned over as aforesaid, Tenant hereby releases Landlord from any and all liability with respect to the Security Deposit and/or its application or return, and Tenant agrees to look only to such grantee for such application or return; (c) that Landlord or its successor shall not be obligated to hold the Security Deposit as a separate fund, but on the contrary may commingle the same with its other funds; (d) that if Tenant shall faithfully fulfill, keep, perform and observe all of the covenants, conditions, and agreements in this Lease on the part of Tenant to be fulfilled, kept, performed and observed, the Security Deposit or the part or portion thereof not previously applied shall be returned to the Tenant without interest no later than 30 days after the Expiration Date, provided Tenant has vacated the Premises and surrendered possession thereof to Landlord upon the Expiration Date as provided herein; (e) in the event that Landlord terminates the Lease or Tenant's right to possession pursuant to any provision of this Lease, Landlord may apply the Security Deposit against all damages suffered to the date of such termination and/or may retain the Security Deposit to apply against such damages as may be suffered or shall accrue thereafter by reason of Tenant's default; and (f) in the event any bankruptcy, insolvency, reorganization or other creditor debtor proceedings shall be instituted by or against Tenant, or its successors or assigns, the Security Deposit shall be deemed to be applied first to the payment of any Rent and/or other sums due Landlord for all periods prior to the institution of such proceedings, and the balance, if any, of the Security Deposit may be retained or paid to Landlord in partial satisfaction of Landlord's damages.

5. Taxes:

5.1 **Real Estate Taxes and Assessments**: During the Lease Term, Landlord shall pay all real estate taxes and assessments, general and special, levied against the Premises.

5.2 **Rental Taxes**. During the Lease Term, Tenant shall pay any and all rental taxes levied by the city, county or other governmental entity against the Premises only to the extent allowed by law, as the parties agree that the City is a tax-exempt entity of the State of Florida.

6. Utilities: During the Lease Term, Tenant shall pay for all utility services consumed upon the Premises by Tenant, including without limitation electricity, telephone, and Tenant's security system, and shall pay for all such services directly to the service providers, except with respect to electric which Tenant shall pay in accordance with Section 1.11 hereof.

7. Possession of Premises: October 1, 2018.

8. Landlord's Improvement Work: All work described below in this Section 8 is collectively referred to as the "Landlord's Improvement Work":

8.1 Mechanical, Electrical and Plumbing Systems: Landlord, at its sole cost and expense, shall deliver Leased Premises to Tenant with all mechanical, electrical and plumbing systems in good functioning operating condition. If before 45 days after occupancy of Premises by Tenant any of these systems are discovered to not be in good functioning operating condition, Landlord will repair or replace, within five business days following written notice to Landlord, at its sole cost and expense, those systems that the Tenant has determined to not be functioning or operating at a level adequate for Tenant's utilization of that system or component thereof by Tenant.

8.2 Exhaust Fans: Landlord, at its sole cost and expense, shall deliver leased premises with the roof-mounted industrial exhaust ventilation fans with shutters in good functioning operating condition.

8.3 Landlord shall deliver Leased Premises to Tenant in Broom Clean condition as identified on Exhibit "B" attached hereto.

9. Tenant's Improvement Work: Tenant, at its sole cost and expense, shall have the right during the Lease Term, with the prior written approval of Landlord which shall not be unreasonably withheld, to improve, alter and renovate the Premises in any manner which Tenant deems necessary or desirable to make the same fit and suitable for the conduct of its business operations, including but not limited to installation of fences, gates, exterior lighting, outdoor storage areas (paved or unpaved), offices, painting, decorating, redecorating and installation of partitions and other office furniture as applicable. Tenant will obtain government approvals for Improvements when necessary. Unless otherwise agreed in writing by the parties and subject to Section 10 below, any improvements, alterations and renovations to the Premises by Tenant pursuant to this Section shall remain on the Premises upon the expiration or earlier termination of this Lease. Landlord further reserves the right to require Tenant to return the Leased Premises in Broom Clean condition as identified on Exhibit "C" enclosed herein, or in the condition which existed at the time of Tenant Possession.

10. Trade Fixtures; Personal Property: Tenant, at its sole cost and expense, shall have the right, without Landlord's consent, but shall not be obligated during the Lease Term to install, use, replace, substitute and remove its trade fixtures and personal property such as, without limitation, telephone, fax and other equipment, machinery, conveyor systems, racking, task lights, office furniture, and office trailers. Prior to the Expiration Date or the earlier termination of this Lease, Tenant shall have the right to remove its trade fixtures and personal property from the Premises, provided that Tenant shall repair all damage to the Premises resulting from such removal.

11. Maintenance and Repairs by Landlord:

11.1 **General Requirements**: Landlord, at its sole cost and expense, shall perform during the Lease Term all necessary maintenance and repairs with respect to all of the following portions of the Premises in accordance with the standards set forth in Section 18.1(a): the structure and the exterior of Landlord's building, including the roof, roof drainage and gutters, roof-mounted ventilation fans, exterior walls, foundations and floors (but not floor coverings), all below-slab plumbing, HVAC (heating and air-conditioning system), and electrical systems.

11.2 **Timely Performance**: In the event of an emergency (defined as any condition other than damage or destruction described in Section 14 or eminent domain described in Section 15 which impairs Tenant's ability to use and occupy the Premises for the conduct of its business operations) and Landlord's failure to perform promptly any of Landlord's maintenance and repair obligations as described in Section 11.1, or in the event of no emergency and Landlord's failure to perform such maintenance and repair obligations within 15 days after Tenant's delivery to Landlord of written notice of the need for any such maintenance or repairs, Tenant shall have the rights and remedies to which Tenant may be entitled under Section 17.5, which section shall be applied in the event of emergency without the further notice and cure provisions set forth therein.

12. Maintenance and Repairs by Tenant: Tenant, at its sole cost and expense, during the Lease Term shall keep the interior space of the Premises in a clean, sanitary, and safe condition and shall perform: (i) any maintenance repairs, and replacements to the Premises occasioned by the negligence or misconduct of Tenant or its invitees and licensees; and (ii) all routine maintenance and repairs to lawn and grounds, parking and paved areas, all interior leased space and plumbing fixtures, fan belts, washers and gaskets, pedestrian and overhead doors, windows and replacement of window glass, wall and ceiling areas, lighting and any necessary purchase of light bulbs or ballasts, floor coverings; and (iii) all other maintenance and repairs not the express responsibility of Landlord hereunder, which Tenant reasonably deems necessary. If Tenant fails to perform its maintenance and repair obligations within 15 days after Landlord's delivery to Tenant of written notice of the need for any such maintenance and repairs, then Landlord shall have the option to complete such maintenance and repairs at the sole cost and expense of Tenant, and Tenant shall reimburse Landlord for such costs and expenses within 30 days after Landlord's delivery to Tenant of an invoice therefor. The foregoing notwithstanding, Tenant shall not be obligated to perform any maintenance or repairs to the extent covered by any warranty of Landlord or Landlord's contractors.

13. Insurance:

13.1 **Casualty Insurance**: At all times during the Lease Term, the Landlord, at its sole cost and expense, shall cause the Premises to be fully and adequately insured with a customary policy of fire and extended coverage insurance (including flooding if available and legally required, vandalism, malicious mischief and special extended perils or all-risk) in an amount not less than the full replacement cost of the Premises, with a standard inflation guard endorsement.

13.2 **Public Liability Insurance**: During the Lease Term, the Tenant shall maintain in full force and effect a public liability insurance policy for the Premises in amounts not less than those set forth in Section 1.9(a). Such insurance policy shall name the Landlord as an additional insured.

13.3 **Proof of Insurance**: All insurance required of Tenant under this Section 13 shall be issued by carriers who are duly licensed, or admitted, to transact business in the State in which the Premises is located and reasonably acceptable to Landlord. All of the aforesaid insurance shall be underwritten by insurance companies rated A- VI or better by A.M. Best. Tenant shall not do or permit to be done anything which invalidates the required insurance policies. Tenant's insurance required herein shall provide that it is not subject to cancellation or non-renewal except after endeavoring to give at least 30 days prior written notice to Landlord. Certificates evidencing Tenant's insurance policies (satisfactory to Landlord), shall be deposited with Landlord prior to Tenant's possession of Premises and renewals of such policies shall be deposited with Landlord not less than 30 days prior to the end of the then expiring term of such coverage. Tenant shall not do or permit to be done anything that invalidates the required insurance policies.

13.4 **Tenant's Personal Property Coverage**: Tenant shall bear the risk of any and all damage to Tenant's personal property, including but not limited to, the contents, trade fixtures, machinery, equipment, furniture and furnishings it places in the Premises. Tenant agrees that Landlord shall have no liability except when damage is caused by Landlord or its agent with respect thereto. Landlord shall not be liable for any damage or damages of any nature whatsoever to persons or property caused by explosion, fire, theft or breakage, vandalism, falling plaster, by sprinkler, drainage or plumbing systems, or air conditioning equipment, by the interruption of any public utility or service, by steam, gas, electricity, water, rain or other substances leaking, issuing or flowing into any part of the Premises, by natural occurrence, acts of the public enemy, riot, strike, insurrection, war, court order, requisition or order of governmental body or authority, or by anything done or omitted to be done by Tenant, occupant or person in the building, it being agreed that Tenant shall be responsible for obtaining appropriate insurance to protect its interests.

13.5 **Mutual Waiver of Subrogation**: Notwithstanding anything in this Lease to the contrary, neither Landlord nor Tenant shall be liable to the other for loss arising out of damage or destruction of the Premises, the Property or other improvement, or personal property or contents therein if such damage or destruction is caused by a peril included within a standard form of fire insurance policy, with full extended coverage endorsement added, as from time to time issued in Florida, to the extent that proceeds from such insurance are realized. Such absence of liability shall exist whether or not the damage or destruction is caused by the negligence of either Landlord or Tenant, or their respective officers, employees, agents, or customers. It is the intention and agreement of Landlord and Tenant that the rents reserved by this Lease have been provided in contemplation that each party shall carry such insurance policy, each party shall look to its insurer for reimbursement of any such loss, and further that the insurer involved shall have no subrogation rights against the other party. Each party shall advise its insurance company of this release and such policy shall, if necessary, contain a waiver of any right of subrogation by the insurer against the other party.

14. Damage or Destruction:

14.1 **Repair and Restoration**: In the event that the Premises shall be damaged or destroyed by fire, explosion or other casualty, or by any risk required to be insured against pursuant to Section 13.1 or at law, Tenant promptly shall deliver to Landlord notice thereof. Unless terminated pursuant to Section 14.2, this Lease shall remain in full force and effect, and Landlord, at its sole cost and expense, but with the right to use insurance proceeds to the extent of Landlord's interest therein, shall exercise good faith and diligent efforts promptly to repair the damage or destruction and restore the Premises to substantially that condition existing immediately prior to such damage or destruction. If Tenant remains in occupancy of the Premises, Landlord shall exercise such repair and restoration efforts in a manner so as not to interfere unreasonably with the use and occupancy of the Premises by Tenant for the conduct of its business operations. Until the completion of Landlord's repair and restoration pursuant to this Section, Tenant's obligation to pay Rent and other amounts payable by Tenant hereunder shall be abated as of the date of the damage or destruction in proportion to the extent that the value of the Premises for the use and occupancy thereof by Tenant for the conduct of its business operations shall be reduced, as the parties shall agree.

14.2 **Rights of Termination**: Landlord's and Tenant's respective rights to terminate this Lease upon the occurrence of certain damage or destruction shall be governed as follows:

(a) If the Premises shall be damaged or destroyed to the extent of more than seventy percent (70%) of the full replacement cost thereof, then either Landlord or Tenant may elect to terminate this Lease by delivery of notice to the other within 30 days after the date Landlord or Tenant first learned of such damage or destruction; or

(b) If repair and restoration of any such damage or destruction cannot reasonably be completed within 180 days after the date of notice to the Landlord of the damage or destruction then Tenant may elect to terminate this Lease by delivery of notice to Landlord within 30 days after the date of such damage or destruction; and

(c) Upon delivery of any notice pursuant to Section 14.2(a) or 14.2(b), and the payment or assignment to Landlord of insurance proceeds to the extent of Landlord's interest therein, this Lease shall terminate as of the date of the damage or destruction unless otherwise provided in such notice, and Tenant shall have no further liabilities or obligations hereunder other than to pay Rent accrued hereunder through the date of such termination.

15. Eminent Domain:

15.1 **Repair and Restoration**: In the event that all or any portion of the Premises shall be taken or threatened to be taken under the power of eminent domain or settlement in lieu thereof for any public or quasi-public use, Landlord promptly shall deliver to Tenant notice thereof. Unless terminated pursuant to Section 15.2, this Lease shall remain in full force and effect, and Landlord, at its sole cost and expense, shall exercise good faith and diligent efforts promptly to repair the damage and restore the Premises so as to constitute the remaining portion thereof a complete architectural unit. If Tenant remains in occupancy of the Premises, Landlord shall exercise such repair and restoration efforts in a manner so as not to interfere unreasonably with the use and occupancy of the Premises by Tenant for the conduct of its business operations. Until the completion of Landlord's repair and restoration pursuant to this Section, Tenant's obligation to pay Rent and other amounts payable by Tenant hereunder shall be abated as of the effective date of taking of the Premises or portion thereof by the public or quasi-public body in proportion to the extent that the value of the Premises for the use and occupancy thereof by Tenant for the conduct of its business operations shall be reduced, as the parties shall agree.

15.2 **Rights of Termination**: Tenant shall have the right to terminate this Lease upon the occurrence of a taking or a threatened taking under the power of eminent domain or settlement in lieu thereof if, as a result thereof, the Premises no longer shall be fit and suitable for the use and occupancy thereof by Tenant for the conduct of its business operations by reason of a material reduction of any portion of the Premises, in which event Tenant may reasonably elect to terminate this Lease by delivery of notice to Landlord within 30 days of the date that Tenant receives written notice of the date on which possession of the Premises or portion thereof shall be required by the public or quasi-public body. If Tenant gives Landlord notice that Tenant elects to terminate this Lease, this Lease shall terminate as of the date on which such possession shall be required by the public or quasi-public body, and Tenant shall have no further liabilities or obligations hereunder other than to pay Rent, taxes and other charges accrued hereunder as of such date of termination, recognizing that Tenant is tax-exempt

16. Tenant Rights of Termination: Tenant will be able to terminate the lease agreement if in conducting its environmental due diligence, during the early occupancy period, it is determined that the Premises does not meet the City's requirements or expectations or is not in compliance with the environmental requirements of applicable laws and regulations and Tenant notifies Landlord of such fact on or before the Tenant Possession Date. Tenant's taking possession of the Premises on the Tenant Possession Date shall be deemed Tenant's acceptance of the Premises and wavier of its right to terminate the Lease pursuant to this Section 16.

17. Default; Remedies:

17.1 **Tenant's Default**: The following events shall be deemed to be events of default by Tenant under this Lease:

(a) Tenant shall fail to pay any installment of the Rent herein reserved when due, or any other payment or reimbursement to Landlord required herein when due, and such failure shall continue for a period of five (5) days from the date such payment was due following written notice thereof by Landlord to Tenant.

(b) Tenant shall become insolvent, or shall make a transfer in fraud of creditors, or shall make an assignment for the benefit of creditors.

(c) Tenant shall file a petition under any section or chapter of the National Bankruptcy Code, as amended, or under any similar law or statute of the United States or any state thereof; or an order for relief shall be entered against Tenant in any proceedings filed against Tenant thereunder.

(d) A receiver or trustee shall be appointed for all or substantially all of the assets of Tenant.

(e) Tenant shall fail to discharge any lien placed upon the Premises in violation of Section 28 hereof within thirty (30) days after any such lien or encumbrance is filed against the Premises.

(f) Tenant shall fail to comply with any term, provision or covenant of this Lease (other than the foregoing in this Section 17) and shall not cure such failure within thirty (30) days after written notice thereof to Tenant.

(g) Tenant shall be late in the payment of Rent or other charges required to be paid hereunder three (3) or more occasions in any one calendar year during the Lease Term, or shall repeatedly default in the keeping, observing, or performing of any other covenants or agreements herein contained to be kept, observed, or performed by Tenant whether or not Tenant shall have timely cured any payment or other defaults.

17.2 **Landlord's Remedies**:

(a) Upon the occurrence of any Event of Default described in Section 17.1 hereof, Landlord shall have the option to pursue any one or more of the following remedies after five (5) days written notice to Tenant:

(1) Terminate this Lease, in which event Tenant shall immediately surrender the Premises to Landlord and if Tenant fails so to do, Landlord may, without prejudice to any other remedy which it may have for possession or arrearage in Rent, enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying such Premises or any party thereof without being liable for prosecution or any claim for damages therefor.

(2) Enter upon and take possession of Premises as permitted under law and expel or remove Tenant and any other person who may be occupying such Premises or any part hereof without being liable for prosecution or any claim for damages therefor, and relet the Premises and receive the Rent therefor, provided that such expulsion or removal is pursuant to law, all without terminating the Lease.

(3) Alter all locks and other security devices at the Premises without terminating this Lease.

(b) In the event Tenant fails to pay any installment of Rent hereunder within five (5) days after notice that such installment is past due, Tenant shall pay to Landlord a late charge in an amount equal to five percent (5%) of any late installment under this Lease. The failure to pay such amount within five (5) days after receipt by Tenant of written demand therefor shall be an Event of Default hereunder. In addition, any amounts owing from Tenant to Landlord under this Lease shall bear interest at the highest rate permitted by law in the State of Florida, not to exceed the annual rate of eighteen percent (18%) calculated from the date due until the date of payment. The provision for the late charge and interest shall be in addition to all of Landlord's other rights and remedies hereunder and shall not be construed as liquidated damages or as limiting Landlord's remedies in any manner.

(c) Exercise by Landlord of any one or more remedies hereunder granted or otherwise available shall not be deemed to be an acceptance of surrender of the Premises by Tenant, whether by agreement or by operation of law, it being understood that such surrender can be affected only by the written agreement of Landlord and Tenant. No such alteration of locks or other security devices and no removal or other exercise of dominion by Landlord over the property of Tenant or others at the Premises shall be deemed to constitute a conversion; provided, however, that Landlord shall allow Tenant reasonable access to and the right to remove from the Premises property of Tenant or others at the Premises. All claims for damages by reason of such re-entry and/or repossession and/or alteration of locks or other security devices are hereby waived (with the exception of claims based on intentional damage or destruction), as are all claims for damages by reason of any distress warrant, forcible detainer proceedings, attachment proceedings or other legal process. Tenant agrees that any re-entry by Landlord may be pursuant to judgment obtained in forcible detainer proceedings or other legal proceedings, as Landlord may elect, and Landlord shall not be liable in trespass or otherwise.

17.3 **Landlord's Right to Cure Tenant Default**: If an Event of Default occurs, Landlord, in addition to all other remedies provided herein, shall have the option (but not the obligation) to cure such failure upon fifteen (15) days written notice to Tenant; *provided that*, in the event of emergency, apparent imminent damage or injury or exposure to material liability, in Landlord's reasonable discretion, Landlord shall have the right to perform duties or obligations without advance notice and to notify Tenant in writing as soon as is reasonably practical thereafter. All of Landlord's expenditures incurred to correct the failure to perform shall be deemed additional Rent and reimbursed by Tenant upon demand with interest from the date of expenditure at twelve percent (12%) per annum. Landlord's right to cure an Event of Default is for the sole protection of Landlord and the existence of this right shall not release Tenant from the obligation to perform all of the covenants herein provided to be performed by Tenant or deprive Landlord of any other right which Landlord may have by reason of default of this Lease by Tenant.

17.4 **Unpaid Sums and Service Charge:** Any amounts owing from Tenant to Landlord under this Lease shall bear interest at the highest rate permitted by law in the State of Florida, not to exceed the annual rate of eighteen percent (18%) calculated from the date due until the date of payment. In addition to the foregoing remedies, if any payment of Rent or Additional Rent is not paid when due, Tenant shall pay a late charge equal to five percent (5%) of the delinquent amount as liquidated damages for Landlord's extra expense in handling such past-due account.

17.5 **Landlord's Default and Tenant's Remedies:** Landlord shall be in default of this Lease if Landlord fails to perform any term, condition, covenant or obligation of this Lease on the part of Landlord to be performed within 30 days after the date on which Landlord receives from Tenant notice by certified or registered mail specifically describing such failure. After expiration of Landlord's 30 day cure period, Tenant may cure such default by Landlord on behalf of, and at the sole cost and expense of, Landlord. Landlord shall reimburse Tenant for its costs and expenses in connection with any such cure within 30 days after Tenant's delivery to Landlord of an invoice therefore, failing which Tenant may offset such costs and expenses against any Rent and other amounts payable by Tenant hereunder.

18. Warranties and Representations and Covenants:

18.1 Compliance with Laws:

(a) Landlord covenants for the benefit of Tenant that the improvements located within the Premises or within the building housing a portion of the Premises as well as Landlord's maintenance and repairs under Section 11.1 shall be done in a good and workmanlike manner and substantially comply with all laws, ordinances and requirements, including without limitation the procuring of all building and other permits, licenses, approvals and certificates of occupancy and the observance of applicable building, zoning and other code requirements, of governmental authorities with competent jurisdiction, and notwithstanding any other provision of this Lease to the contrary, if any improvements, alterations or renovations to the Premises shall be required by any law, ordinance or requirement of any governmental authority with competent jurisdiction, then Landlord, at its sole cost and expense, shall perform such improvements, alterations or renovations in a timely manner (unless caused by Tenant's use of the Premises); provided, however, no alleged violation by Landlord of any such law, ordinance or requirement shall be deemed to constitute a Landlord default, so long as Landlord shall contest, in good faith, the validity of such law, ordinance or requirement or the existence of the alleged violation thereof.

(b) Tenant assumes full responsibility for and covenants for the benefit of Landlord that Tenant's Improvement Work, its maintenance and repairs and its use and occupancy of the Premises for the conduct of its business operations shall be done in a good and workmanlike manner and comply with all applicable laws, ordinances and requirements of governmental authorities with competent jurisdiction; provided, however, that: (i) no alleged violation by Tenant of any such law, ordinance or requirement shall be deemed to constitute a Tenant Default so long as Tenant shall contest, in good faith, the validity of such law, ordinance or requirement or the existence of the alleged violation thereof; and (ii) Tenant shall not be obligated to incur costs or expenses for improvements, alterations or renovations to the Premises required at any time or from time to time by any applicable law, ordinance or requirement of a governmental authority with competent jurisdiction, unless such improvements, alterations, or renovations specifically relate to Tenant's Use.

18.2 **Warranty of Title**: Landlord covenants for the benefit of Tenant that:

(a) Landlord has fee simple title to the Premises and has full authority to perform this Lease; and

(b) as of the Tenant Possession Date, no third party has any right, title or interest adverse to Tenant's right, title and interest hereunder in or to the Premises other than the Permitted Exceptions referenced in Section 2.1 hereof.

18.3 **Hazardous and Toxic Conditions**:

(a) Landlord represents for the benefit of Tenant that the Premises does not now, and at the Tenant Possession Date will not contain any material classified as toxic or hazardous under applicable federal, state and local laws, ordinances and requirements of governmental authorities with competent jurisdiction (collectively, a "Hazardous Substance"). If a Hazardous Substance is discovered on the Premises to the extent such condition existed prior to or on the Tenant Possession Date, then Landlord shall promptly give Tenant written notice of such condition and promptly cause such Hazardous Substance to be cleaned up and the Premises brought into compliance with applicable laws, ordinances and requirements of governmental authorities with competent jurisdiction. Landlord agrees to indemnify Tenant pursuant to the provisions of Section 20 hereof against any Losses as defined in Section 20 incurred by Tenant arising out of any such toxic or hazardous condition.

(b) Tenant agrees that, except for *de minimis* amounts of Hazardous Substances brought onto the Premises as necessary to service Tenant's Vehicles or by Tenant's employees in the form of fluid for cigarette lighters and other personal items and Hazardous Substances in the form of products which are handled by Tenant in accordance with all legal requirements, it shall not bring Hazardous Substances onto the Premises nor allow Tenant's employees or business invitees to bring Hazardous Substances onto the Premises which are not related to Tenant's utility and municipal maintenance operations. Tenant agrees that all usage and storage of Hazardous Substances on the Premises must at all times be in full compliance with any and all local, state and federal environmental, health and/or safety-related laws, statutes, orders, standards, courts' decisions, ordinances, rules and regulations (as interpreted by judicial and administrative decisions), decrees, directives, guidelines, permits or permit conditions, currently existing and as amended, enacted, issued or adopted in the future which are or become applicable to Tenant or all or any portion of the Premises. Tenant agrees to indemnify Landlord pursuant to the provisions of Section 20 hereof against any Losses incurred by Landlord arising out of any Hazardous Substance created by Tenant on the Premises or out of any Hazardous Substances brought onto the Premises by Tenant, its employees or business invitees. Tenant shall have the right at any time during the Lease Term, to make soil, environmental and other tests on the Premises, repairing all damages caused by such tests, with written consent from Landlord, which consent shall not be unreasonably withheld. Notwithstanding, nothing contained herein shall be an admission of liability nor a waiver of Tenant's right to statutory immunity to the extent applicable pursuant to FS §768.28.

18.4 **Broker's Commissions**. Each party represents and warrants to the other that it has not entered into any agreement or incurred or created any obligation which might require the other party to pay any broker's commission, finder's fee, or other commission or fee relating to the leasing of the Premises.

19. Landlord's Right of Entry: Following reasonable notice to Tenant, Landlord may enter upon the Premises as often as Landlord reasonably may deem necessary for the purposes of performing such maintenance and repairs as Landlord reasonably may deem necessary or lawfully may be required to perform, inspecting the Premises, offering the Premises for lease (but only during the period which commences four (4) months prior to the expiration of the then existing Primary Term or Extension Term in the event that Tenant shall not have elected further to extend the Term of this Lease) or offering the Premises for sale. During this period, Landlord shall have the right to display "For Sale" and "For Lease" signs on the Premises. Landlord's right of entry shall be exercised in a manner and during reasonable hours at times such that there shall be no unreasonable or material interference with the use and occupancy of the Premises by Tenant for the conduct of its business operations.

20. Indemnification:

20.1 **Tenant Indemnification**. Tenant agrees to indemnify and hold Landlord harmless from and against any and all losses, damages, claims, suits, actions, judgments, liabilities and expenses, including without limitation reasonable attorneys' fees (collectively, "Losses"), arising out of, or with respect to: (a) the use of the Premises by Tenant or Tenant's officers, employees, agents, contractors or invitees (collectively, "Tenant Parties"); (b) any breach of any warranty or representation or any covenant or agreement of Tenant, under this Lease; (c) any condition of the Premises in the possession or under the control of Tenant, with the exception of Hazardous Substance(s) or other Environmental Condition(s) located on or about the Premises that existed prior to or on the Tenant Possession Date or as caused by Landlord or Landlord Parties, except to the extent Tenant exacerbates same; or (d) any injury to, or death of, persons and/or any damage to, or destruction of, property, on or about the Premises and attributable to the action or inaction of Tenant or Tenant Parties, except for any such breach, any injury or death or any damage or destruction arising out of, or with respect to, the negligence or misconduct of Landlord, or any of Landlord's officers, employees, agents, contractors or invitees (collectively, "Landlord Parties"), or as otherwise specifically provided in this Lease, only to the extent allowed by law. Nothing contained herein shall be construed as an admission of liability. Further, nothing contained herein shall be construed as a waiver by City of its right to sovereign immunity pursuant FS§768.28.

20.2 **Landlord Indemnification**. Landlord agrees to indemnify and hold Tenant harmless from and against any and all Losses, arising out of, or with respect to: (a) any breach of any warranty or representation or any covenant or agreement of Landlord under this Lease; or (b) repairs or alterations which Landlord may make upon the Premises; (c) any injury to, or death of, persons and/or any damage to, or destruction of, property, on or about the Premises and attributable to the negligence or misconduct of Landlord or Landlord Parties, except for any such breach, any injury or death or any damage or destruction arising out of, or with respect to, the negligence or misconduct of the Tenant or any Tenant Party; or (d) for any Environmental Condition that existed prior to the effective date of the Original Lease or is caused by Landlord or as otherwise specifically provided in this Lease. Landlord shall have no liability to Tenant for any injury, loss or damage caused by third parties other than Landlord Parties. Except for Landlord's indemnification for Environmental Conditions that existed prior to the effective date of the Original Lease or are caused by Landlord, the liability of Landlord to Tenant, whether under this Section or any other provision of this Lease, shall be limited to the interest of Landlord in the Premises, and Tenant agrees to look solely to Landlord's interest in the Premises for the recovery of any judgment or award against Landlord, it being intended that Landlord shall not be personally liable for any judgment or deficiency except to the extent attributable to negligence or misconduct of Landlord or Landlord Parties.

20.3 **Conditions; Survival**. The indemnification obligations created by this Section 20 shall be expressly conditioned upon the party seeking indemnification (i) delivering to the other party prompt notice of any event giving rise to such indemnification obligation and (ii) providing such other party the opportunity to defend itself from and against any Losses. The indemnification obligations under this Lease shall survive the expiration of the Lease Term (or earlier termination of this Lease).

21. Transfers:

21.1 **Assignment and Subletting**: Tenant shall not assign this Lease nor sublet all or any portion of the Premises, without the written consent of Landlord, which consent shall not be unreasonably withheld or delayed. Absent the written agreement of Landlord, no assignment of this Lease or subletting of all or any portion of the Premises shall relieve Tenant of any of the terms, conditions, covenants and obligations of this Lease on the part of Tenant to be performed.

21.2 **Notice of Sale**. In the event that Landlord, at any time on or before the expiration of the Term or the earlier termination of this Lease, shall transfer, assign, or otherwise convey to a third party all or any portion of its right, title and interest in and to the Premises, Landlord shall deliver to Tenant notice of the name and address of the purchaser of such right, title and interest at least thirty (30) days prior to the closing of any such transaction.

22. Quiet Enjoyment: Landlord covenants and agrees that Tenant shall have the peaceful and quiet possession and enjoyment of the Premises, subject to all mortgages and other matters to which this Lease is or shall become, subordinate in accordance with the provisions of Section 23) for the conduct of its business operations during the Term, without hindrance by Landlord or any party whatsoever.

23. Subordination and Attornment/Estoppel:

23.1 **Subordination**. Tenant covenants and agrees, on the terms and conditions provided in this Section, that this Lease shall be subordinate to any institutional mortgage or deed of trust that now or hereafter shall encumber the Premises. Notwithstanding such subordination, Tenant's right to quiet possession of the Premises shall not be disturbed if Tenant is not in default and so long as Tenant shall pay the rent and observe and perform all of the provisions of this Lease, unless this Lease is otherwise terminated pursuant to its terms. In the event of the foreclosure of a mortgage or deed of trust, the new owner shall not (a) be liable for any act or omission of any prior landlord or with respect to events occurring prior to its acquisition of title, (b) be liable for the breach of this Lease by any prior landlord, (c) be subject to any offsets or defenses which Tenant may have against the prior landlord or (d) be liable to Tenant for the return of its security deposit. Tenant agrees to execute and acknowledge any documents Landlord reasonably requests Tenant execute to effectuate an attornment, a subordination, or to make this Lease prior to the lien of any mortgage or deed of trust. Tenant's failure to execute such documents within ten (10) days after written demand shall constitute a material default by Tenant hereunder or, at Landlord's option, Landlord shall have the right to execute such documents on behalf of Tenant as Tenant's attorney-in-fact. Tenant does hereby make, constitute and irrevocably appoint Landlord as Tenant's attorney-in-fact and in Tenant's name, place and stead to execute such documents in accordance with this Section.

23.2 **Estoppel**. In the event that estoppel certificates now or hereafter may be required or requested by Landlord, any mortgagee or beneficiary of any mortgage or deed of trust, respectively, encumbering the Premises, Tenant further covenants and agrees to execute certificates containing the substance of the following statements (together with other reasonable terms, if any): (i) that the copy of the Lease attached to the certificate is a true and complete copy of the Lease and there are no amendments, modifications or alterations of the Lease, except as stated; (ii) that the Premises required to be furnished under the Lease have been completed in accordance therewith, the date on which Tenant accepted possession of such Premises and that Tenant now occupies the same; (iii) that Tenant began paying monthly installments of Rent under the Lease on a given date and no such installment has been paid more than one (1) month in advance; and (iv) that the Lease is in full force and effect, and, except as noted, there exists, to Tenant's knowledge, no defense or offset to enforcement of the Lease by Landlord, and, to Tenant's knowledge, Landlord is not in default under the Lease. Tenant's failure to execute such estoppel certificates within ten (10) days after written demand shall constitute a material default by Tenant hereunder or, at Landlord's option, Landlord shall have the right to execute such certificates on behalf of Tenant as Tenant's attorney-in-fact. Tenant does hereby make, constitute and irrevocably appoint Landlord as Tenant's attorney-in-fact and in Tenant's name, place and stead to execute such documents in accordance with this Section.

24. Surrender of Premises: Upon the Expiration Date or the earlier termination of this Lease, Tenant shall deliver up and surrender the Premises to Landlord "broom-clean" (as defined by Exhibit "C" attached hereto and incorporated herein by reference) and in a condition that would reasonably be expected, with normal and customary use in accordance with (i) prudent operating practices and (ii) the covenants and requirements imposed under this Lease. The foregoing notwithstanding, Tenant's surrender of the Premises shall be subject to (a) alterations and renovations to the Premises that are not required to be removed by Landlord, (b) reasonable wear and tear, (c) damage by fire, explosion or other casualty, and (d) repairs and restoration which this Lease specifically requires to be performed by Landlord. Notwithstanding anything herein to the contrary, substandard conditions existing because of Tenant's failure to perform maintenance, repairs or replacements as required herein or because of Tenant's abuse of the Leased Premises, shall not be deemed "reasonable wear and tear".

25. Notices; Computation of Time: For the purposes of all other notices and communications between the parties, the addresses of the Landlord and Tenant shall be as shown in Sections 1.1 and 1.2 herein. Any notices and other communications to be delivered by either party to the other pursuant to this Lease shall be in writing and shall be deemed delivered as follows, except as otherwise specifically provided in this Lease: (a) when hand delivered; (b) one (1) business day after mailing by Federal Express or other overnight courier service; or (c) three (3) business days after deposit in the United States mail by registered or certified mail, postage prepaid, return receipt requested, addressed to the party to be charged with notice at the above-recited address or such other address as either party from time to time may designate by notice delivered to the other; provided, however, that no notice of change of address shall be deemed given until received by the party to be notified. Except as otherwise specifically provided herein, in the computation of any period of time which shall be required or permitted hereunder or under any law for any notice or other communication or for the performance of any term, condition, covenant or obligation, the day from which such period runs shall be excluded and the last day of such period shall be included unless it is a Saturday, Sunday or legal holiday, in which case the period shall be deemed to run until the end of the next day which is not a Saturday, Sunday or legal holiday.

26. Force Majeure: Landlord and Tenant shall each be excused for the period of any delay in the performance of any non-monetary obligations hereunder when prevented from doing so by cause or causes beyond its control which shall include, without limitation, all labor disputes, civil commotion, war, war-like events, invasion, rebellion, hostilities, military or usurped power, sabotage, governmental regulations or controls, fire or other casualty, inability to obtain any material or services or acts of God (an occurrence of any of the foregoing, a "Force Majeure Event").

27. Mechanic's Liens and Tenant's Personal Property Taxes.

27.1 **Mechanic's Liens**. Tenant shall have no authority, express or implied, to create or place any lien or encumbrance of any kind or nature whatsoever upon, or in any manner to bind the interest of Landlord in the Premises or to set off the rentals payable hereunder against any claim in favor of any person dealing with Tenant, including those who may furnish materials to perform labor for any construction or repairs. Tenant covenants and agrees that it will pay or cause to be paid all sums legally due and payable by it on account of any labor performed or materials furnished in connection with work performed by Tenant on the Premises (Tenant is not responsible or liable for sums which represent an obligation of Landlord under this Lease) on which any lien is or can be validly and legally asserted against the Premises or the improvements thereon. Tenant will save and hold Landlord harmless from any and all loss, cost or expenses based on or arising out of asserted claims or liens against the leasehold estate or against the right, title and interest of the Landlord in the Premises or under the terms of this Lease, if such asserted claims or liens are a result from, through or under Tenant (including, without limitation, Tenant's performance of Tenant's Improvement Work or Tenant's performance of its obligations under this Lease), and in such event, Tenant agrees to give Landlord immediate written notice of the placing of any lien or encumbrance against the Premises.

27.2 **Personal Property Taxes**. Tenant shall be liable for and promptly pay when due all taxes levied or assessed against personal property, furniture, or fixtures placed by Tenant in the Premises. If any such taxes for which Tenant is liable are levied or assessed against Landlord or Landlord's property and if Landlord elects to pay the same or if the assessed value of Landlord's property is increased by inclusion of personal property, furniture or fixtures placed by Tenant in the Premises, and Landlord elects to pay the taxes based on such increase, Tenant shall pay the Landlord upon demand that part of such taxes. The parties agree and understand that pursuant to FS §196.199, Tenant is tax-exempt and will only be liable for such taxes to the extent allowed for by Florida law.

28. Miscellaneous:

28.1 **Entire Agreement; Amendments**: This Lease contains the entire agreement between the parties, and no promise, representation, warranty, covenant, agreement or understanding not specifically set forth in this Lease shall be binding upon, or inure to the benefit of, either party. This Lease may not be amended, altered, modified or supplemented in any manner except by an instrument in writing duly executed by the parties.

28.2 **Governing Law; Interpretation; Venue; Waiver of Jury Trial**: This Lease shall be construed and enforced in accordance with the laws of the State of Florida. The fact that this Lease shall have been prepared by the attorney for either Landlord or Tenant shall not be used to construe or interpret this Lease for or against either party; the parties intend that the provisions of this Lease shall be given their fair meaning and no court shall construe this Lease more stringently against one party than against the other. Any litigation shall be commenced in the appropriate court of Lake County, Florida and both parties waive any right to trial by jury.

28.3 **Authority; Binding Effect**: Each individual executing this Lease on behalf of Landlord or Tenant represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of such entity. The provisions of this Lease shall be binding upon, and shall inure to the benefit of, the parties and their respective heirs, executors, administrators, personal and legal representatives, successors and assigns.

28.4 **No Waiver**: The failure of Landlord or Tenant to insist upon strict performance of any of the terms, conditions, covenants and obligations contained in this Lease shall not be deemed a waiver of any rights or remedies for any subsequent breach or default in the terms, conditions, covenants and obligations herein contained.

28.5 **Recording**: Tenant shall not record the Lease or any memorandum hereof on the public records of any public office without the express and written consent of Landlord.

28.6 **Signs**: Subject only to Section 18.1 (b), Tenant shall have exclusive sign rights for the Premises, exterior and interior, and shall have the right to erect and display signs on the Premises and on such other areas of the Premises as Tenant and Landlord agree, subject only to compliance with applicable laws, ordinances and requirements of governmental authorities with competent jurisdiction. Upon termination of this Lease all signs installed by Tenant must be removed and the Premises restored to its prior condition, ordinary wear and tear excepted.

28.7 **Incorporation of Exhibits**: Each of the attached Exhibits hereby is incorporated in and made a part of this Lease as if set forth herein. In the event of any conflict between the body of this Lease and the provisions set forth in the Exhibits, the provisions set forth in the Exhibits shall be deemed to control.

28.8 **Section Headings**: The Section headings hereof are intended for convenience and reference purposes only and shall not be used to construe or interpret this Lease.

28.9 **Severability**: If any provision of this Lease shall be determined by any court to be invalid, illegal or unenforceable to any extent, then the remainder of this Lease shall not be affected, and this Lease shall be construed as if the invalid, illegal or unenforceable provision had never been contained in this Lease.

28.10 **Transmittal**: Submission of this Lease for examination, even though executed by Landlord or Tenant, shall not bind the other party in any manner, and no lease or other obligation on the part of either party shall arise until this Lease shall be executed and delivered by the parties, each to the other.

28.11 **Additional Actions and Documents**: Landlord and Tenant hereby agree to exercise commercially-reasonable efforts to obtain, execute, deliver and file, or cause to be obtained, executed, delivered and filed, as the case may be, such additional documents, instruments and consents as may be necessary, or as reasonably may be requested by either party, and to take such further action as may be necessary, or as reasonably may be requested by either party, at the sole cost and expense of the requesting party, in order fully to effectuate the terms and conditions of this Lease.

28.12 **Counterparts**: This Lease may be executed in two (2) or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

28.13 **Time of Essence**: Time is of the essence with respect to each of the obligations to be performed by Tenant and Landlord under this Lease.

28.14 **Radon Gas**: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit. The foregoing disclosure is provided to comply with state law and is for informational purposes only. Landlord has not conducted radon testing with respect to the Building and specifically disclaims any and all representations and warranties as to the absence of radon gas or radon producing conditions in connection with the Building and the Premises.

28.15 **Moisture and Mold**. Tenant acknowledges and agrees that: (i) mold spores are present essentially everywhere, and that (ii) mold can grow in most moist locations and (iii) good housekeeping, ventilation and moisture control (especially in kitchens, janitor's closets, bathrooms, break rooms and around outside walls) are essential for mold prevention. Tenant has previously inspected the Premises and Tenant has observed mold, mildew or moisture within the Premises, so prior to possession of Premises by Tenant, an inspection and testing by Tenant's environmental consultant will be conducted at Tenant's sole cost and expense to determine if the presence of mold or mildew exists at a level which has been established to be hazardous to human health Tenant agrees to immediately notify Landlord (and Landlord's property manager) if Tenant's environmental consultant determines that mold/mildew exists at a level which has been determined to be hazardous to human health and allow for Landlord to take appropriate corrective remediation action. Tenant agrees to immediately notify Landlord (and Landlord's property manager) if Tenant observes moisture conditions (from any source, including leaks) and allow Landlord to evaluate and make recommendations and/or take appropriate corrective action. Tenant releases Landlord (and Landlord's property manager) from any liability for any personal injury or damages to property caused by or associated with moisture or the growth of or occurrence of mold or mildew in or on the Premises, provided that Landlord has taken appropriate corrective actions to remediate the presence of mold or mildew in or on the Premises prior to possession of Premises by Tenant, and provided that after occupancy of Premises by Tenant and Tenant providing immediate notification to Landlord of a determination by Tenant's environmental consultant of the presence of mold or mildew at a level which has been determined to be hazardous to human health, Landlord has immediately taken corrective action to remediate the presence of mold or mildew in or on the Premises.

28.16 **WAIVER OF JURY TRIAL**: LANDLORD AND TENANT HEREBY WAIVE THEIR RESPECTIVE RIGHT TO TRIAL BY JURY OF ANY CAUSE OF ACTION, CLAIM, COUNTERCLAIM OR CROSS-COMPLAINT IN ANY ACTION, PROCEEDING AND/OR HEARING BROUGHT BY EITHER LANDLORD AGAINST TENANT OR TENANT AGAINST LANDLORD ON ANY MATTER WHATSOEVER ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, TENANT'S USE OR OCCUPANCY OF THE PREMISES, OR ANY CLAIM OF INJURY OR DAMAGE, OR THE ENFORCEMENT OF ANY REMEDY UNDER ANY LAW, STATUTE, OR REGULATION, EMERGENCY OR OTHERWISE, NOW OR HEREAFTER IN EFFECT.

LANDLORD AND TENANT ACKNOWLEDGE THAT THEY HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN AND, BY EXECUTION OF THIS LEASE, SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALLY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LANDLORD AND TENANT WITH RESPECT TO THE PREMISES. TENANT ACKNOWLEDGES THAT IT HAS BEEN GIVEN THE OPPORTUNITY TO HAVE THIS LEASE REVIEWED BY ITS LEGAL COUNSEL PRIOR TO ITS EXECUTION. PREPARATION OF THIS LEASE BY LANDLORD OR LANDLORD'S AGENT AND SUBMISSION OF SAME TO TENANT SHALL NOT BE DEEMED AN OFFER BY LANDLORD TO LEASE THE PREMISES TO TENANT OR THE GRANT OF AN OPTION TO TENANT TO LEASE THE PREMISES. THIS LEASE SHALL BECOME BINDING UPON LANDLORD AND TENANT ONLY WHEN FULLY EXECUTED BY BOTH PARTIES AND WHEN LANDLORD HAS DELIVERED THIS LEASE TO TENANT IN THE MANNER SET FORTH IN THIS LEASE, INCLUDING BY ELECTRONIC SIGNATURE.

(Signatures on next page following)

IN WITNESS WHEREOF, the parties have caused this Lease to be duly executed by each of their respective authorized representatives as of the day and year first above written.

Signed and acknowledged in the presence of:

"LANDLORD"

Witness:

NICKMAX PROPERTIES, LLC

By: Elizeleida Mercado Ruiz

Name: Eliseleida Mercado Ruiz

By: Cassandra Villamil

Cassandra Villamil, President

"TENANT"

Witness:

CITY OF MOUNT DORA.

By: Gwen Keough-Johns

Name: Gwen Keough-Johns

By: Robert R Hayes

EXHIBIT A

SITE PLAN

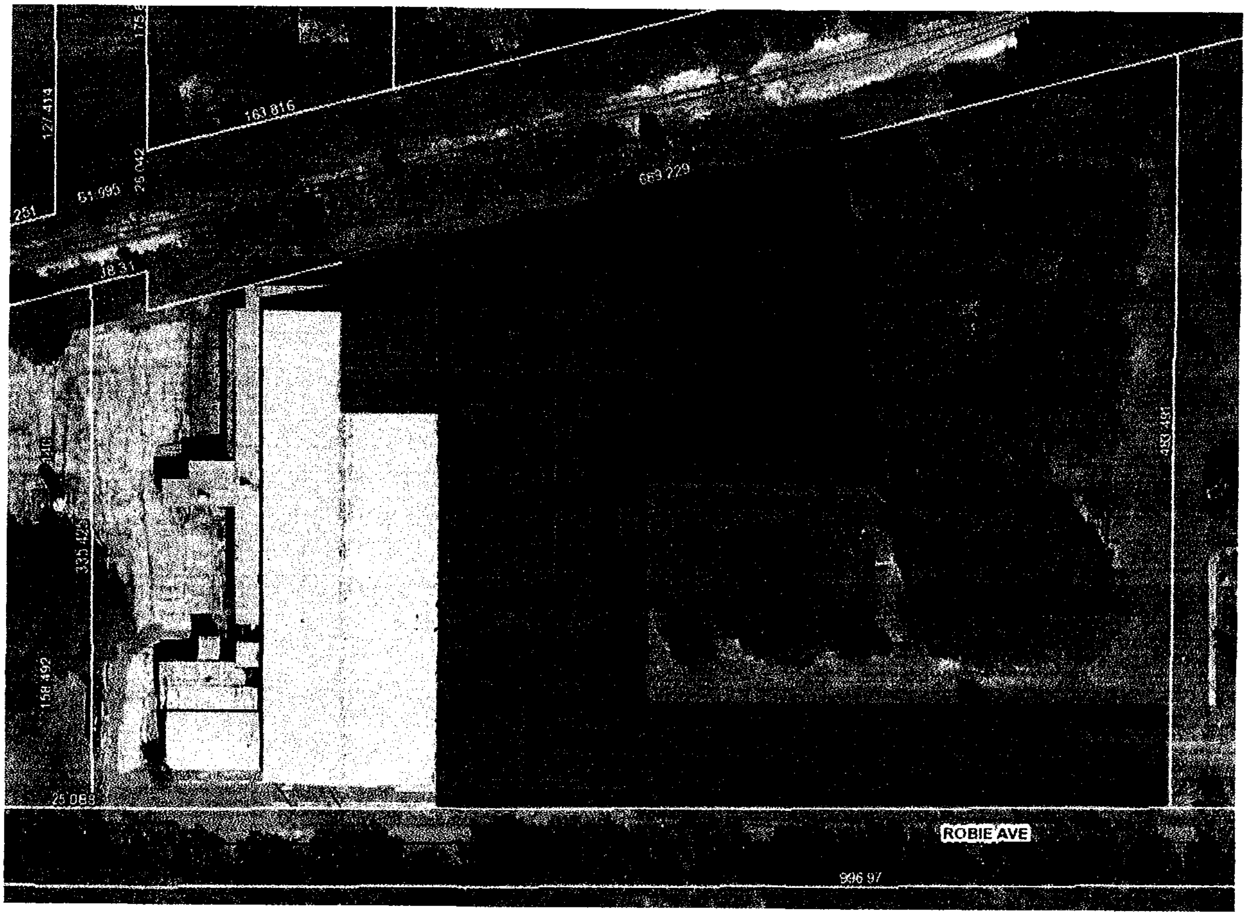

EXHIBIT B - Broom Clean Condition and Landlord Repair Requirements

- All lighting and electrical system components are to be placed into good working order. This includes replacement of non-code compliant electric panels, non-functioning electric panel breakers, wiring, bulbs, ballasts, and lenses as will be needed by Tenant for Tenant's occupancy of Leased Premises. If not required for Tenant's utilization of the Leased Premises, electrical lines shall be properly terminated at the nearest junction box.

- All truck doors and dock levelers should be serviced and placed in good operating order (including, but not limited to, overhead door springs, rollers, tracks and motorized door operator). This would include the necessary (a) replacement of any dented truck door panels, broken panels and cracked lumber, and (b) adjustment of door tension to insure proper operation. All door panels that are replaced shall be painted to match the Building standard.

- All structural steel columns in the warehouse and office should be inspected for damage by a qualified structural engineer, a written report/certification prepared, and must be repaired if repair is necessary for Tenant's safe occupancy of the Leased Premises.

- If the lead-based paint inspection of the Leased Premises by the Tenant's certified environmental consultant identifies the presence of lead-based paint hazards that require proper abatement for the safety and health of Tenant's employees who will be working in and occupying the Leased Premises, Landlord will have proper abatement legally performed by a certified contractor at Landlord's sole cost and expense.

- If the environmental evaluation of the Leased Premises by the Tenant's certified environmental consultant identifies visual evidence of mold from a non-invasive assessment that detects suspect conditions, a follow-up sampling of the air and building materials will be necessary to determine if abatement will be required to allow for the safety and health of Tenant's employees who will be working in and occupying the leased Premises. Landlord will have property abatement performed by a certified contractor at Landlord's sole cost and expense, to include sampling to determine whether the cleanup/abatement has been satisfactorily completed.

- HVAC system shall be in good working order, including the necessary replacement of any parts to return the unit to a well-maintained condition. This includes, but is not limited to, filters, thermostats, warehouse heaters and exhaust fans. Prior to Tenant occupancy, Landlord will have an inspection performed by a certified mechanical contractor to determine the condition of the HVAC system.

- All holes in the exterior walls, interior partition walls, and passage doors shall be repaired prior to move-in. All walls shall be clean.

- The carpets and vinyl tiles shall be in a clean condition and shall not have any holes or chips in them. Flooring shall be free of excessive dust, dirt, grease, oil and stains. Cracks in concrete and asphalt shall be acceptable as long as they are ordinary wear and tear and do not present a tripping hazard or shall be appropriately patched to preclude the potential for a tripping hazard. There shall be no protrusion of anchors from the warehouse floor and all holes shall be appropriately patched.

- Facilities shall be in a clean condition, including, but not limited to, restroom areas, windows, and other portions of the Premises.

- All exterior windows with cracks or breakage shall be replaced. All ground and lower level windows shall be clean.

- Landlord shall provide keys for all locks on the Leased Premises, including front doors, rear doors, and interior doors.

- All mechanical and electrical systems shall be in a safe condition that conforms to applicable code. Bare wires and dangerous installations shall be corrected by Landlord to Tenant's reasonable satisfaction.

- All plumbing fixtures shall be in good working order, including, but not limited to, the water heater. Faucets and toilets shall not leak.

- All dock bumpers shall be in place and well-secured.

- Drop grid ceiling shall be free of excessive dust from lack of changing filters. No ceiling tiles may be missing or damaged.

- All trash shall be removed from both inside and outside of the Building.

EXHIBIT C - Broom Clean Condition and Tenant Repair Requirements

- All lighting is to be placed into good working order. This includes replacement of bulbs, ballasts, and lenses as needed.

- All truck doors and dock levelers should be serviced and placed in good operating order (including, but not limited to, overhead door springs, rollers, tracks and motorized door operator). This would include the necessary (a) replacement of any dented truck door panels, broken panels and cracked lumber, and (b) adjustment of door tension to insure proper operation. All door panels that are replaced shall be painted to match the Building standard.

- All structural steel columns in the warehouse and office should be inspected for damage and must be repaired. Repairs of this nature shall be pre-approved by the Landlord prior to implementation.

- HVAC system shall be in good working order, including the necessary replacement of any parts to return the unit to a well-maintained condition. This includes, but is not limited to, filters, thermostats, warehouse heaters and exhaust fans. Upon move-out, Landlord will have an exit inspection performed by a certified mechanical contractor to determine the condition of the HVAC system.

- All holes in the sheet rock walls shall be repaired prior to move-out. All walls shall be clean.

- The carpets and vinyl tiles shall be in a clean condition and shall not have any holes or chips in them. Flooring shall be free of excessive dust, dirt, grease, oil and stains. Cracks in concrete and asphalt shall be acceptable as long as they are ordinary wear and tear and are not the result of misuse.

- Facilities shall be returned in a clean condition, including, but not limited to, the cleaning of the coffee bar, restroom areas, windows, and other portions of the Premises.

- There shall be no protrusion of anchors from the warehouse floor and all holes shall be appropriately patched. If machinery/equipment is removed, the electrical lines shall be properly terminated at the nearest junction box.

- All exterior windows with cracks or breakage shall be replaced. All windows shall be clean.

- Tenant shall provide keys for all locks on the Premises, including front doors, rear doors, and interior doors.

- All mechanical and electrical systems shall be left in a safe condition that conforms to code. All low voltage wiring shall be removed from the Premises and any damage caused by such removal shall be repaired to Landlord's reasonable satisfaction. Bare wires and dangerous installations shall be corrected to Landlord's reasonable satisfaction.

- All plumbing fixtures shall be in good working order, including, but not limited to, the water heater. Faucets and toilets shall not leak.

- All dock bumpers shall be left in place and well-secured.

- Drop grid ceiling shall be free of excessive dust from lack of changing filters. No ceiling tiles may be missing or damaged.

- All trash shall be removed from both inside and outside of the Building.

- All signs in front of Building and on glass entry door and rear door shall be removed.

RESOLUTION NO. 2019-73

A RESOLUTION OF THE CITY OF MOUNT DORA, FLORIDA, PERTAINING TO AMENDMENT 1 TO THE LEASE AGREEMENT WITH NICKMAX PROPERTIES, LLC; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR APPROVAL OF AMENDMENT; PROVIDING FOR THE IMPLEMENTATION OF ADMINISTRATIVE ACTIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on September 13, 2018, the City authorized the Lease Agreement with Nickmax Properties, LLC, for the lease of certain real property to temporarily locate the City's Public Works complex during construction of its new facility; and

WHEREAS, the City determined that additional space was needed adjacent to the temporary Public Works site for employee parking; and

WHEREAS, Nickmax Properties, LLC, has agreed to amend the Lease Agreement to allow the City to lease additional space to accommodate the City's employee parking needs.

.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF MOUNT DORA, FLORIDA, AS FOLLOWS:

SECTION 1. Legislative Findings and Intent. The City of Mount Dora has complied with all requirements and procedures of Florida law in processing this Resolution. The above recitals are hereby adopted.

SECTION 2. Approval of Amendment. The City Council hereby authorizes the Mayor to execute Amendment 1, to that Lease Agreement with Nickmax Properties, LLC, attached hereto as **Exhibit "A"**.

SECTION 3. Implementing Administrative Actions. The City Manager is hereby authorized and directed to take such actions as may be deemed necessary and appropriate in order to implement the provisions of this Resolution. The City Manager may, as deemed appropriate, necessary and convenient, delegate the powers of implementation as herein set forth to such City employees as deemed effectual and prudent.

SECTION 4. Savings Clause. All prior actions of the City of Mount Dora pertaining to the Amendment 1 to the Lease Agreement with Nickmax Properties, LLC, as well as any and all matters relating thereto, are hereby ratified and affirmed consistent with the provisions of this Resolution.

SECTION 5. Scrivener's Errors. Typographical errors and other matters of a similar nature that do not affect the intent of this Resolution, as determined by the City Clerk and City Attorney, may be corrected.

SECTION 6. Conflicts. All Resolutions or parts of Resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 7. Severability. If any Section or portion of a Section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Resolution.

SECTION 8. Effective Date. This Resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED this 2nd day of July, 2019.

Nick Girone

NICK GIRONE
MAYOR of the City of Mount Dora, Florida

ATTEST:

Gwen Keough Johns

GWEN KEOUGH-JOHNS, MMC
CITY CLERK

For the use and reliance of City of Mount Dora only.
Approved as to form and legality.

SG Sutphen

Sherry G. Sutphen
City Attorney

EXHIBIT "A"
Amendment 1 to Lease Agreement between
City of Mount Dora and Nickmax Properties, LLC

Resolution 2019-73

AMENDEMENT 1 TO LEASE BETWEEN
NICKMAX PROPERTIES, LLC
<u>AND THE CITY OF MOUNT DORA</u>

THIS AMENDEMENT 1 made by and between NICKMAX PROPERTIES, LLC, a Florida Limited Liability Company (Landlord) and the CITY OF MOUNT DORA, a Municipal Corporation of the State of Florida (City) shall modify the terms and conditions of that Lease executed on October 1, 2018, (Lease).

WHEREAS, the parties have determined that it is in their mutual best interest to amend the Lease.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the Landlord and Tenant agree as follows:

1. **Section 1, Basic Lease Provisions,** is hereby amended to include the following:

1.3 **<u>Premises</u>:**

(a) No change

(b) The Site Plan of the Leased Premises is revised to include the area depicted in **Exhibit A** attached hereto (Additional Lease Area)

(c) The Physical Description of the Leased Premises is revised to include a portion of that vacant land identified by Alt. Key 1475295, that is located west of the warehouse and office space included in the Lease.

(d) The Permitted Use of the Leased Premises is revised to include employee p parking.

2. **Section 1, Basic Lease Provisions,** is hereby amended to include the following:

1.5 **<u>Rent</u>**:

(a) **<u>Primary Term Rent</u>**: Gross Rent for the Additional Lease Area, shall be paid monthly in advance, subject to yearly increases in accordance with the following schedule:

Lease Period	Monthly Base Rent	Sales Tax
6/01/2019 – 9/30/2019	$500.00	N/A
10/01/2019 – 9/30/2020 (2.5% increase)	$512.50	N/A
Increase after 9/30/2020 if necessary paid pursuant to the Lease	3.0%	N/A

The parties agree and understand that pursuant to FS §196.199, Tenant is tax-exempt and not responsible for any taxes. The City shall not agree to pay any taxes not mandated specifically by law to be paid by governmental municipal entities, to the extent allowed by law and which are specifically declared by law to be non-exempt.

3. All of the terms and conditions of the Lease shall remain in full force and effect, and to the extent of any conflict between this Amendment and any previous agreements between the parties, this Amendment shall prevail.

IN WITNESS WHEREOF, the parties hereto have set their hands and seal this 30 day of June, 2019.

Witness:

By: ____________________
Name: Alfredo Villamil

NICKMAX PROPERTIES, LLC (LANDLORD)

By: Cassandra Villamil
Cassandra Villamil, President

Witness:

By: ____________________
Name: Maria Perilla

Page 2 of 4

CITY OF MOUNT DORA
(CITY)

Nick Girone, Mayor

ATTEST:

GWEN KEOUGH-JOHNS, MMC
CITY CLERK

For the use and reliance of City of Mount Dora only
Approved as to form and legal sufficiency

Sherry G. Sutphen
Interim City Attorney

Exhibit A

Page 4 of 4

RESOLUTION NO. 2020-77

A RESOLUTION OF THE CITY OF MOUNT DORA, FLORIDA, PERTAINING TO AMENDMENT 2 TO THE LEASE AGREEMENT WITH NICKMAX PROPERTIES, LLC; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR APPROVAL OF AMENDMENT 2 AND AUTHORIZATION TO EXECUTE; PROVIDING FOR THE IMPLEMENTATION OF ADMINISTRATIVE ACTIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on September 13, 2018, the City authorized the Lease Agreement with Nickmax Properties, LLC, for the lease of certain real property as the temporary location for the City's Public Works complex during the construction of its new facility; and

WHEREAS, on July 2, 2019, the City authorized amendment 1 to the Lease Agreement with Nickmax Properties, LLC.; and

WHEREAS, Lease Agreement allows for extensions to the term; and

WHEREAS, the parties have determined that it is in their best interest to further amend the Lease Agreement to extend the term of the same.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF MOUNT DORA, FLORIDA, AS FOLLOWS:

SECTION 1. Legislative Findings and Intent. The City of Mount Dora has complied with all requirements and procedures of Florida law in processing this Resolution. The above recitals are hereby adopted.

SECTION 2. Approval of Amendment 2 and Authorization to Execute. Amendment 2, to that Lease Agreement with Nickmax Properties, LLC, attached hereto as **Exhibit "A"** is hereby approved. The Mayor or a designee thereof is hereby authorized to execute the same on behalf of the City.

SECTION 3. Implementing Administrative Actions. The City Manager is hereby authorized and directed to take such actions as may be deemed necessary and appropriate in order to implement the provisions of this Resolution. The City Manager may, as deemed appropriate, necessary and convenient, delegate the powers of implementation as herein set forth to such City employees as deemed effectual and prudent.

SECTION 4. Savings Clause. All prior actions of the City of Mount Dora pertaining to Amendment 2 to the Lease Agreement with Nickmax Properties, LLC, as well as any and all matters relating thereto, are hereby ratified and affirmed consistent with the provisions of this Resolution.

SECTION 5. Scrivener's Errors. Typographical errors and other matters of a similar nature that do not affect the intent of this Resolution, as determined by the City Clerk and City Attorney, may be corrected.

SECTION 6. Conflicts. All Resolutions or parts of Resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 7. Severability. If any Section or portion of a Section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Resolution.

SECTION 8. Effective Date. This Resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED this 7th **day of** July**, 2020.**

Catherine T Hoechst

CATHERINE T. HOECHST
MAYOR of the City of Mount Dora, Florida

ATTEST:

Jessica Burnham on behalf of
GWEN KEOUGH-JOHNS, MMC
CITY CLERK

For the use and reliance of City of Mount Dora only.
Approved as to form and legality.

S Sutphen

Sherry Sutphen, City Attorney

Resolution 2020-77

2 of 3

EXHIBIT "A"
Amendment 2 to Lease Agreement between
City of Mount Dora and Nickmax Properties, LLC

Resolution 2020-77

3 of 3

AMENDMENT 2 TO LEASE BETWEEN
NICKMAX PROPERTIES, LLC
AND THE CITY OF MOUNT DORA

THIS AMENDMENT 2 made by and between NICKMAX PROPERTIES, LLC, a Florida Limited Liability Company (Landlord) and the CITY OF MOUNT DORA, a Municipal Corporation of the State of Florida (City).

WHEREAS, the parties entered into a Lease Agreement (Lease) on October 1, 2018; and

WHEREAS, the Lease was amended on July 2, 2019, through approval of Resolution No. 2019-73; and

WHEREAS, the Lease allows for extensions to the term of the Lease; and

WHEREAS, the parties have determined that it is in their mutual best interest to amend the Lease to extend the term.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the Landlord and Tenant agree as follows:

1. **Section 1**, **Basic Lease Provisions**, is hereby amended to include the following:

   1.4 Term:

   The Term of the Lease is hereby extended through September 30, 2021.

2. All of the terms and conditions of the Lease shall remain in full force and effect, and to the extent of any conflict between this Amendment and any previous agreements between the parties, this Amendment shall prevail.

IN WITNESS WHEREOF, the parties hereto have set their hands and seal this 9 day of June, 2020.

Witness:

By: Harry Davis
Name: Harry N Davis

NICKMAX PROPERTIES, LLC
(LANDLORD)

By: Cassandra K. Villamil
Cassandra Villamil, President

Witness:

By: Kathy Davis
Name: Kathy Davis

CITY OF MOUNT DORA

Catherine T. Hoechst

Catherine T. Hoechst, Mayor

ATTEST:

Jessica Burnham on behalf of

GWEN KEOUGH-JOHNS, MMC
CITY CLERK

For the use and reliance of City of Mount Dora only
Approved as to form and legal sufficiency

SGSutphen

Sherry G. Sutphen
City Attorney

AMENDMENT 3 TO LEASE BETWEEN
NICKMAX PROPERTIES, LLC
AND THE CITY OF MOUNT DORA

THIS AMENDMENT 3 is made by and between NICKMAX PROPERTIES, LLC, a Florida Limited Liability Company (Landlord) and the CITY OF MOUNT DORA, a Municipal Corporation of the State of Florida (City).

WHEREAS, the parties entered into a Lease Agreement (Lease) on October 1, 2018; and

WHEREAS, the Lease was amended on July 2, 2019, through approval of Resolution No. 2019-73, and amended again on July 7, 2020, through Resolution 2020-77; and

WHEREAS, the Lease allows for extensions to the term of the Lease; and

WHEREAS, the parties have determined that it is in their mutual best interest to amend the Lease once again to extend the term.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the Landlord and City agree as follows:

1. **Section 1**, **Basic Lease Provisions**, is hereby amended to include the following:

   1.4 Term:

   The Term of the Lease is hereby extended through September 30, 2022.

2. All of the terms and conditions of the Lease shall remain in full force and effect, and to the extent of any conflict between this Amendment and any previous agreements between the parties, this Amendment shall prevail.

Signatures on Following Page

IN WITNESS WHEREOF, the parties hereto have set their hands and seal this 5th day of October, 2021.

CITY OF MOUNT DORA

Catherine T. Hoechst

CATHERINE T. HOECHST, MAYOR

ATTEST:

Jessica Burnham

Jessica Burnham
City Clerk

For the use and reliance of City of Mount Dora only.
Approved as to form and legal sufficiency

S.G. Sutphen

Sherry G. Sutphen
City Attorney

NICKMAX PROPERTIES, LLC
(LANDLORD)

By: Cassandra Villamil

Cassandra Villamil, President 9.30.2021

Witness:

By: Alfredo Villamil

Name: A. Villamil

Witness:

By: Cheryl Roeding

Name: Cheryl Roeding

AMENDMENT 4 TO LEASE BETWEEN
NICKMAX PROPERTIES, LLC
AND CITY OF MOUNT DORA

THIS AMENDMENT 4 is made by and between NICKMAX PROPERTIES, LLC, a Florida Limited Liability Company (Landlord) and the City of Mount Dora, a Municipal Corporation of the State of Florida (City).

WHEREAS, the parties entered into a Lease Agreement (Lease) on October 1, 2018; and

WHEREAS, the Lease was amended on July 2, 2019, through adoption of Resolution No. 2019-73, amended again on July 7, 2020, through adoption of Resolution No. 2020-77, and amended again on October 5, 2021, through approval of Amendment 3 to the Lease; and

WHEREAS, the Lease allows for extensions to the term of the Lease; and

WHEREAS, the parties have determined that it is in their mutual best interest to once again amend the Lease.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the Landlord and the City agree as follows:

1. **Section 1. Basic Lease Provisions**, is hereby amended as follows:

1.4 Term:

The Term of the Lease is hereby extended through September 30, 2024.

1.5 (b) Extension Term Rent:

Period	Monthly Base Rent	Sales Tax	Total (Annually)	Increase from prior term
10/01/2022 – 9/30/2023		N/A		3.0%
Primary Facilities	$10,752.43		$129,029.20	
Parking Lot	$ 560.03		$ 6,720.24	
Total	$11,312.46		$135,749.52	
10/01/2023 – 9/30/2024		N/A		5.0%
Primary Facilities	$11,290.05		$135,480.62	
Parking Lot	$ 588.03		$ 7,076.24	
Total	11,878.08		$142,536.96	

2. All of the terms and conditions of the Lease shall remain in full force and effect, and to the extent of any conflict between this Amendment 4 and the Lease between the parties, this Amendment 4 shall prevail.

(Signatures on the following page)

IN WITNESS WHEREOF, the parties hereto have set their hands and seal this ____day of ________________, 2022.

CITY OF MOUNT DORA

____
CRISSY STILE, MAYOR

ATTEST:

____
Jeanann Hand, Interim City Clerk

For the use and reliance of City of Mount Dora only
Approved as to form and legal sufficiency

____
Sherry G. Sutphen, City Attorney

NICKMAX PROPERTIES, LLC
(LANDLORD)

____
Print: Cassandra Villani
Title: Cassandra Villani

STATE OF FLORIDA
COUNTY OF Orange

The foregoing instrument was acknowledged before me by means of [X] physical presence or [ ] online notarization of ____________________________, as ______________________of Nickmax Properties, LLC, who personally swore or affirmed that he/she is authorized to execute this Agreement and thereby bind the Licensee and who is personally known to me or who produced ________________________________ as identification, and who did/did not take an oath this 19th day of December, 2022.

(Stamp)

Notary Public State of Florida
Cheryl Lynn Roeding
My Commission HH 128348
Expires 5/10/2025

Cheryl Roeding
NOTARY PUBLIC, State of Florida

510 N. Baker St.
Mount Dora, FL 32757
352-735-7126

DATE:	**January 3, 2023**
TO:	**Honorable Mayor and City Council Members**
FROM:	**Patrick C. Comiskey, City Manager** Patrick C. Comiskey
SUBJECT:	Approval of Amendment 3 to the Professional Services Agreement Between the City of Mount Dora and ADG for Public Works Facility Phase 2 Design and Engineering Services

Introduction:

This is a request for City Council to approve Amendment 3 to the Professional Services Agreement between the City of Mount Dora and ADG for Phase 2 Engineering and Design Services of the Public Works Facility.

Discussion:

On February 4, 2020, City Council approved Resolution No. 2020-17, authorizing the architectural design services agreement for providing professional design services related to the construction of a public works facility within the City of Mount Dora. The pricing reflected in the agreement represented Phase I only of the multiple design phases. (See **Attachment 1**.)

In developing the warehouse layout, design and square footage, ADG and staff determined it necessary to engage a subconsultant, Storage Solutions, to perform a future state storage and manual slotting analysis. Accordingly, on March 2, 2021, City Council approved Resolution No. 2021-29, Amendment 1 to the contract with ADG to include this additional scope. (See **Attachment 2**.)

On March 1, 2022, City Council approved Amendment 2 to the contract, which comprised the Phase 2 design and engineering proposal for the proposed Public Works Facility consisting of a 23,900 square foot Operations and Inventory Warehouse; a 14,400 square foot covered, open-air Materials Storage Building; a 29,400 square foot covered, open-air Rolling Asset Storage Building, with the infrastructure and space for future fueling and truck wash station. The facility was to be co-located on the Limit Avenue site with new Fire Station 34. (See **Attachment 3**.)

Following a review and assessment of the City's bonded construction projects, on October 18, 2022, City Council directed staff to construct a new Public Works Facility on the Limit Avenue property, to include Administration offices for Electric, Public Works, and Water/Wastewater in addition to departmental operations and inventory warehouse. The Limit Avenue Property will now only house the Public Works Facility, as City Council directed staff to undertake a renovation of the existing Fire Station 34. Amendment 3 to the Professional Services Agreement includes Phase 1 design to add administrative offices and meet design standards, as well as Phase 2 design and engineering of the entire site, in the amount of $441,503.38. Staff continues to work toward groundbreaking in 2023, and an updated project schedule will be forthcoming.

Budget Impact:

This project is funded by the general revenue bond and will use the following GL account: 500-5555-580.63-01.

Strategic Impact:

This addresses the City's strategic goal to sustain City infrastructure in the Updated 2021 Strategic Plan.

Recommendation:

City Council approve Amendment 3 to the Professional Services Agreement between the City of Mount Dora and ADG.

Attachment(s):

1. Attachment 1 - Reso No. 2020-17 Professional Architectural Design Services for City Public Works Facility (1)
2. Attachment 2 - Reso No. 2021-29 Public Works Facility Architectural Design
3. Attachment 3 - Amendment 2 to the Professional Architectural Design Services for City Public Works Facility Agreement
4. Amendment 3- ADG.Public Works Design Services.SGS

Prepared by:	Merry Lovern , Executive Assistant	
Reviewed by:	Chet Cramer, Project Manager	Approved - 12/21/2022
	Aneta Barton, Budget Director	Approved - 12/21/2022
	Sherry Sutphen, City Attorney	Approved - 12/28/2022
	Jeanann Hand, City Clerk	Approved - 12/28/2022
	Patrick Comiskey, City Manager	Final Approval - 12/28/2022

RESOLUTION NO. 2020-17

A RESOLUTION OF THE CITY OF MOUNT DORA, FLORIDA, PERTAINING TO PROFESSIONAL ARCHITECTURAL DESIGN SERVICES FOR CITY PUBLIC WORKS FACILITY; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR APPROVAL OF AGREEMENT AND AUTHORIZATION TO EXECUTE; PROVIDING FOR THE IMPLEMENTATION OF ADMINISTRATIVE ACTIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City has competitively solicited for architectural design services for its new Public Works Facility, pursuant to the City's Purchasing Policy and RFQ-19-PW-027; and,

WHEREAS, the evaluation committee ranked the proposals during the selection process and Architects Design Group/ADG, Inc., was deemed to be the most responsive, responsible and qualified firm to provide professional architectural design services for the City's new Public Works Facility as contemplated by RFQ-19-PW-027; and,

WHEREAS, negotiations with Architects Design Group/ADG, Inc., were authorized through City of Mount Dora Resolution 2019-98; and

WHEREAS, the City has determined that it is in its best interest to enter into a professional services Agreement with Architects Design Group/ADG, Inc., to provide professional architectural design services for the City's new Public Works Facility as contemplated by RFQ-19-PW-027, under the terms and conditions so negotiated.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF MOUNT DORA, FLORIDA, AS FOLLOWS:

SECTION 1. Legislative Findings and Intent. The City of Mount Dora has complied with all requirements and procedures of Florida law in processing this Resolution. The above recitals are hereby adopted.

SECTION 2. Approval of Agreement and Authorization to Execute. The Agreement with Architects Design Group/ADG, Inc., attached hereto as **Exhibit "A"**, for architectural design services related to the City's new Public Works Facility is hereby approved. The Mayor is hereby authorized to execute the Agreement on behalf of the City.

SECTION 3. Implementation of Administrative Actions. The City Manager is hereby authorized and directed to take such actions as may be deemed necessary and appropriate in order to implement the provisions of this Resolution. The City Manager may, as deemed appropriate, necessary and convenient, delegate the powers of implementation as herein set forth to such City employees as deemed effectual and prudent.

SECTION 4. Savings Clause. All prior actions of the City pertaining to the Agreement with Architects Design Group/ADG, Inc., for architectural design services related to the City's new Public Works Facility and RFQ-19-PW-027, as well as any and all matters relating thereto, are hereby ratified and affirmed consistent with the provisions of this Resolution.

SECTION 5. Scrivener's Errors. Typographical errors and other matters of a similar nature that do not affect the intent of this Resolution, as determined by the City Clerk and City Attorney, may be corrected.

SECTION 6. Conflicts. All Resolutions or parts of Resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 7. Severability. If any Section or portion of a Section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Resolution.

SECTION 8. Effective Date. This Resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED this 4 day of February, 2020.

Catherine Hoechst

CATHERINE T. HOECHST
MAYOR of the City of Mount Dora, Florida

ATTEST:

Gwen Keough-Johns

GWEN KEOUGH-JOHNS, MMC
CITY CLERK

For the use and reliance of City of Mount Dora only. Approved as to form and legality.

SG Sutphen

Sherry G. Sutphen
City Attorney

Exhibit "A"
Agreement with Architects Design Group/ADG, Inc.,
for architectural design services related to the City's
new Public Works Facility

Resolution No. 2020-17
3 of 3

PROFESSIONAL SERVICES AGREEMENT

BETWEEN

THE CITY OF MOUNT DORA, FLORIDA

AND

ARCHITECTS DESIGN GROUP/ADG, INC.

FOR

DESIGN OF PUBLIC WORKS FACILITY
PURSUANT TO
RFQ-19-PW-027

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PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is entered into by and between the City of Mount Dora, a municipal corporation of the State of Florida, 510 N. Baker Street, Mount Dora, Florida 32757 hereinafter referred to as the "CITY" and Architects Design Group/ADG, Inc., 333 N. Knowles Avenue, Winter Park, Florida 32789, hereinafter referred to as the "CONSULTANT".

WITNESSETH

WHEREAS, the CITY competitively solicited for professional architectural design services for City of Mount Dora Public Works Facility pursuant to the CITY's Purchasing Policy and RFQ-19-PW-027; and

WHEREAS, the CONSULTANT submitted the most responsible and advantageous response to RFQ-19-PW-027; and,

WHEREAS, the CITY authorized negotiations with the CONSULTANT through City of Mount Dora Resolution 2019-98; and

WHEREAS, the CONSULTANT has certified to the CITY that it has been granted and possesses all necessary, valid and current licenses to do business in the State of Florida and in Lake County, Florida, issued by the respective government agencies responsible for regulating and licensing the services to be provided and performed by the CONSULTANT pursuant to this Agreement; and

WHEREAS, the CONSULTANT has reviewed the professional services required pursuant to this Agreement and is qualified, willing and able to provide and perform all such professional services in accordance with the provisions, conditions and terms hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants, terms and provisions contained herein, the parties agree as follows:

ARTICLE 1.0 - DEFINITIONS

The following are definitions for the terms as associated with this Agreement, whether capitalized or uncapitalized herein, and are provided to establish a common understanding between the parties regarding the intended usage, application and interpretation of same.

1.01 "ADDITIONAL SERVICES" - Additional services shall mean any professional services which are not included within the scope of services set forth in Article 2.00, which are included within the additional services set forth in Article 4.00 or which may from time to time be requested by the CITY.

1.02 "AGREEMENT" - As it relates to the requirement of the work contemplated herein, this Agreement shall include Exhibits "A", "B", "C", "D", "E", any other documentation by specific reference and any Amendment hereto and shall constitute the entire Agreement or understandings, written or oral, relating to the matters set forth herein. Any prior Agreements entered into by the parties hereto for other services shall not be affected by this Agreement nor shall they have any affect, whatsoever, on this Agreement. To the extent of any conflict between the terms and conditions of this Agreement or any Exhibit, attachment or other referenced documentation, the terms and conditions of this Agreement shall prevail.

1.03 "AMENDMENTS" - Amendments shall mean any additions, modifications, or alterations made to this Agreement. All Amendments shall be made in writing.

1.04 "CITY" - CITY means the CITY OF MOUNT DORA, a Municipal Corporation of the State of Florida, and any official and/or employee thereof who is duly authorized to act on the CITY's behalf, relative to this Agreement.

1.05 "CONSULTANT" - Consultant shall mean the individual or firm offering professional services, who has executed this Agreement, and who is legally obligated, responsible, and liable for providing and performing any and all services required under the covenants, terms, and provisions contained herein and any and all Amendments hereto. Any reference hereinafter made to the CONSULTANT shall also include any employees of the CONSULTANT, as well as any sub-consultants, sub-contractors or employees thereof, who are engaged by the CONSULTANT for the purpose of performing professional services pursuant to this Agreement.

1.06 "PARTIES" - Reference to the "parties" shall collectively include the CITY and the CONSULTANT.

1.07 "PROFESSIONAL SERVICES" - Professional Services (with or without capitalization) include all services, work, materials and other professional, technical and administrative activities as set forth herein, which are necessary to be provided and performed by the CONSULTANT, its employees, any and all sub-consultants, and any and all sub-contractors the CONSULTANT may engage to provide, perform, and complete the services required pursuant to the covenants, terms, and provisions contained herein.

1.08 "PROJECT MANAGER" - The CITY PROJECT MANAGER shall mean the City Manager, or a designee thereof. The CITY PROJECT MANAGER shall be responsible for acting on behalf of the CITY to administer, coordinate, interpret, and otherwise manage the contractual provisions and requirements as set forth in this Agreement and/or any Amendment(s) hereto. The CITY PROJECT MANAGER shall also serve and act on behalf of the CITY to provide direct contact and communication between the CITY and the CONSULTANT, providing information, assistance, guidance, coordination, review, approval and acceptance of the professional services, work and materials to be provided and performed by the CONSULTANT, pursuant to this Agreement and/or any Amendment(s) hereto. The CITY PROJECT MANAGER shall also review and approve any and all requests submitted by the CONSULTANT for payment of services performed pursuant to this Agreement.

1.09 "NOTICE OF ACCEPTANCE" - Notice of Acceptance shall mean the written document issued by the CITY PROJECT MANAGER to the CONSULTANT verifying the Professional Services have been completed and accepted. This Notice shall be provided to the CONSULTANT by Certified Mail.

1.10 "NOTICE TO PROCEED" - A written Notice to Proceed (NTP) will be issued by the CITY PROJECT MANAGER following the execution of this Agreement and upon receipt of the CONSULTANT's insurance certificates and other required documentation. The CONSULTANT shall only be authorized to commence work after issuance of the NTP.

1.11 "SECOND COST" - Second cost shall mean the cost of building something once correctly subtracted from the cost of doing it incorrectly, due to a design error, omission or lack of required direction. This includes any cost necessary to correct the construction done incorrectly, including but, not limited to all labor materials needed to remove the incorrect construction and execute the correct design.

ARTICLE 2.00 – SCOPE OF PROFESSIONAL SERVICES

The CONSULTANT hereby agrees to provide and perform the professional services, to the satisfaction of the CITY, as set forth in the PROJECT DESCRIPTION AND SCOPE OF PROFESSIONAL SERVICES attached hereto as **Exhibit "A",** as the same may be amended from time to time.

ARTICLE 3.00 - TERM

The term shall begin on the date of execution by the CITY and shall expire upon completion and acceptance of the tasks set forth in Exhibit "A" as evidenced by a written Notice of Acceptance issued by the CITY PROJECT MANAGER to the CONSULTANT.

ARTICLE 4.00 – OBLIGATIONS OF THE CONSULTANT

The obligations of the CONSULTANT, with respect to the services provided herein, shall include, but are not limited to, the following:

4.01 LICENSES

The CONSULTANT agrees to obtain and maintain, throughout the term of this Agreement, and/or any Amendment(s) hereto, all licenses required to do business in the State of Florida and the Lake County, including, but not limited to, licenses required by any state boards or other governmental agencies responsible for regulating and licensing the professional services provided and performed by the CONSULTANT pursuant to this Agreement.

4.02 PERSONNEL

(1) Qualified Personnel - The CONSULTANT agrees to employ and/or retain only qualified personnel where Florida law requires a license, certificate of authorization or other form of legal entitlement to practice such services.

(2) CONSULTANT's Project Manager - The CONSULTANT agrees to employ and designate a qualified professional to serve as its Project Manager. The CONSULTANT's Project Manager shall be authorized to act on behalf of the CONSULTANT with respect to directing, coordinating and administering all aspects of the professional services to be provided and performed pursuant to this Agreement and/or any Amendment(s) hereto. The CONSULTANT's Project Manager shall have full authority to bind and obligate the CONSULTANT on any matter arising under this Agreement, and/or any Amendment(s) hereto. The CONSULTANT agrees that

its Project Manager shall devote whatever time is required to satisfactorily manage the professional services of the CONSULTANT throughout the entire term of this Agreement, and/or any Amendment(s) hereto. The person or individual selected by the CONSULTANT to serve as its Project Manager is subject to prior approval and acceptance by the CITY.

(3) Removal of Personnel - The CONSULTANT agrees to promptly remove and replace the CONSULTANT's Project Manager or any other individual in its employ, including sub-consultant(s) or employees thereof, who are engaged by the CONSULTANT to perform professional services pursuant to this Agreement, and/or any Amendment(s) hereto, if the CITY requests, with or without cause, that any such individual cease performance of any work under this Agreement.

(4) Consistency - CONSULTANT's personnel assigned to the CITY's project shall remain assigned to the CITY's project, so long as employed by the CONSULTANT, in the capacity necessary to fulfill the scope of this Agreement. Any changes in personnel must be approved in writing by the CITY, in the sole discretion of the CITY.

4.03 STANDARDS OF PROFESSIONAL SERVICE

The CONSULTANT agrees to provide and perform the professional services set forth in this Agreement, or any Amendment(s) hereto, in accordance with generally accepted standards of professional practice and in accordance with the laws, statutes, ordinances, codes, rules, regulations and policies of any governmental agencies which may regulate or have jurisdiction over the professional services to be provided and/or performed by the CONSULTANT pursuant to this Agreement.

4.04 INDEMNIFICATION

The CONSULTANT agrees to be liable for any and all damages, losses, and expenses incurred, by the CITY, in any way related to the services provided herein and this Agreement, caused by the acts and/or omissions of the CONSULTANT, or any of its employees, agents, sub-contractors, representatives, volunteers or the like. The CONSULTANT agrees to indemnify, defend and hold the CITY harmless for any and all such claims, suits, judgments or damages, losses and expenses, including but not limited to, court costs, expert witnesses, consultation services and attorney's fees, arising from any and all acts and/or omissions of the CONSULTANT, or any of its employees, agents, sub-contractors, representatives, volunteers, or the like through and including any appeals in any way related to the services provided herein and this Agreement. Said indemnification, defense, and hold harmless actions shall not be limited by any required insurance coverage amounts set forth herein and shall survive termination or natural expiration of this Agreement.

4.05 NOT TO DIVULGE CERTAIN INFORMATION

During the term of this Agreement and forever thereafter, the CONSULTANT agrees not to divulge, furnish, or make available to any third party, without the express written permission of the CITY, any non-public information where such information has not been properly subpoenaed concerning the services rendered by the CONSULTANT. All public information request shall be coordinated by the CITY.

4.06 ADDITIONAL SERVICES

The CITY may request that CONSULTANT provide and perform additional professional services related to the CITY's project, which were either not contemplated by the parties and provided for in Exhibit "A" or which are set forth in the ADDITIONAL SERVICES document attached hereto as **Exhibit "B"**. Said additional services may be added at a later date, upon written Amendment to this Agreement executed by both parties hereto. Such additional services shall constitute a continuation of the professional services covered under this Agreement and shall be provided and performed in accordance with the covenants, terms, provisions and professional standards set forth herein.

4.07 INDEPENDENT CONSULTANT

This Agreement does not create an employee/employer relationship between the parties. It is the parties' intention that the CONSULTANT, its employees, sub-contractors, representatives, volunteers, and the like, will be an independent contractor and not an employee of the CITY for all purposes, including, but not limited to, the application of the following, as amended: the Fair Labor Standards Act minimum wage and overtime payments, the Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State of Florida revenue and taxation laws, the State of Florida workers' compensation laws, the State of Florida unemployment insurance laws, and the Florida Retirement System benefits. The CONSULTANT will retain sole and absolute discretion in the judgment of the manner and means of carrying out the CONSULTANT's activities and responsibilities hereunder.

4.08 USE OF SUB-CONSULTANTS

Sub-consultants and/or sub-contractors shall mean any individual or firm who offers professional services to the CONSULTANT, so as to assist in providing and performing the professional services, work and materials for which the CONSULTANT is contractually obligated, responsible and liable to provide and perform under this Agreement and/or any Amendment(s) hereto. The CITY shall not be a party to, held responsible or liable for, or assume any obligation whatsoever for any provision under any other agreement entered into by the CONSULTANT and any and all sub-consultants and/or sub-contractors. In providing and performing the services and work required under this Agreement, the CONSULTANT agrees to obtain assistance from only those sub-consultants, as set forth in **Exhibit "C"**.

4.09 CONSTRUCTION DOCUMENTS

(1) CONSULTANT agrees to issue conformed documents as necessary to provide clear and concise documents to the CITY for constructability at no additional cost.

(2) All revisions to construction documents shall be tracked on the documents by the CONSULTANT, providing, at a minimum, the last 5 revisions, the date of revision and a brief description of the revision.

4.10 SECOND COST FROM ERRORS OR OMISSIONS

CONSULTANT agrees to be both financially and professionally responsible for all cost and efforts associated with Second Cost expenses to the CITY as a result of services provided under this Agreement.

ARTICLE 5.00 - OBLIGATIONS OF THE CITY

The obligations of the CITY, with respect to the services provided herein, shall include the following:

5.01 AVAILABILITY OF CITY INFORMATION

At the CONSULTANT's request to the CITY PROJECT MANAGER, the CITY agrees to make available all pertinent information, known by the CITY to be available, so as to assist the CONSULTANT in providing and performing the professional services required hereunder. Such information may include, but not be limited to, the following: previous reports, plans, drawings, specifications, maps or other related data, and any documents prepared by others for the CITY. The CONSULTANT shall be entitled to reasonably rely on the accuracy and completeness of such information; however, the CITY shall not be required to hire additional consultants for professional evaluation or to draw conclusions on information provided.

5.02 AVAILABILITY OF CITY'S DESIGNATED REPRESENTATIVES

The CITY agrees that its PROJECT MANAGER shall be available within a reasonable period of time, with prior reasonable notice given by the CONSULTANT, to meet and/or consult with the CONSULTANT on matters pertaining to the professional services to be provided hereunder. The CITY further agrees that its PROJECT MANAGER shall respond, within a reasonable period of time, to written requests submitted by the CONSULTANT.

5.03 ACCESS TO CITY PROPERTY

The CITY agrees, upon request by the CONSULTANT to the CITY's PROJECT MANAGER, to provide access to CITY property, facilities, buildings and structures, within a reasonable amount of time after such request, in order to enable the CONSULTANT to provide and perform the required professional services under this Agreement. Such rights of access shall not be exercised in such a manner, or to such an extent, as to impede or interfere with CITY operations, or the operations carried on by others under a lease, or other contractual arrangement with the CITY, or in such a manner as to adversely affect the health and safety of the public. Such access is not required to be within the CONSULTANT's normal office work days and/ or work hours.

ARTICLE 6.00 - COMPENSATION AND METHOD OF PAYMENT

6.01 COMPENSATION AND METHOD OF PAYMENT

For the professional services performed by the CONSULTANT pursuant to this Agreement, the CITY hereby agrees to pay the CONSULTANT in accordance with the provisions set forth by Florida Statutes, Section 218.70, Florida's Prompt Payment Act, and the schedule and provisions as set forth in PROFESSIONAL FEE ALLOCATION, attached hereto as **Exhibit "D"**

6.02 PAYMENT WHEN SERVICES ARE TERMINATED

(1) In the event of termination of this Agreement by the CITY and not due to the fault of the CONSULTANT, the CITY shall compensate the CONSULTANT for all services performed prior to the effective date of termination and the permitted costs related to the performance of such services.

(2) In the event of termination of this Agreement due to the fault of the CONSULTANT or at the written request of the CONSULTANT, the CITY shall compensate the CONSULTANT for all services completed prior to the effective date of termination which have resulted in a usable product or otherwise tangible benefit to the CITY and the permitted costs related to the performance of such services. Any such payments shall be subject to a set-off for any damages incurred by the CITY resulting from delays occasioned by the termination. This provision shall in no way be construed as the sole remedy available to the CITY in the event of breach by the CONSULTANT.

6.03 PAYMENT WHEN SERVICES ARE SUSPENDED

In the event the CITY suspends the professional services required to be performed by the CONSULTANT pursuant to this Agreement, the CITY shall compensate the CONSULTANT for all services performed prior to the effective date of suspension and shall pay the permitted costs related to the performance of such services.

6.04 NON-ENTITLEMENT TO ANTICIPATED FEES

In the event the professional services to be performed under this Agreement are terminated, eliminated, canceled or decreased due to (a) termination; (b) suspension, in whole or in part; or (c) modification by the subsequent issuance of an Amendment, the CONSULTANT shall not be entitled to receive compensation for anticipated professional fees, profit, general and/or administrative overhead expenses or for any other anticipated income or expenses.

ARTICLE 7.00 - FUND AVAILABILITY

Services to be performed in accordance with this Agreement are subject to the annual appropriation of funds by the CITY. In its sole discretion, the CITY reserves the right to forego the use of the CONSULTANT for any work which may fall within the scope of services listed herein.

ARTICLE 8.00 - TIME AND SCHEDULE OF PERFORMANCE

8.01 TIME IS OF THE ESSENCE

Upon receipt of the Notice to Proceed from the CITY Project Manager, the CONSULTANT shall commence work promptly and shall carry on all such services as may be required hereunder in a continuous, diligent and forthright manner. In providing the professional services contemplated by this Agreement, the CONSULTANT shall follow the PROJECT SCHEDULE attached hereto as **Exhibit "E"** as the same may be amended from time to time. The timely performance and completion of the professional services is vitally important to the CITY. Time is of the essence for all of the duties and obligations contained in this Agreement, and/or any Amendment(s) hereto.

8.02 TIMELY ACCOMPLISHMENT OF SERVICES

The timely and expeditious completion by the CONSULTANT of all professional services provided under this Agreement, and/or any Amendment(s) hereto, is expected. The CONSULTANT agrees to employ an adequate number of personnel throughout the term of this Agreement, and/or any Amendment(s) hereto, so that all professional services can be provided, performed and completed in a timely and expeditious manner in accordance with the PROJECT SCHEDULE. Should the CONSULTANT not be able to complete the professional services in accordance with Exhibit "E", the CONSULTANT shall provide the CITY PROJECT MANAGER a revised schedule and narrative indicating the reasons for the delay within a reasonable period of time prior to the expiration date of the original schedule. The CITY PROJECT MANAGER shall review this information and either approve the revised schedule as submitted or provide a written response indicating the deficiencies in the schedule. Once the revised schedule has been approved by the CITY PROJECT MANAGER, it shall then become the schedule for the project as referenced in this ARTICLE 8.00. Requests for changes to Exhibit "E" that are denied by the CITY PROJECT MANAGER may be proposed as an Amendment to the Agreement and shall become effective if approved and executed as such by both of the parties.

8.03 FAILURE TO PERFORM IN A TIMELY MANNER

Should the CONSULTANT fail to commence, provide and/or perform any of the professional services required pursuant to this Agreement in a timely, continuous, diligent, professional and expeditious manner, the CITY may consider such failure as justifiable cause to terminate this Agreement.

ARTICLE 9.00 - CONFLICT OF INTEREST

The CONSULTANT represents that it presently has no interest and shall acquire no interest, either directly or indirectly, which would conflict in any manner with the performance of services required hereunder. The CONSULTANT further agrees that no person having any such conflict of interest shall be employed or engaged by the CONSULTANT for performance hereunder. If the CONSULTANT, for itself and on behalf of its sub-consultants, is about to engage in the representation of another client, who it in good faith believes could result in a conflict of interest with the services being rendered pursuant to this Agreement, then the CONSULTANT shall promptly bring such potential conflict of interest to the CITY's attention in writing. The CITY will make a determination in a timely manner. Upon determination that there is a conflict of interest, the CITY will submit written notice of same to the CONSULTANT and the CONSULTANT shall decline the new representation. If the CITY determines that there is not any such conflict, then the CITY shall give its written consent to such representation. If CONSULTANT accepts such a representation without obtaining the CITY's prior written consent, and if the CITY subsequently determines that there is a conflict of interest, the CONSULTANT agrees to promptly terminate such new representation. The CONSULTANT shall require each sub-consultant to comply with the provisions of this Section. Should the CONSULTANT fail to advise or notify the CITY, as provided herein, of representation which may, or does, result in a conflict of interest, or should the CONSULTANT fail to discontinue such representation where a conflict is determined to exist, the CITY may consider such failure as justifiable cause to terminate this Agreement.

ARTICLE 10.00 – ASSIGNMENT OR TRANSFER
Any assignments or transfers of rights, benefits, or obligations hereunder shall only be allowed if approved as an Amendment to this Agreement executed by both parties.

ARTICLE 11.00 - APPLICABLE LAW, VENUE AND JURY TRIAL
This Agreement shall be governed by the ordinances of the City of Mount Dora and Lake County, as applicable, and the laws of the State of Florida. In the event it is necessary for either party to initiate legal action regarding this Agreement, venue shall lie in Lake County, Florida. The parties hereby waive their right to trial by jury in any action, proceeding or claim, arising out of this Agreement, which may be brought by either of the parties hereto.

ARTICLE 12.00 - WAIVER OF BREACH
Waiver by the CITY of a breach of any provision of this Agreement by the CONSULTANT shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this Agreement.

ARTICLE 13.00 - INSURANCE COVERAGE

13.01 GENERAL REQUIREMENTS
(1) The CONSULTANT shall not commence any work in connection with this Agreement until it has obtained the types of insurance, as specified hereunder, and such insurance has been approved by the CITY's Risk Management Department.

(2) The CONSULTANT shall ensure that any sub-contractor(s), hired to perform any of the work under this Agreement, maintain the same insurance requirements set forth herein. In addition, the CONTRACTOR shall maintain proof of same on file and made readily available upon request by the CITY.

(3) All insurance policies shall be with insurers qualified and licensed to conduct business in the State of Florida.

(4) The CONSULTANT shall maintain the following types of insurance, with the respective limits, and shall provide proof of same to the CITY, in the form of a Certificate of Insurance prior to the start of any work hereunder:

A. AUTOMOBILE:
i. Combined Single Limit: $300,000 per accident,

OR

ii. Bodily Injury: $300,000 per person,

AND

Property Damage: $100,000 per accident;

B. GENERAL LIABILITY: One Million Dollars ($1,000,000.00) each occurrence;

C. GENERAL AGGREGATE: Two Million Dollars ($2,000,000.00);

D. EXCESS COVERAGE: One Million Dollars ($1,000,000.00); and,

E. WORKERS' COMPENSATION: Employers' liability insurance which covers the statutory obligation for all persons engaged in the performance of the work required hereunder with limits not less than One Million Dollars ($1,000,000.00) per occurrence. Evidence of qualified self-insurance status will suffice for this subsection.

<u>13.02 CONSULTANT REQUIRED TO FILE INSURANCE CERTIFICATE(S)</u>

(1) The CONSULTANT shall maintain all such insurance certificates and related documentation as required under this Agreement. Failure of the CONSULTANT to maintain such certificates and documents and submit proof of same to the COUNTY within fifteen (15) calendar days from the date of execution of this Agreement, shall be considered cause for the COUNTY to cancel this Agreement and rescind its action to engage the CONSULTANT. Before the COUNTY shall provide the CONSULTANT with written Notice to Proceed, and before the CONSULTANT shall commence any service or work under this Agreement, the CONSULTANT shall obtain and maintain insurance coverage of the types stated in this Article 13.00.

(2) For every insurance policy required hereunder, the CONTRACTOR shall provide the CITY with a Certificate of Insurance evidencing such coverage for the duration of this Agreement. Said Certificate of Insurance shall be dated and show:

A. The name of the insured CONTRACTOR,
B. The specified job by name and job number,
C. List the "CITY OF MOUNT DORA" as a Certificate Holder,
D. Recognizes the Indemnification requirements of this Agreement.
E. The name of the insurer,
F. The number of the policy,
G. The effective date,
H. The termination date,
I. A statement that the insurer will mail notice to the CITY at least thirty (30) days prior to any material changes in the provisions or cancellation of the policy.

(3) Each Certificate of Insurance shall be accompanied by documentation that is acceptable to the CITY, establishing that the insurance agent and/or agency issuing the Certificate of Insurance has been duly authorized, in writing, to do so by and on behalf of the insurance company, underwriting the insurance coverage, as indicated on each Certificate of Insurance.

(4) If the initial or any subsequently issued Certificate of Insurance expires prior to the completion of the work or termination of this Agreement, the CONSULTANT shall furnish to the

CITY, renewal or replacement Certificate(s) of Insurance not later than thirty (30) calendar days prior to the date of their expiration. Failure of the CONSULTANT to provide the CITY with such renewal certificate(s) shall be considered justification for the CITY to terminate this Agreement.

(5) Receipt of certificates or other documentation of insurance or policies or copies of policies by the CITY, or by any of its representatives, which indicates less coverage than is required hereunder, does not constitute a waiver of the CONSULTANT's obligation to fulfill the insurance requirements specified herein.

(6) The CITY shall be exempt from, and in no way liable for, any sums of money which may represent a deductible in any insurance policy secured by CONSULTANT for any of its sub-contractors. The payment of such deductible shall be the sole responsibility of the CONSULTANT and/or its sub-contractors providing such insurance.

ARTICLE 14.00 - DUTIES AND OBLIGATIONS IMPOSED ON THE CONSULTANT

The duties and obligations imposed on the CONSULTANT and the rights and remedies available hereunder, shall be in addition to, and not a limitation on, any such duties and obligations or rights and remedies otherwise imposed or available by law or statute.

ARTICLE 15.00 - REPRESENTATION OF THE CITY

The CONSULTANT, in performing the professional services required pursuant to this Agreement, and/or any Amendment(s) hereto shall only represent the CITY in the manner, and to the extent, as specifically set forth in this Agreement, and/or any Amendment(s) hereto. The CITY will neither assume or accept any obligation, commitment, responsibility or liability which may result from a representation by the CONSULTANT which is not specifically provided for and or authorized by this Agreement and/or any Amendment(s) hereto.

ARTICLE 16.00 - USE OF CITY NAME, LOGO, SEAL AND/OR LETTERHEAD

The CONTRACTOR may only use the CITY'S name, logo and/or seal with the express written permission of the City and consistent with any CITY policy related to the same. In addition, the CONTRACTOR shall not use the CITY's letterhead for issuing any correspondence for any purpose related to this Agreement without the express written permission of the CITY.

ARTICLE 17.00 - HEADINGS

The headings of any Articles, Sections and/ or Attachments to this Agreement, are for convenience only and shall not be deemed to expand, limit, or change any of the provisions contained herein.

ARTICLE 18.00 - OWNERSHIP OF DOCUMENTS

All documents, including, but not limited to, drawings, tracings, notes, computer files, photographs, plans, specifications, maps, evaluations, reports and any other records or data specifically prepared for and developed by the CONSULTANT pursuant to this Agreement, shall be the property of the CONSULTANT until the CONSULTANT has been paid for performing such services as required to produce such documents. The CONSULTANT shall submit reports and other documents, to the extent directed by the CITY, in the format as specified in Exhibit "A". Upon the natural expiration or termination of this Agreement, all such documents shall be promptly delivered to and become the property of the CITY. The CONSULTANT, at its expense, may retain copies of all documents generated pursuant to this Agreement, which have been delivered to the CITY, for reference and internal use. The CONSULTANT shall not use any documents, data and/or information generated by virtue of this Agreement on any other project or for any other client without the express written permission of the CITY.

ARTICLE 19.00 - NOTICE AND ADDRESS OF RECORD

19.01 NOTICES BY CONSULTANT TO CITY

All notices to the CITY pursuant this Agreement shall be made in writing and shall be delivered through the United States Postal Service, first class mail, postage prepaid and addressed to the following address of record:

CITY OF MOUNT DORA
510 N. Baker Street
Mount Dora, Florida 32757
ATTENTION: Chett Cramer, Project Manager

19.02 NOTICES BY CITY TO CONSULTANT

All notices to the CONSULTANT pursuant to this Agreement shall be made in writing and shall be delivered through the United States Postal Service, first class mail, postage prepaid and addressed to the following address of record:

Architects Design Group/ADG, Inc.
333 N. Knowles Avenue
Winter Park, Florida 32789

19.03 CHANGE OF ADDRESS OF RECORD

Either party may change its address of record, at any time, by written notice to the other party given in accordance with the requirements as set forth in this Article 19.00.

ARTICLE 20.00 - TERMINATION

20.01 GENERAL PROVISIONS

This Agreement may be terminated by the CITY or the CONSULTANT, with or without cause, by giving thirty (30) days written notice to the other party.

20.02 TERMINATION DUE TO BANKRUPTCY OR INSOLVENCY

If the CONSULTANT shall file a Petition in Bankruptcy, or if the same shall be adjudged bankrupt or insolvent by any Court, or if a receiver of the property of the CONSULTANT shall be appointed in any proceeding brought by or against the CONSULTANT, or if the CONSULTANT shall make an assignment for the benefit of creditors, or proceedings shall be commenced on or against the CONSULTANT's operations of the premises, the CITY may terminate this Agreement immediately notwithstanding any notice requirements set forth herein.

20.03 CONSULTANT TO DELIVER MATERIAL

Upon termination for any reason, the CONSULTANT shall promptly deliver to the CITY all documents, papers, drawings, models or any other materials to which the CITY has exclusive rights by virtue of this Agreement.

ARTICLE 21.00 - AMENDMENTS

The covenants, terms, and provisions of this Agreement may be modified by way of a written instrument, mutually accepted by the parties hereto. In the event of a conflict between the covenants, terms, and/or provisions of this Agreement and any written Amendment(s) hereto, the provisions of the latest executed instrument shall take precedence.

ARTICLE 22.00 - DOCUMENTATION CONFLICT

In the event the CITY issues a purchase order, memorandum, letter, or any other instrument addressing the services, work, and materials to be provided and performed pursuant to this Agreement, it is hereby specifically agreed and understood that any such purchase order, memorandum, letter, or other instrument is for the CITY's internal purposes only, and any and all terms, provisions, and conditions contained therein, whether printed or written, shall in no way modify the covenants, terms, and provisions of this Agreement and shall have no force or effect thereon. Likewise, any invoice or other instrument issued by the CONTRACTOR shall in no way modify the covenants, terms and conditions of this Agreement and shall have no force or effect thereon. Any conflict between the terms and conditions of this Agreement and any of the Exhibits attached hereto, the terms and conditions of this Agreement shall prevail.

ARTICLE 23.00 - ACCEPTANCE

Acceptance of this Agreement shall be indicated by the signature of the duly authorized representative of the parties hereto, in the space provided, and be attested to as indicated.

ARTICLE 24.00 - PUBLIC ENTITY CRIMES

As required by Section 287.133, Florida Statutes, the CONSULTANT warrants that it is not on the convicted contractor list for a public entity crime committed within the past thirty-six (36) months. The CONSULTANT further warrants that it will neither utilize the services of, nor contract with, any supplier, sub-contractor, or consultant in connection with this Agreement for a period of thirty-six (36) months from the date of being placed on the convicted contractor list.

ARTICLE 25.00 - EQUAL-OPPORTUNITY EMPLOYER

The CONSULTANT is an Equal Opportunity Employer and will comply with all equal opportunity employment laws. The CONSULTANT will further ensure that all sub-contractors it utilizes in providing the services required hereunder will comply with all equal opportunity employment laws.

ARTICLE 26.00 - SEVERABILITY

All clauses found herein shall act independently of each other. If a clause is found to be illegal or unenforceable, it shall have no effect on any other provision of this Agreement. It is understood by the parties hereto that if any part, term, or provision of this Agreement is by the courts held to be illegal or in conflict with any law of the State of Florida or the United States, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

ARTICLE 27.00 - JOINT AUTHORSHIP
This Agreement shall be construed as resulting from joint negotiation and authorship. No part of this Agreement shall be construed as the product of any one of the parties hereto.

ARTICLE 28.00 - AUDITING, RECORDS AND INSPECTION
In the performance of this Agreement, the CONSULTANT shall keep books, records, and accounts of all activities, related to the Agreement, in compliance with generally accepted accounting procedures. Throughout the term of this Agreement, books, records, and accounts related to the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the CITY and shall be retained by the CONSULTANT, for a period of five (5) years after termination or completion of the Agreement or until the full CITY audit is complete, whichever comes first. The CITY shall retain the right to audit the books during the Five (5) year retention period. All books, records, and accounts related to the performance of this Agreement shall be subject to the applicable provisions of the Florida Public Records Act, chapter 119, Florida Statutes. The CITY also has the right to conduct an audit within sixty (60) days from the effective date of this Agreement to determine whether the CONSULTANT has the ability to fulfill its contractual obligations to the satisfaction of the CITY. The CITY has the right to terminate this Agreement based upon the findings in this audit without regard to any notice requirement for termination.

ARTICLE 29.00 - PUBLIC RECORDS
(1) Pursuant to Florida Statutes, Section 119.0701:

IF YOU HAVE QUESTIONS REGARDING THE APPLICATION OF FLORIDA STATUTES, CHAPTER 119, TO YOUR DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS:

CITY CLERK: **GWEN JOHNS**
510 NORTH BAKER STREET
MOUNT DORA, FL 32757
(352) 735-7126
JOHNSG@CITYOFMOUNTDORA.COM

(2) CONSULTANT agrees to comply with public records laws, specifically to:

A. Keep and maintain public records required by the CITY to perform the services set forth herein.

B. Upon request from the CITY's custodian of public records, provide the CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Florida Statutes, Chapter 119, or as otherwise provided by law.

C. Ensure that public records which are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the contract term and following completion of the contract if the CONSULTANT does not transfer the records to the CITY.

D. Upon completion of the contract, transfer, at no cost, to the CITY all public records in possession of the CONSULTANT or keep and maintain public records required by the CITY to perform the services set forth herein. If the CONSULTANT transfers all public records to the CITY upon completion of the contract, the CONSULTANT shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONSULTANT keeps and maintains public records upon completion of the contract, the CONSULTANT shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from the CITY's custodian of public records, in a format that is compatible with the information technology systems of the CITY.

ARTICLE 30.00 - PROHIBITION AGAINST CONTINGENT FEES

The CONSULTANT warrants that he/she has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this agreement and that he/she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this agreement.

ARTICLE 31.00 - SOVEREIGN IMMUNITY

The CITY expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Florida Statutes, Section 768.28. Notwithstanding anything set forth in any section, article or paragraph of this Agreement to the contrary, nothing in this Agreement shall be deemed as a waiver of sovereign immunity or limits of liability which may have been adopted by the Florida Legislature or may be adopted by the Florida Legislature, and the cap on the amount and liability of CITY for damages, attorney fees and costs, regardless of the number or nature of claims in tort, equity or contract, shall not exceed the dollar amount, set by the Florida Legislature for tort. Nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim against the CITY which would otherwise be barred under the Doctrine of Sovereign Immunity or operation of law.

ARTICLE 32.00 - EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY)

In accordance with State of Florida, Office of the Governor, Executive Order 11-116 (superseding Executive Order U-02; Verification of Employment Status), in the event performance of this Agreement is or will be funded using state or federal funds, the CONTRACTOR must comply with the Employment Eligibility Verification Program ("E-Verify Program") developed by the federal government to verify the eligibility of individuals to work in the United States and 48

CFR52.222-54 (as amended) is incorporated herein by reference. If applicable, in accordance with Subpart 22.18 of the Federal Acquisition Register, the CONTRACTOR must (1) enroll in the E-Verify Program, (2) use E-Verify to verify the employment eligibility of all new hires working in the United States, except if the CONTRACTOR is a state or local government, the CONTRACTOR may choose to verify only new hires assigned to the Agreement; (3) use E-Verify to verify the employment eligibility of all employees assigned to the Agreement; and (4) include these requirement in certain subcontracts, such as construction. Information on registration for and use of the E-Verify Program can be obtained via the internet at the Department of Homeland Security Web site: http: //www.dhs.gov IE-Verify.

ARTICLE 33.00 - SCRUTINIZED COMPANIES

By execution of this Agreement, CONSULTANT hereby certifies that it is not on the scrutinized companies list. This Agreement may be terminated by the CITY, without penalty to the CITY: i) in the event that the CONSULTANT is put on the scrutinized companies list prohibited by Florida Statutes, Section 287.135, or ii) if the CITY determines that the CONSULTANT falsely certified to the CITY that the CONSULTANT is not listed as a scrutinized company. Exemptions and additional penalties shall be as set forth in Florida Statutes, Section 287.135.

ARTICLE 34.00 - TRUTH IN NEGOTIATION CLAUSE

By execution of the Agreement, CONSULTANT hereby certifies that, in accordance with Florida Statutes, Section 287.055(5)(a), the wage rates and other factual unit costs supporting the compensation under this Agreement are accurate, complete and current as of the time of entering into this Agreement. The Parties agree that the CITY may adjust the original Agreement price and any additions thereto to exclude any significant sums by which the CITY determines the Agreement price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such price adjustments must be made within 1 year following the end of the Agreement.

(***Signatures on the following page***)

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed this Agreement effective this 4th day of February, ~~2019~~. 2020

CITY OF MOUNT DORA

Catherine Hoechst

CATHERINE T. HOECHST
MAYOR, City of Mount Dora, Florida

ATTEST:

Gwen Keough-Johns

Gwen Keough-Johns, MMC
City Clerk

For the use and reliance of City of Mount Dora only
Approved as to form and legal sufficiency

S G Sutphen

Sherry G. Sutphen
City Attorney

CONSULTANT

Print: IAN A. REEVES, AIA

Title: PRESIDENT

STATE OF FLORIDA
COUNTY OF Orange

The foregoing instrument was executed before me this 28th day of January, 2020, by Ian A. Reeves, as President of Architects Design Group/ADG, Inc., who personally swore or affirmed that he/she is authorized to execute this Agreement and thereby bind the Contractor, and who is personally known to me OR has produced ________________ as identification.

(stamp)

Nicole M. Hevia

NOTARY PUBLIC

Notary Public State of Florida
Nicole M Hevia
My Commission GG 273824
Expires 01/01/2023

Exhibit "A"
Project Description and Scope of Professional Services

General Description:

The project, and related Scope of Services, is generally described as a Spatial Needs Assessment, Site Analysis, Master Planning, Conceptual Building Design, Community Outreach Program Implementation (if requested), Design/Engineering for the following Mount Dora entities:

- **Public Works Facility**
- **Warehouse**
- **Associated Outbuildings**

The Phases of Services are herein identified as follows:

1. Project Kick-Off:

1.1 The Consultant shall participate in an initial meeting, with Public Works personnel and the City's Project Management Team, or any other stakeholders identified by the City, to review the proposed project and to establish project schedules for specific tasks.

2. Phase I-A: Detailed Spatial Needs Assessment:

2.1 The Consultant shall conduct an analysis of the routine operations of the identified entities in order to fully understand their function, operations and the respective interaction, relationship, adjacency priorities, and potential of joint use facilities.

2.2 A Spatial Needs Assessment shall then be conducted, providing documentation as to current and future needs; future need being defined as those anticipated for the years 2030 and 2040, and the current need being defined as the year 2020. The process for obtaining this information shall consist of a two-part effort; a detailed questionnaire and on-site interviews with the staff of the various entities, as noted above.

The questionnaire shall relate to such information as:

2.2.1 Historical, Current and Projections for Future Staffing Levels.
2.2.2 A Detailed Mission Statement.
2.2.3 Departmental Organizational Charts.
2.2.4 An Assessment of Requested Spaces.
2.2.5 A Definition of Functional Inter-Relationships.
2.2.6 Documentation of Specialized Equipment.
2.2.7 Documentation as to relationship to other Departments.

2.3 The Consultant, as a part of this phase, shall consider and provide documentation to the extent possible, current and future staffing level projections and their spatial need impact upon future needs of facilities.

2.4 Based upon the recommendations related to facility size(s), the Consultant shall identify the land area needed for the building, associated parking and related site requirements, such as stormwater retention, parking areas, landscape requirements, infrastructure improvements, secure storage for City vehicles, equipment and apparatus, and building setback requirements.

2.5 The Consultant shall research and provide information relative to identifying potential supplemental grant funding sources, noting entities which provide funds for projects of the type envisioned for the City.

2.6 The Consultant will provide a Preliminary Spatial Needs Assessment at the conclusion of this Phase.

3. <u>Phase I-B: Site(s) Analysis and Master Planning:</u>

3.1 The City shall submit to the consultant, any existing documentation relative to the proposed site that has been previously identified and investigated. Based upon the site size determined to be necessary, as identified within the Spatial Needs Assessment, and with the direct input of the City, the Consultant shall assist in the development of outlining the site characteristics of site.

3.2 The Consultant shall then conduct an evaluation of the City's parcel(s) utilizing nationally recognized criteria. The Consultant shall prepare, and distribute to the appropriate City personnel, a detailed form for evaluation by the City as well as the Consultants/Consultants.

3.3 Items to be considered will include:

3.3.1 Ability of the site to accommodate appropriate public and staff parking.
3.3.2 Evaluation of property relative to a 100-year storm.
3.3.3 Identification of potential hazards.
3.3.4 Ability and estimated cost to acquire adjacent parcels if deemed necessary and/or appropriate.
3.3.5 Guidelines for the abandonment of right-of-way and/or roadways which may become internal to the site, or the establishment of an emergency vehicle ingress/egress easement through the adjacent properties to allow for a second means of access to a larger, more substantially constructed roadway.
3.3.6 Appropriateness (capacity) of existing utilities, such as power, gas, water, sewer, fiber optics, etc.

3.3.7 The ability of the site to accommodate the space needs of the Public Works, Emergency Operations Center, and other facilities located on the site, both in terms of current needs (year 2020) and future needs (year 2030 and 2040).

3.4 Obtain, to the extent possible, historical and current aerial photographs of the properties, the purpose being to illustrate previous site utilization.

3.5 Based upon the information assembled and documented, the Consultant shall prepare a written report noting the information herein contained and make a specific recommendation as to the appropriateness of the property. Eight (8) copies of this report shall be provided to the City. The Consultant shall make one (1) in-person presentation of this report to the City Council or City Manager.

3.6 Based upon the information obtained during development of the Spatial Needs Assessment, the Consultant shall participate in a meeting(s) with representatives of the Client to initiate the Master Planning effort. The premise of this meeting shall be to obtain consensus as to the appropriate land utilization of the designated property and the proposed facility, as well as future expansion requirements.

3.7 Based upon the adopted Development Alternative, the Consultant shall prepare a Master Plan Document of the selected site, illustrating:

3.7.1 Proposed land utilization of the selected site.
3.7.2 Location and general configuration of "current need" facilities.
3.7.3 Areas of potential expansion for future need.
3.7.4 Location of vehicles access and egress, both staff and public.
3.7.5 Pedestrian areas and site circulation.
3.7.6 Vehicle Parking Areas (Staff, Public).
3.7.7 Area(s) designated for stormwater detention.
3.7.8 Required Standoff Distances

3.8 The Consultant shall then prepare a final Master Planning Drawing illustrative of the proposed recommended solution and present same to the staff of the City. These documents may then, upon direction by the City Administration, be the focal point of a public outreach program with the purpose of explaining the importance of the project to the local landowners and the community at large.

3.9 If requested, the design team will procure, on behalf of the City, a boundary and topographic survey of the City-owned property(s) for the use of site engineering for the proposed facilities. This service is provided to the City with the understanding and agreement that the Architect shall have no liability for said services.

3.10 This phase shall result in a detailed report, which shall contain the following components:

3.10.1 Public Works Requirements.

3.10.2 Exterior Facilities (If Requested).

3.10.3 Joint-use / Shared Facility Opportunities.

3.10.4 Development Options.

3.10.5 Estimates of Probable Development Costs.

3.10.6 Phasing Plan(s).

3.10.7 Analysis and Identification of all pertinent regulatory requirements; including design standards and requirements stipulated by grant agreements.

3.10.8 Analysis and Identification of recommended green building elements.

3.11 The final report shall contain recommendations relative to potential solutions and shall include up to three (3) alternative development options as to the size and associated potential costs of each such alternative. This report shall be issued to the City's Project Management Team for review and consideration, and subsequently, upon the City's direction, to the Mount Dora City Council at a public meeting and/or Council Workshop.

4. Phase I-C: Conceptual Building Design:

The Consultant will prepare conceptual design documents consisting of preliminary elevations and illustrating the following items:

4.1 Confirm the site development layout illustrating parking areas, vehicular/pedestrian circulation, public/private zones, site utility considerations, future expansion, etc.

4.2 Provide block diagram of major programmed spaces showing functional relationship.

4.3 Provide building size/shape configuration showing major entry points.

4.4 Provide graphic representation of proposed exterior building envelope components.

4.5 Provide list of proposed energy efficient systems/building components.

4.6 Provide optional solutions if necessary, to address identified constraints.

4.7 Design concepts / components driven by required design criteria (FEMA 361, wind speed, wave height / impact, etc.

5. Phase I-D: Community Outreach Program (If Requested):

5.1 If requested, the design team, in association with the City, shall participate in up to three (3) community outreach meetings or workshops, in an effort to present the proposed project to the citizens of Mt. Dora. The meetings/presentations shall be conducted by a minimum of two (2) design team members.

6. Phase I-E: Estimate of Probable Development Costs:

6.1 The Consultant shall prepare an Estimate of Probable Development Costs that will identify site development costs, building construction costs, preliminary technology needs costs, and project-specific "soft costs" for the City's budgetary considerations.

7. **Phase II: Basic Architectural and Engineering Services:**

7.1 The Consultant shall provide services for the standard phases, as defined in the Owner/Consultant agreement, for the proposed facility. These shall include schematic design at 20% of the basic services fee, design development at 30%, construction documents at 25%, bidding or GMP coordination at 5%, and construction administration at 20%, respectively. Building Commissioning will follow the completed construction period.

7.2 The Consultant and the Client recognize that the requested services are of significant magnitude, scheduling and complexity, which include the facility being developed in terms of "survivability" as may be required by the City in accordance with FEMA 361 guidelines. It is our assumption that this facility shall meet design protocols associated with a hurricane resistant structure, the category of which has not been defined at this point in time.

Exhibit "B"
Additional Services

1. **Additional Services:**

The Architect, or his consultants, shall provide the following additional services if requested:

1.1 **Interior Design:**

1.1.1 Interior design services related to the programming, conceptual design, bidding and supervision of installation of furnishings. The Fee for this service is identified in Exhibit "D".

1.1.2 Services related to the inventory of existing furnishings and equipment shall be provided billable on an hourly basis, utilizing the rate schedule identified in Exhibit "D", or at an agreed upon fixed fee amount. Said services are to be provided only when specifically requested by the Client in writing.

1.2 **Off-Site Civil Engineering:**

Upon acceptance of the Conceptual Site Plan, if off-site civil engineering services are required, a scope of work shall be established. Work typically identified as the Scope of Services for Civil Engineering is construction falling outside the property lines or within on-site easements and/or the relocation of existing utilities. The Professional fee shall be agreed upon by the Client, the Architect and Civil Engineer based upon a defined Scope of Services.

1.3 **Landscape Architectural Services:**

Landscape Architectural Services shall be provided by a registered Landscape Architect, selected by the Architect, to provide the Scope of Services to be defined by the accepted Master Site Plan. The Professional Compensation Fees for these services shall be as noted in Exhibit "D".

1.4 **Site and Building Identification/Graphic Design:**

Provide graphic design services associated with the design and construction administration of building identification, graphics and signage.

1.5 **Professional Liability Insurance:**

The Design Team shall maintain, during the term of this agreement, Professional Liability Insurance providing coverage for errors and omissions in the amount of $2,000,000.00. The Architect shall provide the Client with a certificate showing such coverage and providing that the insurance will not lapse or be canceled except upon thirty (30) days written notice to the Client. As compensation for the cost of such insurance, the Client will pay the Architect a value equating to 4% of the total Architectural and Engineering fee, excluding fees for the Building Program Verification, Master Planning, Preliminary Site Analysis, and Reimbursable

Expense Allowance. The Professional Compensation Fees for these services shall be as noted in Exhibit "D".

1.6 **<u>Permitting Coordination Services:</u>**
The Architect shall provide permitting coordination services as follows:

1.6.1 Define all permits and/or review agency requirements and provide a graphic chronological assessment.
1.6.2 Prepare and/or coordinate the permitting applications and make the submittals in a timely manner and in accordance with the schedule to be submitted by the Architect upon execution of this agreement by the Client.
1.6.3 Monitor the permitting process and provide written progress reports to the Client.
1.6.4 The Professional Fee for permitting associated with site and facilities shall be as noted in Exhibit "D".

1.7 **<u>Facility Energy Analysis:</u>**
The Architect shall so prepare Supplementary Design Documents as to permit the accomplishment of a detailed energy analysis, to be conducted by an appropriate entity with expertise in providing this service. The purpose of the analysis shall be to maximize energy efficient systems, including insulation, fenestration and similar passive energy applications, to the extent allowable by the project construction budget. This service will be required if the Client elects to pursue LEED certification for the proposed project. Services Fee shall be as noted in Exhibit "D". This is also a newly required service to meet the updated State of Florida Energy Code Permitting Requirements.

1.8 **<u>Facility or Site Model Computer Renderings:</u>**
The Architect shall develop up to 3 computer rendering(s) of the facilities or the overall Master Plan, illustrating site utilization, building massing, access and egress roadways, parking areas, pedestrian walkways and stormwater retention areas. The Professional Services Fee shall be as noted in Exhibit "D".

1.9 **<u>Special Engineering:</u>**
Special Structural Engineering services will be provided by the Architect/Engineer, when authorized by the Client, if unusual site soil or geographical conditions are found to exist. An additional fee in an amount to be determined shall be established based upon the conditions discovered and the complexity of services necessary to correct said conditions.

1.10 **<u>Extended Construction Observation:</u>**
The Architect shall provide standard construction observation services during the construction phase. As also noted in this agreement, these services constitute twenty percent (20%) of the value of Basic Services. The Construction Documents will stipulate the period allowed the Construction Manager (CM) for construction, which is anticipated to be fourteen (14) months. The Architect shall be entitled to

Additional Fees if the CM exceeds this stipulated period which shall be negotiated with the input of the Client, said fees being a pro-rata monthly fee of the fee allocated for this phase. These fees shall be documented in the contract specifications as the responsibility of the Construction Manager and shall be payable to the Client to reimburse the Client for payments to the Architect.

1.11 **Post Occupancy/Warranty Inspection:**
Eleven months after occupancy of the building the Architect and M/E/P Engineers shall conduct a warranty inspection of the building and shall document all systems and elements that are in need of corrective action on the part of the CM. The Architect shall subsequently re-inspect the facility(s) to establish that noted items have been satisfactorily resolved or if additional work is required on the part of the CM. The Professional Services Fee shall be as noted in Exhibit "D". Note that the fee for this service shall be due at the time such services are rendered.

1.12 **Community Outreach Program:**
If desired, the Architect and its team shall participate in up to 3 public presentations in a collective effort of engaging the local community at large. The Architect will assist with the development of the necessary presentation materials and format and will provide one copy, both digital and hard copy version, to the Client for its records. A minimum of two (2) representatives of the Architect's team shall participate in each of the requested presentations. The professional fee is as noted in Exhibit "D".

This service, if requested, will be included as a part of Phase II services.

1.13 **Site Surveying Allowance:**
The Architect shall obtain the services of a Registered Land Surveyor, acceptable to the Client, for a site boundary and topographic survey for the subject property. This service is provided to the Client with the understanding and agreement that the Architect shall have no liability for said services. The professional fee shall be established based upon a defined Scope of Services. This survey will be completed upon final determination / acceptance of the site by the Client.

1.14 **Geotechnical Engineering Allowance:**
The Architect shall obtain the services of a Professional Geotechnical Engineering firm for purposes of sub-surface soils investigation, percolation testing, and foundation recommendations. This service is provided to the Client with the understanding and agreement that the Architect shall have no liability for said services. The professional fee shall be established based upon a defined Scope of Services. These services will be completed upon final determination / acceptance of the site by the Client.

1.15 **Building Commissioning:**
The Architect and its Engineers, if so desired by the Client, shall provide complete building commissioning services of the Mechanical, Electrical, and low-voltage

systems facility wide including creating a commissioning plan, integrating the commission requirements into project specifications, creating functional test procedures, perform a test and balance verification, and create a training plan. The professional fee shall be as noted in Exhibit "D". This service is provided, upon the Client's request, at the conclusion of the construction period, and shall include integration testing of building information & communications (ICT) systems with external systems (e.g. commercial telecomm services and/or agency owned services).

1.16 **Grants Coordination Assistance:**
The Architect and it subconsultants will work directly with the Client's designated Grant Coordinator to assist with the documentation needed to process the grant. The professional fee shall be as noted in Exhibit "D".

1.17 **Grants Application:**
The Architect, if so desired by the Client, shall provide grant preparation services. The professional fee(s) shall be established after identification of a potential grant and/or grants, and is noted in Exhibit "D".

1.18 **Additional Construction Observation Services:**
The Client may elect to have the Architect provide additional on-site construction observation services beyond the bi-weekly standard services noted in this Agreement. Such representation, if desired, will be based upon the selection of an option, as provided for in Exhibit "D".

1.19 **Record/Conformance Drawings:**
This service is typically provided by the CM, but in the event that the Client desires the Architect to develop a record or "as-built" set of construction documents, provided at the conclusion of construction, then the Architect shall be entitled to a professional fee as noted in Attachment "D".

1.20 **Audio-Visual Consultant:**
The Architect shall obtain the services of an individual/Firm with expertise in audio-visual systems and, based upon a defined Scope, shall provide the Client with a proposed professional fee, as noted in Exhibit "D".

1.21 **Computer Cable System Design Coordination:**
The Architect shall meet with the Client's Project Manager and the Office of Information Technology staff and establish the basic guide lines for a computer cable system for the facility and shall subsequently prepare a cable plan with appropriate distribution spaces in the facility. The professional fee shall be as noted in Exhibit "D".

1.22 **Security Consultant:**
The Architect shall obtain the services of a qualified Security Consultant for services related to site and building security systems, including C.C.T.V.,

access/egress controls, locking devices, and site security systems. The professional fee shall be established based upon a defined Scope of Services as noted in Exhibit "D".

1.23 **Acoustical Engineering:**
The Architect shall obtain the services of a qualified Acoustical Engineer for enhancing performance in acoustically demanding environments related to the primary large-scale operational spaces. These services include controlling, isolating, and mitigating structure-borne, equipment-generated, and environmental noise and vibration, if required. The professional fee shall be established based upon a defined Scope of Services as noted in Exhibit "D".

Exhibit "C"
List of Sub-Consultants

MEP Engineer:
SGM Engineering, Inc.
935 Lake Baldwin Lane,
Orlando, FL 32814

Structural Engineer:
BBM Structural Engineers
1912 Boothe Circle
#100
Longwood, FL 32750

Civil Engineer:
AVCON Engineers, Inc.
5555 E. Michigan Street, Suite 200
Orlando, FL 32822

Security & Technology Consultant:
TLC Engineering Solutions
255 South Orange Ave
Suite 1600
Orlando, FL 32801

Landscape Architecture:
Castlebay
134 Riberia Street, Suite 102
St. Augustine, FL 32084

Exhibit "D"

Compensation, Method of Payment and Invoicing

Fee Allocation:

The following is the professional fee allocation for the various services defined in Exhibits "A" and "C".

1. **Summary:**

1.1	Phase I-A: Detailed Spatial Needs Assessment:	$ 17,800.00
1.2	Phase I-B: Site Analysis & Master Planning:	$ 20,000.00
1.3	Phase 1-B: Site Surveying Allowance:	By Owner
1.4	Phase I-B: Site Geotechnical Engineering Allowance	By Owner
1.5	Phase I-B: Preliminary Site Environmental Assessment Allowance	By Owner
1.6	Phase I-C: Conceptual Building Design:	$ 22,400.00
1.7	Phase I-D: Community Outreach Program (3 Presentations):	$ 7,500.00
1.8	Phase I-E: Estimate of Probable Development Costs:	$ 6,800.00
1.9	**Phase I Subtotal:**	**$ 74,500.00**
1.10	Phase I Reimbursable Expenses:	$ 1,200.00
1.11	**Phase I: Total:**	**$ 75,700.00**

ARCHITECTS DESIGN GROUP, INC.
ADDITIONAL SERVICES HOURLY RATES
Effective 11/01/2019 through 10/31/2020

Per hour rates of the Architects, Interior Designers and other personnel are established as follows:

Principals..205.00/hr.
Studio Department Principals/Project Architects..182.00/hr.
Associates..152.00/hr.
Project Managers..145.00/hr.
Designers..87.00/hr.
Computer Draftsperson I..65.00/hr.
Computer Draftsperson II..65.00/hr.
Computer Supervisor..95.00/hr.
Threshold Inspector (Certified)..83.00/hr.
Construction Administrators..102.00/hr.
Specification Writer..98.00/hr.
Senior Draftsperson..87.00/hr.
Draftsperson I..73.00/hr.
Draftsperson II..65.00/hr.
Accounting Services..83.00/hr.
Staff (Word Processor I)..50.00/hr.
Graphic Designer..72.00/hr.
Interior Design Principal..105.00/hr.
Interior Design Designer..77.00/hr.
Interior Design Specification Writer..76.00/hr.
Interior Design Draftsperson I..66.00/hr.

Note: Any changes in the above noted hourly rates, after October 1, 2020 shall be provided to the Owner thirty (30) days prior to said date.

Exhibit "E"
Project Schedule

Schedule:

1. Phase I: Pre- Design Planning Phases..4 months
   a. Spatial Needs Assessment
   b. Site Analysis and Master Planning
   c. Conceptual Building Design

2. Phase II: Basic Architectural and Engineering .... TBD months
   a. Schematic Design
      - Owner Review & Comment...........TBD months
   b. Design Development
      - Owner Review & Comment.......... TBD months
   c. 90% Construction Documents
      - Owner Review & Comment.......... TBD months
   d. Owner Review & Comment..................... TBD month

3. Contract Award and Permitting Services..TBD months

4. Construction Services ....TBD months

5. Total ....TBD months

RESOLUTION NO. 2021-29

A RESOLUTION OF THE CITY OF MOUNT DORA, FLORIDA, PERTAINING TO PROFESSIONAL ARCHITECTURAL DESIGN SERVICES FOR THE CITY'S NEW PUBLIC WORKS FACILITY; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR APPROVAL OF AMENDMENT 1 AND AUTHORIZATION TO EXECUTE; PROVIDING FOR THE IMPLEMENTATION OF ADMINISTRATIVE ACTIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City competitively solicited for architectural design services related to the City's new Public Works Facility, pursuant to the City's Purchasing Policy and RFQ-19-PW-027; and

WHEREAS, on February 4, 2020, the City adopted Resolution 2020-17, which approved the Professional Services Agreement with Architects Design Group/ADG, Inc. for architectural design services for the City's new Public Works Facility as contemplated by RFQ-19-PW-027; and

WHEREAS, the City has determined that it is in its best interest to amend its Professional Services Agreement with Architects Design Group/ADG, Inc. to include needed storage solutions services.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF MOUNT DORA, FLORIDA, AS FOLLOWS:

SECTION 1. Legislative Findings and Intent. The City of Mount Dora has complied with all requirements and procedures of Florida law in processing this Resolution. The above recitals are hereby adopted.

SECTION 2. Approval of Amendment 1 and Authorization to Execute. Amendment 1 to the Agreement with Architects Design Group/ADG, Inc., attached hereto as **Exhibit A**, is hereby approved. The Mayor is hereby authorized to execute the Agreement on behalf of the City.

SECTION 3. Implementation of Administrative Actions. The City Manager is hereby authorized and directed to take such actions as may be deemed necessary and appropriate in order to implement the provisions of this Resolution. The City Manager may, as deemed appropriate, necessary and convenient, delegate the powers of implementation as herein set forth to such City employees as deemed effectual and prudent.

SECTION 4. Savings Clause. All prior actions of the City pertaining to Amendment 1 to the Agreement with Architects Design Group/ADG, Inc., related to the City's new Public Works Facility, as well as any and all matters relating thereto, are hereby ratified and affirmed consistent with the provisions of this Resolution.

SECTION 5. Scrivener's Errors. Typographical errors and other matters of a similar nature that do not affect the intent of this Resolution, as determined by the City Clerk and City Attorney, may be corrected.

SECTION 6. Conflicts. All Resolutions or parts of Resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 7. Severability. If any Section or portion of a Section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Resolution.

SECTION 8. Effective Date. This Resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED this 2nd day of March, 2021.

Catherine T Hoechst

CATHERINE T. HOECHST
MAYOR of the City of Mount Dora, Florida

ATTEST:

Gwen Keough-Johns

GWEN KEOUGH-JOHNS, MMC
CITY CLERK

For the use and reliance of City of Mount Dora only. Approved as to form and legality.

Sherry G. Sutphen
City Attorney

Exhibit "A"

Amendment 1 to Agreement with
Architects Design Group/ADG, Inc.,
for architectural design services related
to the City's new Public Works Facility

Resolution No. 2021-29
3 of 3

AMENDMENT 1 TO PROFESSIONAL SERVICES
AGREEMENT BETWEEN CITY OF MOUNT DORA AND ADG, INC.

THIS AMENDMENT 1 is made by and between City of Mount Dora, 510 N. Baker Street, Mount Dora, Florida 32757 (City), and Architects Design Group/ADG Inc., 333 N. Knowles Avenue, Winter Park, Florida 32789 (Consultant) and shall modify the terms and conditions of that Professional Services Agreement between the parties, executed on the 4th day of February, 2020 (Agreement).

WHEREAS, in accordance with the Agreement, the Consultant is providing architectural design services to the City stemming from RFQ-19-PW-027, as approved through Resolution 2020-17; and

WHEREAS, the parties have determined that it is in their mutual best interest to amend the Agreement.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the City and Consultant agree as follows:

1. Article 2.00 of the Agreement is hereby amended as follows:

ARTICLE 2.00. – SCOPE OF PROFESSIONAL SERVICES
PROJECT DESCRIPTION AND SCOPE OF PROFESSIONAL SERVICES attached to the Agreement as Exhibit "A" is hereby amended to include the services set forth in ***Exhibit "A"*** *attached hereto.*

2. Article 4.00 of the Agreement is hereby amended as follows:

ARTICLE 4.00 – OBLIGATIONS OF THE CONSULTANT.

4.08 USE OF SUB-CONSULTANTS
The list of sub-consultants attached to the Agreement as Exhibit "C" is hereby amended to include the sub-consultant listed ***Exhibit "B"*** *attached hereto.*

3. Article 6.00 of the Agreement is hereby amended as follows:

ARTICLE 6.00 – COMPENSATION AND METHOD OF PAYMENT

6.01 COMPENSATION AND METHOD OF PAYMENT
PROFESSIONAL FEE ALLOCATION attached to the Agreement as Exhibit "D" is hereby amended to include the fees set forth in ***Exhibit "C"*** *attached hereto. Such fees represent compensation due to the Consultant for the sub-contractor services set forth in Exhibit "A" attached to this Amendment 1.*

5. All of the terms and conditions of the Agreement shall remain in full force and effect, and to the extent of any conflict between this Amendment 1 and the Agreement between the parties, this Amendment 1 shall prevail.

IN WITNESS WHEREOF, the parties hereto have set their hands and seal this 2nd day of March, 2021.

CITY OF MOUNT DORA

Catherine T Hoechst

CATHERINE T. HOECHST, MAYOR

ATTEST:

Gwen Keough-Johns

GWEN KEOUGH-JOHNS, MMC
CITY CLERK

For the use and reliance of City of Mount Dora only
Approved as to form and legal sufficiency

Sherry G. Sutphen

Sherry G. Sutphen, City Attorney

ARCHITECTS DESIGN GROUP/ADG, INC.

Print: SUSAN C. GANTT

Title: SENIOR VICE PRESIDENT

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of [✓] physical presence or [ ] online notarization of Susan C. Gantt, as ______________, of ADG, Inc., who personally swore or affirmed that he/she is authorized to execute this Agreement and thereby bind the Corporation, and who is personally known to me or who produced ______________ as identification, and who did/did not take an oath this 22nd day of February, 2021.

(stamp)

Nicole M. Hevia

NOTARY PUBLIC, State of Florida

Notary Public State of Florida
Nicole M Hevia
My Commission GG 273824
Expires 01/01/2023

Page 2 of 8

Exhibit "A"

SUMMARY:

Architects Design Group has requested a proposal for a future state storage and a manual slotting analysis to increase their future state utilization within the new facility for the city of Mount Dora. The future state storage plan will assign items to storage media types *NOT* the individual location to allow for flexibility of inventory handling.

PROJECT OBJECTIVE:

Develop and recommend the most cost-effective and efficient storage media for the city of Mount Dora's water and electrical inventory for their new warehouse. The design will include future state storage plan showcasing an improvement from existing to future storage utilization.

DELIVERABLES:

For the Design Solution:

We will use the information provided by Architects Design Group and the city of Mount Dora to develop cost, planning, and design estimates. The following deliverables are in scope and should be accounted for in the contracted response:

- Provide one minimum design plus any alternative designs into current facility layout.
    - Recommended design plus any alternative designs (if necessary)
        - Storage Systems
    - Each design should include a drawing package
    - Each design should include:
        - Budgetary costs
- Detailed Project Plans:
        - Final engineering design into actual building
        - Plan to transition from current design to future design
        - Turn over to Architects Design Group
- Comparison of current and future state designs in relation to capacity,

DATA TO BE PROVIDED TO SSI:

SSI will use the information provided by Architects Design Group and the city of Mount Dora to develop cost, planning, and design estimates, assuming:

- Enhancements from the current operation should be incorporated into the proposed redesign to reduce the overall cost of operation.
- SSI has the ability to visit and assess current operation as necessary.

* *If detail data is lacking it will be the responsibility of* Architects Design Group *to provide summary design data to be used in determining design requirements.*

Exhibit "B"

Sub-Consultants

Storage Solutions, Inc.
910 East 169th Street
Westfield, IN 46074

Exhibit "C"

Architects Design Group
AAC001197

Architects and Planners

Ian A. Reeves, AIA
President, Principal

I.S.K. Reeves V, FAIA
CEO, Principal

Susan C. Gantt, AIA, LEED AP
Senior Vice President

Rodney McManus, LEED AP
Vice President of Operations

Fred Rambo, RA
Vice President of Production

Winter Park, Florida
333 North Knowles Avenue
Winter Park, FL 32789
Phone: 407.647.1706

Dallas, Texas
325 N. St. Paul Street
Suite 4250
Dallas, TX 75201
Phone: 469.501.5540

www.adgusa.org
marketing@adgusa.org

February 16, 2021

Mr. Chet Cramer, Project Manager
Ms. Merry Lovern, Co- Project Manager
City of Mount Dora
1300 N. Donnelly Street
Mount Dora, Florida 32757

Re: Mount Dora Municipal Services Complex – Inventory Warehouse
Additional Service Fee Proposal for Storage Solutions Study
ADG Project No. 1037-19/1.21

Dear Chet & Merry,

Per direction from the City of Mount Dora, please consider this letter as ADG's scope and fee proposal for a storage study of the storage system needs for the Inventory Warehouse at Limit Avenue. The study and recommendations will focus on efficient storage solutions for the warehouse, so that the building size may be reduced to the area needed for storage and access only, without wasted space.

The study will be conducted by Storage Solutions (see attached proposal). ADG will provide CAD backgrounds as needed for Storage Solutions to make recommendations, and will coordinate information gathering & information distribution to the design team and yourselves. We will also make building floor plan adjustments as necessary to implement any city accepted recommendations. Below is our fee proposal.

Professional Fee:
The professional fees, based on the services and deliverables outlined and defined above, are as follows:

1. ADG (Architecture & Coordination)..	$ 1,200
2. Storage Solutions Consultant..	$ 7,800
Total Fee:..	**$ 9,000**

Please review the above information and let us know if you have any questions or comments. All other terms of the agreement between ADG, Inc. and the City of Mount Dora shall remain as previously agreed. If the information outlined meets with your approval, please provide an Amendment to our current contract. This will be Amendment No. 1.

Sincerely,

Susan C. Gantt, AIA, LEED AP
Sr. Vice President, Architects Design Group

Attachments: Storage Solutions Proposal, dated February 10, 2021

ATTACHMENT 3

AMENDMENT 2 TO PROFESSIONAL SERVICES AGREEMENT BETWEEN CITY OF MOUNT DORA AND ADG, INC.

THIS AMENDMENT 2 is made by and between City of Mount Dora, 510 N. Baker Street, Mount Dora, Florida 32757 (City), and Architects Design Group/ADG Inc., 333 N. Knowles Avenue, Winter Park, Florida 32789 (Consultant) and shall modify the terms and conditions of that Professional Services Agreement between the parties, executed on the 4th day of February, 2020 (Agreement).

WHEREAS, in accordance with the Agreement, the Consultant is providing architectural design services to the City stemming from RFQ-19-PW-027, as approved through Resolution 2020-17; and

WHEREAS, on March 2, 2021, the City adopted Resolution 2021-29, authorizing Amendment 1 to the Agreement; and

WHEREAS, the parties have determined that it is in their mutual best interest to once again amend the Agreement.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the City and Consultant agree as follows:

1. Article 2.00 of the Agreement is hereby amended as follows:

ARTICLE 2.00. – SCOPE OF PROFESSIONAL SERVICES
PROJECT DESCRIPTION AND SCOPE OF PROFESSIONAL SERVICES attached to the Agreement as Exhibit "A" is hereby further amended to include the services set forth in ***Exhibit "A"*** *attached hereto.*

2. Article 4.00 of the Agreement is hereby amended as follows:

ARTICLE 4.00 – OBLIGATIONS OF THE CONSULTANT.

4.06 ADDITIONAL SERVICES
ADDITIONAL SERVICES attached to the Agreement as Exhibit "B" is hereby amended to include the additional services set forth in ***Exhibit "B"*** *attached hereto.*

4.08 USE OF SUB-CONSULTANTS
The list of sub-consultants attached to the Agreement as Exhibit "C" is hereby amended to include the sub-consultant listed ***Exhibit "C"*** *attached hereto.*

3. Article 6.00 of the Agreement is hereby amended as follows:

ARTICLE 6.00 – COMPENSATION AND METHOD OF PAYMENT

6.01 COMPENSATION AND METHOD OF PAYMENT
PROFESSIONAL FEE ALLOCATION attached to the Agreement as Exhibit "D" is hereby amended to include and update the fees set forth in ***Exhibit "D"*** *attached hereto.*

5. All of the terms and conditions of the Agreement shall remain in full force and effect, and to the extent of any conflict between this Amendment 1 and the Agreement between the parties, this Amendment 1 shall prevail.

IN WITNESS WHEREOF, the parties hereto have set their hands and seal this 1 day of march, 2022.

CITY OF MOUNT DORA

CRISSY STILE, MAYOR

ATTEST:

Jessica Burnham, City Clerk

For the use and reliance of City of Mount Dora only
Approved as to form and legal sufficiency

Sherry G. Sutphen, City Attorney

ATTACHMENT #3

ARCHITECTS DESIGN GROUP/ADG, INC.

____

Print: SUSAN C. GANTT

Title: SENIOR VICE PRESIDENT

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of [X] physical presence or [ ] online notarization of Susan Gantt, as Senior Vice President, of ADG, Inc., who personally swore or affirmed that he/she is authorized to execute this Agreement and thereby bind the Corporation, and who is personally known to me or who produced ______________________ as identification, and who did/did not take an oath this 22nd day of February, 2022.

(stamp)

____
NOTARY PUBLIC, State of Florida

Notary Public State of Florida
Nicole M Hevia
My Commission GG 273824
Expires 01/01/2023

General Description:

The project, and related Scope of Services, is generally described as Design / Engineering for the following project:

- **Mount Dora Public Works Operations and Inventory Warehouse**
- **Materials Storage Building**
- **Rolling Asset Storage Building**
- **Related Site Improvements, including future Fueling Station & Wash Station**

The design will be based on the approved Phase I concept design of a single story, 23,900 square foot, pre-engineered metal building Operations and Inventory Warehouse, a 14,400 square foot open air Materials Storage Building, a 29,400 square foot open air Rolling Asset Storage Building, on approximately 8.13 acres of a 17 acre site. The site shall be developed to ivided between a public access & parking area and a secure areas for staff parking and apparatus return to the station. This Phase of Services are herein identified as follows:

1. **Project Kick-Off:**

   1.1 The Architect and Consultant Engineering team shall participate in an initial meeting for Phase II activities, with city's Project Management Team, and any other stakeholders identified by the City, to review the proposed project and to establish project schedules for the remaining design, engineering and construction administration tasks.

2. **Phase II: Basic Architectural and Engineering Services:**

   The Architect's Basic Services consist of those described in this phase and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this phase are Supplemental or Additional Services.

   2.1. Schematic Design Phase:

   - Based on the Project requirements agreed upon with the Owner under Phase I conceptual design & programming activities, the Architect shall prepare and present, for the Owner's approval, Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, updated building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.
   - The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

- The Architect shall submit the Schematic Design Documents in PDF electronic format to the Owner, and request the Owner’s review and approval.
- The Architect shall assist the Owner’s Construction Manager at Risk in preparing a Schematic Design Estimate of Probable Development Cost that will identify site development costs, building construction costs, preliminary technology needs costs, and project-specific “soft costs” for the County’s budgetary consideration. The ADG team will assist in providing estimating packages so that the CMAR can confirm that the project remains in compliance with the County's budget.
- Should the cost of the design exceed the Owner’s approved construction budget (based upon Ajax Building Company’s Concept Design cost estimate, dated January 19, 2022), the ADG Design Team shall adjust the design of the project to conform to the project construction budget.

2.2. <u>Design Development Phase:</u>

- Based on the Owner’s approval of the Schematic Design Documents, and on the Owner’s authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner’s approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.
- The Construction Manager shall update the estimate of probable development costs, based on the architect’s design documentation.
- The Architect shall submit the Design Development Documents in PDF electronic format to the Owner, and request the Construction Manager at Risk to advise the Owner of any adjustments to the estimate of the Cost of the Work, including the necessary adjustments to bring the project within budget, and request the Owner’s approval.

2.3. <u>Construction Documents Phase:</u>

- Based on the Owner’s approval of the Design Development Documents, and on the Owner’s authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner’s approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review.

- The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.
- During the development of the Construction Documents, the Architect shall assist the Owner and CMAR in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding to sub-contractors and suppliers, including bidding or proposal forms. The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications.
- The Architect shall assist the CMAR in updating the estimate for the Cost of the Work.
- The Architect shall submit the Construction Documents in PDF electronic format to the Owner and request the Owner's approval.
- The Architect will prepare and distribute meeting notes and incorporate the Owner's comments into the final submittal package. A comment/response letter to the Owner's comments will be submitted to ensure the Owner's comments from the review have been addressed. The final submittal package will be prepared and submitted to the Owner. The submittal will include signed and sealed drawings and technical specifications and other information necessary for permitting purposes. Hard copy submittal packages and/or electronic submittals will be provided, which will be used by the Construction Manager at Risk for permitting purposes. The Construction Manager at Risk shall provide for distribution of documents to all sub-contractors.

2.4. <u>Guaranteed Maximum Price (GMP) Coordination</u>

- Following the Owner's approval of the Construction Documents, the Architect shall assist the Construction Manager at Risk, Wharton Smith, Inc. with any Request for Information (RFI) or document clarifications as they obtain bids from sub-contractors and prepare their final Guaranteed Maximum Price (GMP) for the construction of the project.
- The design criteria for the Operations and Inventory Warehouse, as well as for the covered buildings in the project, shall be the current Florida Building Code at the time of permitting, Chapter 16, Structural Design, Risk Category II for typical office and warehouse building facilities, ASCE 7-16, and local ordinances adopted for Mount Dora, Florida.

2.5. Construction Administration Services

- The Architect shall assist the City with the coordination of the construction process, working closely with the County's selected Construction Manager at Risk. Services shall include reviews of the proposed construction schedule, providing responses to submitted RFI's (requests for information), reviewing submittals for compliance with the contract documents, reviewing pay applications, and providing a complete facility review to develop a punch list of items to be addressed prior to the issuance of a substantial completion certificate, followed by a final facility review and final completions report.

EXHIBIT "A"
Project Schedule – Phase II
Mount Dora Public Works Facility & Complex
Mount Dora, Florida
ADG Project No. 1037-19
February 17, 2022
Page 1

Project Schedule:

Activities will be initiated upon receipt of executed contract or contract amendment and Notice To Proceed.

1. Pre- Design Planning Phases (completed under Phase I)
    a. Space Need programming, Site Analysis, Master Planning and Concept Design

2. Standard Architectural and Engineering .... 33 weeks
    a. Schematic Design
        - Includes Owner/CM Review & Comment.......... 6 weeks
    b. Design Development
        - Includes Owner/CM Review & Comment.......... 8 weeks
    c. 60% Construction Documents
        - Includes Owner/CM Review & Comment.......... 8 weeks
    d. 90% Construction Documents .... 8 weeks
    e. Final 100% Construction Documents .... 3 weeks

3. GMP Approval and Permitting Services .... 8 Weeks

4. Construction Services .... 13.5 Months

5. Total .... 23 Months

Note: Time Durations noted will require the agreement and timely performance of all involved entities participating in the process, including, but not limited to the following:

- Architectural and Engineering Team
- Construction Manager at Risk
- City of Mount Dora Permitting & Zoning Authorities
- City review and administrative staff

ATTACHMENT #3

EXHIBIT "B"
Additional Services – Phase II
Mount Dora Public Works Facility & Complex
Mount Dora, Florida
ADG Project No. 1037-19
February 17, 2022
Page 1

1. <u>Additional Services:</u>
The list below indicates professional services that are recommended to be added to the contract in order to have a complete design of the project. These services are in addition to basic services.

1.1. **<u>Civil Engineering:</u>**
On site Civil engineering services shall be provided by a Florida registered engineer. Services include stormwater design, grading & paving, utility distribution, etc. Engineering design shall be based upon the accepted Master Site Plan. The fees for these engineering services shall be as noted in Exhibit "D", and as indicated in the attached consultant proposal of from AVCON, Inc.

1.2. **<u>Landscape Architectural Services:</u>**
Landscape Architectural Services shall be provided by a registered Landscape Architect, selected by the Architect, to provide the Scope of Services to be defined by the accepted Master Site Plan and City landscape regulations. The fees for these design services shall be as noted in Exhibit "D", and indicated in the attached consultant proposal from Kimley Horn.

1.3. **<u>Geotechnical Testing and Engineering Services:</u>**
To be provided by the City's Geotechnical Consultant. The purposes of sub-surface soils investigation, percolation testing, and foundation recommendations. These services will be completed based upon the accepted site plan layout, and the testing locations recommended by the civil engineer, landscape architect, structural engineer and architect.

1.4. **<u>Voice/Data & Audio-Visual Consultant:</u>**
The Architect has obtained the services of a firm with expertise in audio-visual & communications systems. The fee and Scope are as noted in Exhibit "D", and as indicated in the attached consultant proposal from TLC Engineering Solutions.

1.5. **<u>Security Consultant:</u>**
The Architect has obtained the services of a qualified Security Consultant for services related to site and building security systems, including C.C.T.V., access/egress controls, locking devices, and site security systems. The professional fee and scope are as noted in Exhibit "D", and as indicated in the attached consultant proposal from TLC Engineering Solutions.

1.6. **<u>Site Element Structural Engineering:</u>**
The Architect has obtained the services of a qualified Structural Engineer for services related to miscellaneous site elements, such as dumpster enclosures, flag pole foundations, retaining walls, covered walkways and central utility plant enclosures. The professional fee and scope are as noted in Exhibit "D".

1.7. **<u>Site Electrical Lighting & Engineering Design:</u>**
The Architect has obtained the services of a qualified Electrical Engineer for services related to miscellaneous site lighting and electrical support for site security elements, such as access

controlled gates, power pedestals, general site pole or building mounted lighting, etc. The professional fee and scope are as noted in Exhibit "D".

1.8. **Interior Designer:**
The Architect has obtained the services of a qualified Interior Design Professional to direct and coordinate the design of finishes & fixtures for the project. This includes creating finish schedules, floor plans, interior elevations & details indicating placement of materials, fixtures and equipment for the Operations and Inventory Warehouse Building. The professional fee and scope are as noted in Exhibit "D".

1.9. **Professional Liability Insurance:**
The Design Team shall maintain, during the term of this agreement, Professional Liability Insurance providing coverage for errors and omissions in the amount of $2,000,000.00. The Architect shall provide the Client with a certificate showing such coverage and providing that the insurance will not lapse or be canceled except upon thirty (30) days written notice to the Client. As compensation for the cost of such insurance, the Client will pay the Architect a value equating to .6% of the total Architectural and Engineering fee, excluding fees for the Master Planning, Preliminary Site Analysis, and Reimbursable Expense Allowance. The Professional Compensation Fees for these services shall be as noted in Exhibit "D".

2. **Excluded Services:**

2.1. Off-Site Civil Engineering, beyond that indicated under the Civil Engineer's Proposal:
2.2. Facility Energy Analysis, beyond Florida Energy Code required analysis.
2.3. Facility or Site Model Computer Renderings.
2.4. Special Engineering for unusual site soil or geographical conditions.
2.5. Extended Construction Observation, beyond the construction period stipulated in the project schedule, Exhibit E.
2.6. Additional Construction Observation Services, in addition to on-site construction observation services beyond the bi-weekly standard services noted in this Agreement.
2.7. Record/Conformance Drawings.
2.8. Sustainable Design Concept Implementation / LEED Design.
2.9. Environmental Engineering.

ATTACHMENT #3

EXHIBIT "C"
Sub-Consultants

1. Civil Engineering: AVCON, Inc.

2. Landscape Architectural Services: Castle Bay Design + StudioInc.

3. Voice/Data & Audio-Visual Consultant: TLC Engineering Solutions

4. Security Consultant: TLC Engineering Solutions.

5. Structural Engineering – Site Elements: BBM Structural Engineers

6. Electrical Site Lighting: SGM Engineering

ATTACHMENT #3

EXHIBIT "D"
Professional Fee Allocation – Phase II
Mount Dora Public Works Facility & Complex
Mount Dora, Florida
ADG Project No. 1037-19
February 17, 2022
Page 1

Fee Allocation:
The following is the professional fee allocation for the various services defined in Exhibits "A" and "C".

1. **Summary:**

1.1	Phase II: Basic A/E Services:	$ 849,540
1.2	Phase II: Required Additional Services:	$ 151,128
1.3	**Phase II Subtotal:**	**$ 1,000,668**
1.4	Phase II: Reimbursable Expenses (A/E Team – Not To Exceed):	$ 20,000
1.5	**Total Phase II Fees & Reimbursable Expense:**	**$ 1,020,668**

2. **Phase II: Basic Architectural and Engineering Services:**
The Architectural and Engineering services for the referenced project are based upon a stated total estimated construction budget of $16,527,625, which includes approximately $14,027,625 for building cost. Should this value change, the standard A/E services will be modified accordingly:

2.1 Basis of Fee:
Estimated Construction Value of: $16,527,625
Less $2,500,000 for sitework = $14,027,625

Fees for Architecture, Structural Engineering, Mechanical, Electrical, Plumbing and Fire Protection Engineering:

	$ 14,027,625 @ 6.06% Fee		$ 849,540
	Schematic Design (20%)	$ 169,908	
	Design Development (30%)	$ 254,862	
	Construction Documents (25%)	$ 212,385	
	GMP Bidding & Permitting Support to CMAR (5%)	$ 42,477	
	Construction Administration (20%)	$ 169,908	
2.2	Reimbursable Expenses Allowance (Not To Exceed)		$ 20,000
2.3	**Subtotal**		**$ 869,540**

3. **Phase II: Additional Services:**
Additional Services, consisting of a variety of tasks, are itemized and described in Exhibit "C" of this Agreement. The following is a summary of these services and their related professional fee allocation. Please note that service line items that are listed as required additional services are needed to complete the project but fall outside of the "standard A/E services" above, per the Florida Department of Management Services Professional Services Fee Calculator.

EXHIBIT "D"
Professional Fee Allocation – Phase II
Mount Dora Public Works Facility & Complex
Mount Dora, Florida
ADG Project No. 1037-19
February 17, 2022
Page 2

TASK			TOTAL FEE:
Additional Services:			
1.1.	Civil Engineering	$	74,065
1.2.	Landscape Architecture	$	15,500
1.3.	Security / Audio Visual / Data Distribution Consultant	$	5,700
1.4.	Structural Engineering for Site Elements	$	4,500
1.5.	Electrical Site Lighting	$	4,500
1.6.	Interior Design	$	33,982
1.7.	ADG Consultant Coordination for Additional Service items	$	6,913
	Sub-Total	$	145,160
1.8.	Professional Liability Insurance:		
	$ 994,700 @ .6%	$	5,968
Sub-Total – Additional Service Fees		**$**	**151,128**

ATTACHMENT #3

EXHIBIT "D"
Professional Fee Allocation – Phase II
Mount Dora Public Works Facility & Complex
Mount Dora, Florida
ADG Project No. 1037-19
February 17, 2022
Page 3

ARCHITECTS DESIGN GROUP, INC.
ADDITIONAL SERVICES HOURLY RATES
Effective 02/01/2022 through 02/01/2024

Per hour rates of the Architects, Interior Designers and other personnel are established as follows:

Principals	205.00/hr.
Studio Department Principals/Project Architects	182.00/hr.
Associates	152.00/hr.
Project Managers	145.00/hr.
Designers	87.00/hr.
Computer Draftsperson I	65.00/hr.
Computer Draftsperson II	65.00/hr.
Computer Supervisor	95.00/hr.
Threshold Inspector (Certified)	83.00/hr.
Construction Administrators	102.00/hr.
Specification Writer	98.00/hr.
Senior Draftsperson	87.00/hr.
Draftsperson I	73.00/hr.
Draftsperson II	65.00/hr.
Accounting Services	83.00/hr.
Staff (Word Processor I)	50.00/hr.
Graphic Designer	72.00/hr.
Interior Design Principal	105.00/hr.
Interior Design Designer	77.00/hr.
Interior Design Specification Writer	76.00/hr.
Interior Design Draftsperson I	66.00/hr.

Note: Any changes in the above noted hourly rates, after February 1, 2024 shall be provided to the Owner thirty (30) days prior to said date.

AMENDMENT 3 TO PROFESSIONAL SERVICES
AGREEMENT BETWEEN CITY OF MOUNT DORA AND ADG, INC.

THIS AMENDMENT 3 is made by and between City of Mount Dora, 510 N. Baker Street, Mount Dora, Florida 32757 (City), and Architects Design Group/ADG Inc., 333 N. Knowles Avenue, Winter Park, Florida 32789 (Consultant).

WHEREAS, on November 5, 2019, the parties entered into a Professional Services Agreement, approved through Resolution 2019-14, for the provision of architectural design services related to the design of City Fire Stations and Associated Facilities, which was amended on December 15, 2020 (Amendment 1), and amended again on June 1, 2021 (Amendment 2), collectively referred to herein as "Agreement"; and

WHEREAS, the parties have determined that it is in their mutual best interest to further amend the Agreement related to professional services to be provided for Fire Station 34.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the City and Consultant agree as follows:

1. Article 2.00 of the Agreement is hereby amended as follows:

ARTICLE 2.00**. – **SCOPE OF PROFESSIONAL SERVICES
*PROJECT DESCRIPTION AND SCOPE OF PROFESSIONAL SERVICES attached to the Agreement as Exhibit "A" is hereby amended to include the services set forth in **Exhibit "A"** attached hereto.*

2. Article 4.00 of the Agreement is hereby amended as follows:

***ARTICLE 4.00 – OBLIGATIONS OF THE CONSULTANT**.*

4.08 USE OF SUB-CONSULTANTS
The list of sub-consultants attached to the Agreement as Exhibit "C" is hereby amended to reflect the following:

The Civil Engineer listed as AVCON Engineers, Inc., is replaced with:

Crawford, Murphy. & Tilly (CMT)
7400 Baymeadows Way, Suite 220
Jacksonville, Florida 32256

3. Article 6.00 of the Agreement is hereby amended as follows:

ARTICLE 6.00 – COMPENSATION AND METHOD OF PAYMENT

6.01 COMPENSATION AND METHOD OF PAYMENT
PROFESSIONAL FEE ALLOCATION attached to the Agreement as Exhibit "D" is hereby amended to include the fees set forth in ***Exhibit "B"*** *attached hereto. Such fees represent compensation due to the Consultant for the sub-contractor services set forth in Exhibit "A" attached to this Amendment 1.*

5. All of the terms and conditions of the Agreement shall remain in full force and effect, and to the extent of any conflict between this Amendment 1 and the Agreement between the parties, this Amendment 1 shall prevail.

IN WITNESS WHEREOF, the parties hereto have set their hands and seal this ____ day of March, 2021.

CITY OF MOUNT DORA

____
CRISSY STILE, MAYOR

ATTEST:

____
Jeanann Hand, City Clerk

For the use and reliance of City of Mount Dora only
Approved as to form and legal sufficiency

____
Sherry G. Sutphen, City Attorney

[Additional signatures on following page]

ARCHITECTS DESIGN GROUP/ADG, INC.

____

Print: SUSAN C. GANTT

Title: SENIOR VICE PRESIDENT

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of [✓] physical presence or [ ] online notarization of Susan C. Gantt, as Sr. Vice President, of ADG, Inc., who personally swore or affirmed that he/she is authorized to execute this Agreement and thereby bind the Corporation, and who is personally known to me or who produced ________________________________ as identification, and who did/did not take an oath this 28th day of December, 2022.

(stamp)

____

NOTARY PUBLIC, State of Florida

NOTARY PUBLIC STATE OF FLORIDA
MERRY LOVERN
MY COMMISSION # HH 109887
EXPIRES: April 18, 2025
Bonded Thru Notary Public Underwriters

Exhibit "A"

(Revisions to Scope of Services Exhibit "A")

Revisions to the Public Works Facility Project are based upon completion of the current design to 60% Building Construction Documents and 90% Site Development Design Documents.

Scope of Activities – 60% Construction Documents:

The layout of the current master plan for the Limit Ave site will be revised to eliminate the Fire Station #34/EOC building, and revise the site to accommodate the warehouse, covered storage building, non-inventory storage buildings, future fuel, and wash stations. In addition, the site entry, grading, infrastructure, and stormwater system will also be revised.

To meet the Mount Dora Design Guidelines, the design of the facility facing Limit Ave. will need to be modified to meet the guideline criteria. This may include adding glazing and rotating the warehouse roof, as well as relocating overhead doors off the front of the building. Modifications to the warehouse and operations building design will also include the addition of approximately 3,600 – 3,800 square feet of administrative office and conference room space. The exterior of this addition shall be designed with materials acceptable to the City's design guidelines and shall be placed in front of the pre-engineered metal building and the roof forms shall be integrated with the exterior of the metal building design.

Exhibit "B"

(Revisions to Compensation and Method of Payment Exhibit "D")

Phase I Services:

1.	Site Analysis & Master Planning	$ 20,000.00
2.	Conceptual Building Design	$ 15,000.00
3.	Community Outreach Program	$ 2,500.00
4.	Estimate of Probable Development Costs	$ 2,500.00
5.	**Total Fee**	**$ 40,000.00**

Phase II: Basic Architectural & Engineering Services:

The professional fees, based on the services and deliverables outlined above, are as follows:

Building Modifications (architectural, MEP/FP)

1.	Schematic Design	$ 40,000.00
2.	Design Development	$ 48,000.00
3.	Construction Documents (90% CDs)	$ 30,800.00
4.	**Total Fee:**	**$ 118,800.00**

Building Additions: (architectural, structural, MEP/FP)

5.	Schematic Design	$ 28,000.00
6.	Design Development	$ 36,000.00
7.	Construction Documents (100% CDs)	$ 25,000.00
8.	**Total Fee:**	**$ 89,000.00**

Phase II: Additional Services:

The professional fees, based on the services and deliverables outlined above, are as follows:

1.	Civil Engineering with allowances	$ 197,976.00
	Less remaining civil engineering contract (CA Post Cons.)	($ 13,272.62)
2.	Landscape Architecture	$ 1,500.00
3.	Security / Audio Visual / Data Distribution Consultant – Modif.	$ 3,500.00
4.	Security / Audio Visual / Data Distribution Consultant – Addition.	$ 2,500.00
5.	Electrical Site Lighting	$ 1,500.00
6.	**Total Fee:**	**$ 193,703.38**

Additional Service Fee:

1.	**Total Fee Request:**	**$ 441,503.38**

510 N. Baker St.
Mount Dora, FL 32757
352-735-7126

DATE: **January 3, 2023**

TO: **Honorable Mayor and City Council Members**

FROM: **Patrick C. Comiskey, City Manager**

SUBJECT: Request Adoption of **Resolution No. 2023-02**, Budget Amendment for WWTP #1 Repairs and Approval of Task Authorization/GMP (Guaranteed Maximum Price) for WWTP# 1 Repairs (Faden Builders)

Introduction:

This is a request for City Council to approve Resolution No. 2023-02, Budget Amendment for WWTP#1 Repairs and the Task Authorization/GMP (Guaranteed Maximum Price) for Wastewater Treatment Plant #1 Repairs with Faden Builders.

Discussion:

City Staff have identified repair items at Wastewater Treatment Plant #1 (WWTP#1). These repair items need to be performed ahead of the Wastewater Treatment Plant #1 Renovation project with Wharton-Smith. Scope of work for the repair items includes removal of soil stockpile, chain link fence replacement, demolition of holding tank and building, and installation of clarifier bracket supports.

Staff identified Citywide CMAR contractor Faden Builders, Inc. to perform the repairs and present for approval the Task Authorization/GMP (Guaranteed Maximum Price) for this work in the amount of $289,070.04, as well as **Resolution No. 2023-02**, authorizing Budget Amendment for WWTP#1 Repairs.

Budget Impact:

Resolution No. 2023-02 authorizes a Budget Amendment for WWTP#1 Repairs.

Strategic Impact:

This project addresses the following strategic goals:
GOAL 2: Infrastructure / Public Safety, Objective 2.4 Sustain City Infrastructure

Recommendation:

Staff recommends City Council approve Resolution No. 2023-02, Budget Amendment for WWTP#1 Repairs and the Task Authorization/GMP (Guaranteed Maximum Price) for WWTP#1 Repairs (Faden Builders).

Attachment(s):

1. 22-034 WWTP#1 Maintenance.Faden Task Authorization Citywide CMAR
2. Reso No. 2023-02 WWTP #1 Maintenance Budget Amendment.SGS

Prepared by:	Merry Lovern , Executive Assistant	
Reviewed by:	Chet Cramer, Project Manager	Approved - 12/21/2022
	Aneta Barton, Budget Director	Approved - 12/21/2022
	Sherry Sutphen, City Attorney	Approved - 12/28/2022
	Jeanann Hand, City Clerk	Approved - 12/28/2022
	Patrick Comiskey, City Manager	Final Approval - 12/28/2022

CITY OF MOUNT DORA/CRA/Northeast CRA
TASK AUTHORIZATION

In accordance with the terms and conditions of the Agreement between Faden Builders, Inc. (Construction Manager) and the City of Mount Dora/CRA/Northeast CRA, dated April 7, 2020, the parties hereto agree to the scope of work, pricing/GMP, schedule, construction team and subcontractors attached hereto.

City Project Manager:
Chet Cramer

Construction Manager Contact:
Philip Rapalje

Project Name:
WWTP#1 Maintenance

Project Number:
22-034

NOTE: THE CONTRACTOR <u>MAY NOT BEGIN WORK</u> UNTIL THIS FULLY SIGNED TASK AUTHORIZATION IS DELIVERED TO THE CONSTRUCTION MANAGER.

SUMMARY OF WORK TO BE COMPLETED	
Each Task Authorization package shall include: Exhibit A – Scope of Work Exhibit B – Price/GMP Breakdown Exhibit C – Basic Schedule Exhibit D – Construction Team Exhibit E – Construction Manager's Staff Exhibit F – Sub-Contractors	
Recommended By: Print: ____________ Signature: ____________	Date: ____________
Reviewed By (if applicable): Print: ____________ Signature: ____________	Date: ____________

CONTRACTOR ACCEPTANCE	CITY APPROVAL
Print Name: TODD M. FADEN	**Print Name:** Crissy Stile
Title: PRESIDENT	**Title:** Mayor
Signature: Todd M Faden	**Signature:**
Date: 12/12/2022	**Date:**

10/20/2022 Faden Proposal No. 22-494

Chet Cramer
Construction Project Manager
City of Mount Dora
510 N Baker Street
Mount Dora, Florida 32757

Project Site: Mount Dora Wastewater Treatment Facility
1111 Overhiser Road, Mount Dora, FL

Exhibit A: Scope of Work

The following is a summary of the scope of work for each task based on information discussed and gathered at our site walk. In addition, The City of Mount Dora engaged Kleinfelder, Inc. to perform an analysis on the soil stockpile that is to be removed from the site.

A. Soil Stockpile Removal
   - Permitting is not required and is excluded
   - Install silt fence around work site
   - Excavate and export the soil stockpiles identified in the Soil Stockpile Analysis Report as SP-1 (approx. 800 cubic yards) and SP-2 (approx. 1,380 cubic yards) located along the east corner of the property.
   - According to the report no hazardous materials were detected in the stockpile. We propose to export to a local landfill.

B. Chain link fence replacement
   - Permit allowance of $1,000 is included
   - Install temporary chain link fence to secure the site while fence is down
   - Remove existing chain link fence along east property line (406 LF)
   - Clear fence line and rough grade for new fence installation
   - Install new 6' galvanized chain link fence with top rail and 3 strands barbed wire (406 LF)
   - Install new 6' galvanized chain link fence with top rail and 3 strands barbed wire (150 LF) after stockpile SP-2 has been cleared and graded

C. Holding tank and building demolition
   - Permit allowance of $1,000 is included
   - Pump water out of holding tank and discharge onto site
   - Demolish abandoned concrete holding tank and adjacent pump building to 24" below grade
   - Disconnect electrical
   - Export up to eleven (11) loads of concrete and rebar debris at $500 each
   - Backfill demolition areas with up to ten (10) loads of clean fill at $320 each
   - Compact and grade
   - Bahia sod 4,000 SF – owner is responsible for watering after install

D. Clarifier Bracket Support at the two operational clarifiers
   - Permitting is not required and is excluded
   - Assumes that one clarifier at a time can be removed from service and drained by the owner for service access from the floor of each
   - Install twenty-two (22) new 316 stainless brackets and hardware to support the trough using the existing all-thread hangers
   - Install eight (8) new ¼" steel plate gussets to support the I-beams carrying the trough brackets
   - We are not aware of any required trough repairs and so that is excluded from this scope

State Cert# CGC 060972
Mailing Address: 1194 Camp Ave. Mount Dora, FL 32757
Offices: 3390 E. Vista Blvd Lake Buena Vista , FL 32830 • 1194 Camp Ave, Mt Dora FL 32757
Phone: 352-735-9805 • Fax: 352-735-9806
www.FadenBuildersinc.com

Scope summary:

1. General Conditions
   a. Project Management and Supervision
   b. Mobilization/Demobilization
2. Site Work
   a. Temporary fencing
   b. Erosion control
   c. Excavation and export
   d. Building demolition and debris export
   e. Grading
   f. Sod (at holding tank and building demo site only)
   g. Final site clean-up
3. Metal
   a. Stainless steel support bracket fabrication and installation
   b. Galvanized gusset plates
   c. Field welding
4. Electrical
   a. Disconnect and safe-off power to demolished building adjacent to the holding tank

Qualifications and Exclusions:

a. Work to be completed 1st shift, M-F, no overtime is included.
b. The scope is limited to the items listed in Exhibit A. Any other added scope items or items required by the AHJ for permitting are excluded and will be charged as a change order.
c. Survey for permit to be provided by the owner.
d. Environmental Assessment is excluded.
e. Geotechnical testing/reports are excluded.
f. Abatement and testing are excluded.
g. Dewatering is excluded.
h. Assumes power and water are available on-site by owner.

Exhibit B: Price/GMP Breakdown

1.	General Conditions	$ 26,808.14
2.	Site Work	$ 175,495.71
3.	Metal Work	$ 24,188.34
4.	Electrical	$ 800.00
	Subtotal	$ 227,292.20
	General Liability Insurance	$ 2,954.80
	Contingency (10%)	$ 22,729.22
	Contractor's Fee	$ 27,275.06
	Permit Fee	$ 2,000.00
	Performance and Payment Bond	$ 6,818.77
	Gross Maximum Price (GMP):	**$ 289,070.04**

FADEN BUILDERS, INC

Alternate Options:

1. Omit holding tank and building demolition scope   Deduct: $ 45,610.00
2. Omit clarifier support bracket and gusset scope   Deduct: $ 24,770.00
3. Omit chain link fence and temp fence scope   Deduct: $ 23,154.00

The prices included in this proposal are valid for 30 days per our material vendors due to steady material price increases.

Exhibit C: Basic Schedule

Procurement will begin promptly after the issuance of the Purchase Order.
Proposed duration schedule:

- 6 weeks for permitting and material fabrication
- 5 workdays for mobilization, erosion control and temp fencing
- 15 workdays for site clearing and building demolition
- 10 workdays for clarifier support bracket and gusset installation (5 workdays each)
- 5 workdays for demobilization

It is understood that Project Management Information System (PMIS) will not be required for this project.

Exhibit D: Construction Team

Owner's Representative: Chet Cramer (City of Mount Dora)
Construction Manager: Todd Faden (Faden Builders)

Exhibit E: Construction Manager's Staff

Principal: Todd Faden
Project Manager: Philip Rapalje
Site Superintendent: Rob Bennett
Staff Accountant: Helen Johnson
Safety Director: Jes Pedersen
Administrative Assistant: Nicole Rakes

Exhibit F: Proposed Sub-Contractors

Fritz Fence
Spencer Fabrications

We appreciate the opportunity to provide this proposal. Please feel free to contact me with any questions.
We look forward to working with you.

Best regards,

Philip Rapalje
Faden Builders, Inc.

State Cert# CGC 060972
Mailing Address: 1194 Camp Ave. Mount Dora, FL 32757
Offices: 3390 E. Vista Blvd Lake Buena Vista , FL 32830 • 1194 Camp Ave, Mt Dora FL 32757
Phone: 352-735-9805 • Fax: 352-735-9806
www.FadenBuildersinc.com

RESOLUTION 2023-02

A RESOLUTION OF THE CITY OF MOUNT DORA, FLORIDA, PERTAINING TO THE WASTEWATER TREATMENT PLANT #1 REPAIR BUDGET AMENDMENT; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR APPROVAL OF FISCAL YEAR 2022-23 BUDGET AMENDMENT; PROVIDING FOR THE IMPLEMENTATION OF ADMINISTRATIVE ACTIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, on September 20, 2022, the City of Mount Dora adopted its final budget for Fiscal Year 2022-2023; and

WHEREAS, in order to perform unexpected repair activities to Wastewater Treatment Plant #1, it is necessary to amend the City's 2022-23 operating budget.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF MOUNT DORA, FLORIDA, AS FOLLOWS:

SECTION 1. Legislative Findings and Intent. The City of Mount Dora has complied with all requirements and procedures of Florida law in processing this Resolution. The above recitals are hereby adopted.

SECTION 2. Approval of Fiscal Year 2022-23 Budget Amendment. The 2022-23 fiscal year budget is hereby amended to appropriate funds in the amount of $289,071.00, in the public works budget that will be used to complete unexpected repairs to Wastewater Treatment Plant #1.

SECTION 3. Implementing Administrative Actions. The City Manager is hereby authorized and directed to take such action as may be deemed necessary and appropriate in order to implement the provisions of this Resolution. The City Manager may, as deemed appropriate, necessary and convenient, delegate the powers of implementation as herein set forth to such City employees as deemed effectual and prudent.

SECTION 4. Savings Clause. All prior actions of the City of Mount Dora pertaining to the budget amendment related to the Wastewater Treatment Plant #1 repairs, as well as any and all matters relating thereto, are hereby ratified and affirmed consistent with the provisions of this Resolution.

SECTION 5. Scrivener's Errors. Typographical errors and other matters of a similar nature that do not affect the intent of this Resolution, as determined by the City Clerk and City Attorney, may be corrected.

SECTION 6. Conflicts. All Resolutions or parts of Resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 7. Severability. If any Section or portion of a Section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Resolution.

SECTION 8. Effective Date. This Resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED this 3rd day of January, 2023.

CRISSY STILE
MAYOR of the City of Mount Dora, Florida

ATTEST:

Jeanann Hand
City Clerk

For the use and reliance of City of Mount Dora only.
Approved as to form and legal sufficiency.

Sherry G. Sutphen
City Attorney

510 N. Baker St.
Mount Dora, FL 32757
352-735-7126

DATE: **January 3, 2023**

TO: **Honorable Mayor and City Council Members**

FROM: **Patrick C. Comiskey, City Manager** Patrick C. Comiskey

SUBJECT: Request Approval of Task Authorization/GMP (Guaranteed Maximum Price) for Pickleball Courts at Summerview Park (Faden)

Introduction:

This is a request for City Council to approve the Task Authorization/GMP for the Pickleball Courts at Summerview Park with Faden Builders, Inc.

Discussion:

Like many cities across the country, Mount Dora has developed an active pickleball community often seen filling the existing three pickleball courts at Donnelly Park. Due to the popularity and growth of the sport, these courts are no longer adequate to meet the needs of the community. The 2019 Parks and Recreation Master Plan includes the addition of pickleball courts to be funded by Parks Impact Fees by 2023.

Location options have been considered for additional pickleball courts, with newly-opened Summerview Park becoming a frontrunner. The park offers a large green space area that is not currently identified for a specific use, and includes pavilions, restroom facilities, and 41 parking spaces, all of which would be of benefit to pickleball players. The Summerview Community across Niles Road contains 260 houses that will have direct access to this park. The park is also in an area identified for future growth.

Based on these factors, City staff requested and received approval from City Council on March 1, 2022, to move forward with design of the project at Summerview Park, to include six (6) pickleball courts. City Council subsequently approved funding in the amount of $600,000 from Parks Impact Fees to be earmarked for the Pickleball Courts at Summerview Park via Resolution No. 2022-25.

Staff engaged Citywide CMAR Evergreen Construction, which was later acquired by Faden Builders, Inc., also an approved Citywide CMAR contractor. Faden assumed the Summerview Pickleball Courts project, keeping the same team assigned to the project. Once construction drawings were complete (see Attachment #1), Faden completed competitive bidding and presents the proposed Task Authorization/GMP in the amount of $366,900. The proposed task authorization includes six (6) pickleball courts, conduit placed for future lighting, and fabric windscreen on the perimeter fencing. Following feedback and with additional monies available, Staff are moving forward with a photometric study and lighting for the courts, which will be brought back to Council as separate items.

Budget Impact:

Funding in the amount of $592,900 is available for this project in GL# 310-5555-580.63-01-PK2221.

Strategic Impact:

This project meets several goals and objectives in the City's Strategic Plan: *Goal 1: Economic Development* - attracting new residential development and promoting tourism and *Goal 2: Infrastructure/Public Safety, Objective 2.3* - developing a parks and recreation system guided by the principles of the Parks and Recreation Master Plan.

Recommendation:

City Council approve the Task Authorzation/GMP for Pickleball Courts at Summerview Park with Faden Builders, Inc.

Attachment(s):

1. Attachment 1 - Summerview Park Pickleball Court Construction Drawings
2. 22-027 Summerview Park Pickleball Courts Faden Task Authorization Citywide CMAR.SGS

Prepared by:	Merry Lovern , Executive Assistant	
Reviewed by:	Chet Cramer, Project Manager	Approved - 12/21/2022
	Troy Shonk, Parks & Recreation Director	Approved - 12/21/2022
	Aneta Barton, Budget Director	Approved - 12/21/2022
	Sherry Sutphen, City Attorney	Approved - 12/28/2022
	Jeanann Hand, City Clerk	Approved - 12/28/2022
	Patrick Comiskey, City Manager	Final Approval - 12/28/2022

SUMMERVIEW PARK
PICKLEBALL COURT
CIVIL ENGINEERING PLANS

PROJECT TEAM

CIVIL ENGINEERING
GERMANA ENGINEERING AND ASSOCIATES, LLC.
CONTACT: CHRISTOPHER M. GERMANA, PE
1120 WEST MINNEOLA AVENUE
CLERMONT, FLORIDA 34711
(352) 242-9329

SURVEYING
DONOGHUE CONSTRUCTION LAYOUT
CONTACT: RYAN DONOGHUE, PLS
711 TURNBULL AVENUE
ALTAMONTE SPRINGS, FLORIDA 32701
(321) 248-7979

OWNER/DEVELOPER
CITY OF MOUNT DORA
CONTACT: CHET CRAMER
510 N. BAKER STREET
MOUNT DORA, FLORIDA 32757
(352) 901-7805

GENERAL NOTE

THE PLANS WERE PREPARED ACCORDING TO AVAILABLE INFORMATION BASED ON THE CONDITIONS AS THEY EXISTED AT THE TIME OF PLAN PREPARATION. THE CONDITIONS OF THE PROPERTY MAY HAVE CHANGED SINCE PROJECT DESIGN. THE CONTRACTOR SHALL VERIFY AND CONFIRM ALL EXISTING CONDITIONS AND SHALL CONTACT THE PROJECT ENGINEER IMMEDIATELY IF CONDITIONS HAVE CHANGED FROM WHEN THE PLANS WERE PREPARED.

ACCESSIBILITY NOTE

THE SITE SHALL COMPLY WITH THE FLORIDA BUILDING CODE (FBC) 2020 ACCESSIBILITY CODE.

VICINITY MAP

SUMMERVIEW PARK

SECTION 27, TOWNSHIP 19 SOUTH, RANGE 27 EAST

SHEET LIST

C1	COVER SHEET
C2	CONSTRUCTION NOTES
C3	DEMOLITION PLAN
C4	SITE PLAN
C5	GRADING PLAN
C6	EROSION CONTROL PLAN
C7	CONSTRUCTION DETAILS

DATUM NOTE

ELEVATIONS SHOWN ON THE PLAN SET WERE DERIVED FROM SITE BENCHMARKS. NO DATUM PROVIDED BY SURVEY.

PERMIT NOTE

SEPERATE PERMITS ARE REQUIRED FOR THE FOLLOWING (IF APPLICABLE):

- CONSTRUCTION TRAILERS
- LIFT STATIONS
- RETAINING WALLS
- ACCESS GATES
- GENERATORS
- AWNINGS
- ETC.
- DUMPSTER ENCLOSURES
- SIGNS
- ENTRY WALL FEATURES
- SITE LIGHTING
- FENCES
- WALK-IN COOLERS

PICKLEBALL COURT
SUMMERVIEW PARK
PROJECT # GE0452022
MOUNT DORA, FLORIDA
ISSUE DATE: 10-20-2022

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IT'S THE LAW! DIAL 811
811 Know what's below. Call before you dig.
SUNSHINE STATE ONE CALL OF FLORIDA, INC.

GERMANA ENGINEERING AND ASSOCIATES, LLC
ENGINEERING FIRM REGISTRY: 29279
1120 WEST MINNEOLA AVENUE
CLERMONT, FLORIDA 34711
PHONE: (352) 242-9329
WWW.GERMANAENGINEERING.COM

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11-03-22
CHRISTOPHER M. GERMANA, P.E.
FLORIDA PROFESSIONAL ENGINEER # 61682
ENGINEERING FIRM REGISTRY # 29279

DRAINAGE SYSTEMS

THE CONTRACTOR SHALL PERFORM ALL WORK PERTAINING TO DRAINAGE INCLUDING EXCAVATION OF STORMWATER POND PRIOR TO THE COMMENCEMENT OF OTHER WORK INCLUDED IN THESE PLANS. THE DRAINAGE FACILITIES SHALL BE MAINTAINED BY THE CONTRACTOR DURING THE COURSE OF THIS CONTRACT. THE CONTRACTOR SHALL INCLUDE FUNDS IN THE DRAINAGE COSTS OF THE CONTRACT TO OPERATE AND MAINTAIN THE DRAINAGE SYSTEMS DURING THE WORK PROCESS.

PERMITS AND PERMIT REQUIREMENTS

THE CONTRACTOR SHALL OBTAIN FROM THE OWNER COPIES OF ALL REGULATORY AND LOCAL AGENCY PERMITS. THE CONTRACTOR SHALL BE EXPECTED TO REVIEW AND ABIDE BY ALL THE REQUIREMENTS AND LIMITATIONS SET FORTH IN THE PERMITS. A COPY OF THE PERMIT SHALL BE KEPT ON THE JOB AT ALL TIMES.

LAYOUT AND CONTROL

UNLESS OTHERWISE NOTED ON THE PLANS, THE CONTRACTOR SHALL PROVIDE FOR THE LAYOUT OF ALL THE WORK TO BE CONSTRUCTED. BENCHMARK INFORMATION SHALL BE PROVIDED TO THE CONTRACTOR BY THE OWNER OR OWNER'S SURVEYOR. ANY DISCREPANCIES BETWEEN FIELD MEASUREMENTS AND CONSTRUCTION PLAN INFORMATION SHALL BE BROUGHT TO THE ATTENTION OF THE ENGINEER IMMEDIATELY.

QUALITY CONTROL TESTING REQUIREMENTS

ALL TESTING RESULTS SHALL BE PROVIDED TO THE OWNER/OPERATOR AND THE ENGINEER. TESTING REQUIREMENTS ARE TO BE IN ACCORDANCE WITH THE OWNER/OPERATOR'S SPECIFICATIONS AND REQUIREMENTS. ALL TEST RESULTS SHALL BE PROVIDED (PASSING AND FAILING) ON A REGULAR AND IMMEDIATE BASIS. CONTRACTOR SHALL PROVIDE TESTING SERVICES THROUGH A FLORIDA LICENSED GEOTECHNICAL ENGINEERING FIRM ACCEPTABLE TO THE OWNER AND THE ENGINEER. CONTRACTOR TO SUBMIT TESTING FIRM TO OWNER FOR APPROVAL PRIOR TO COMMENCING TESTING.

SHOP DRAWINGS

SHOP DRAWINGS AND CERTIFICATIONS FOR ALL STORM DRAINAGE, WATER SYSTEM, SEWER SYSTEM, AND PAVING SYSTEM MATERIALS AND STRUCTURES ARE REQUIRED. THE CONTRACTOR SHALL SUBMIT SHOP DRAWINGS TO THE ENGINEER FOR APPROVAL PRIOR TO ORDERING THE MATERIALS REQUIRED FOR CONSTRUCTION.

EARTHWORK

EARTHWORK QUANTITIES

THE CONTRACTOR SHALL PERFORM HIS OWN INVESTIGATIONS AND CALCULATIONS AS NECESSARY TO ASSURE HIMSELF OF EARTHWORK QUANTITIES. THERE IS NO IMPLICATION THAT EARTHWORK BALANCES, AND THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY IMPORT FILL NEEDED, OR FOR REMOVAL AND DISPOSAL OF EXCESS MATERIALS.

EROSION CONTROL

EROSION AND SILTRATION CONTROL MEASURES ARE TO BE PROVIDED AND INSTALLED PRIOR TO COMMENCEMENT OF CONSTRUCTION. THESE MEASURES ARE TO BE INSPECTED BY THE CONTRACTOR ON A REGULAR BASIS AND ARE TO BE MAINTAINED OR REPAIRED ON AN IMMEDIATE BASIS AS REQUIRED. REFER TO WATER MANAGEMENT DISTRICT PERMIT FOR ADDITIONAL REQUIREMENTS FOR EROSION CONTROL AND SURFACE DRAINAGE. ALL AREAS DISTURBED DURING CONSTRUCTION SHALL BE STABILIZED WITH SOD WITHIN 7 DAYS OF COMPLETION OF CONSTRUCTION. SOD SHALL BE THE SAME VARIETY OF EXISTING SOD

LIMITS OF DISTURBANCE

AT NO TIME SHALL THE CONTRACTOR DISTURB SURROUNDING PROPERTIES OR TRAVEL ON SURROUNDING PROPERTIES WITHOUT WRITTEN CONSENT FROM THE PROPERTY OWNER. REPAIR OR RECONSTRUCTION OF DAMAGED AREAS ON SURROUNDING PROPERTIES SHALL BE PERFORMED BY THE CONTRACTOR ON AN IMMEDIATE BASIS. ALL COSTS FOR REPAIRS SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR AND NO EXTRA COMPENSATION SHALL BE PROVIDED. GRADING AND/OR CLEARING ON PROPERTIES OTHER THAN SHOWN ON THE APPROVED PLANS IS PROHIBITED.

TREE REMOVAL

THE CONTRACTOR SHALL NOTIFY THE OWNER AND THE ENGINEER WHEN ALL WORK IS LAID OUT (SURVEY STAKED), SO THAT A DETERMINATION MAY BE MADE OF SPECIFIC TREES TO BE REMOVED. NO TREES ON THE CONSTRUCTION PLANS AS BEING SAVED SHALL BE REMOVED WITHOUT PERMISSION FROM THE OWNER AND ENGINEER.

CLEARING AND GRUBBING

THE CONTRACTOR SHALL BE RESPONSIBLE FOR CLEARING AND GRUBBING FOR SITE CONSTRUCTION INCLUDING CLEARING FOR PAVING, UTILITIES, DRAINAGE FACILITIES AND BUILDING CONSTRUCTION. ALL AREAS TO BE CLEARED SHALL BE FIELD STAKED AND REVIEWED BY THE OWNER AND ENGINEER PRIOR TO ANY CONSTRUCTION.

MATERIAL STORAGE/DEBRIS REMOVAL

1. NO COMBUSTIBLE BUILDING MATERIALS MAY BE ACCUMULATED ON THE SITE AND NO CONSTRUCTION WORK INVOLVING COMBUSTIBLE MATERIALS MAY BEGIN UNTIL INSTALLATION OF ALL REQUIRED WATER MAINS AND FIRE HYDRANTS HAVE BEEN COMPLETED, DEP APPROVAL RECEIVED FOR THE WATER MAINS, AND THE HYDRANTS ARE IN OPERATION. CONSTRUCTION WORK INVOLVING NON-COMBUSTIBLE MATERIALS, SUCH AS CONCRETE, MASONRY AND STEEL MAY BEGIN PRIOR TO THE FIRE HYDRANTS BEING OPERATIONAL.

2. ALL MATERIALS EXCAVATED SHALL REMAIN THE PROPERTY OF THE OWNER AND SHALL BE STOCKPILED AT ON-SITE LOCATIONS AS SPECIFIED BY THE OWNER. MATERIALS SHALL BE STOCKPILED SEPARATELY AS TO USABLE (NON-ORGANIC) FILL STOCKPILES AND ORGANIC (MUCK) STOCKPILES IF MUCK IS ENCOUNTERED. CONTRACTOR SHALL BE RESPONSIBLE FOR THE REMOVAL OF ALL UNSUITABLE FILL MATERIALS FROM THE SITE. ALL CLAY ENCOUNTERED SHALL BE EXCAVATED OUT AND REPLACED WITH CLEAN GRANULAR FILL MATERIALS.

FILL MATERIAL

ALL MATERIALS SHALL CONTAIN NO MUCK, STUMPS, ROOTS, BRUSH, VEGETATIVE MATTER, RUBBISH OR OTHER MATERIAL THAT WILL NOT COMPACT INTO A SUITABLE AND ENDURING BACKFILL. FILL SHALL BE CLEAN, NON-ORGANIC, GRANULAR MATERIAL WITH NOT MORE THAN 10% PASSING THE NO. 200 SIEVE.

COMPACTION

FILL MATERIALS PLACED UNDER ROADWAYS SHALL BE COMPACTED TO AT LEAST 98% OF THE MAXIMUM DENSITY AS SPECIFIED IN AASHTO T-180. ALL OTHER FILL AREAS ARE TO BE COMPACTED TO AT LEAST 95% MAXIMUM DENSITY AS SPECIFIED IN AASHTO T-180. FILL MATERIALS SHALL BE PLACED AND COMPACTED IN A MAXIMUM OF 12" LIFTS. THE CONTRACTOR SHALL PROVIDE THE ENGINEER AND OWNER WITH ALL (PASSING AND FAILING) TESTING RESULTS. RESULTS SHALL BE PROVIDED ON A TIMELY AND REGULAR BASIS PRIOR TO CONTRACTOR'S PAY REQUEST SUBMITTAL FOR THE AFFECTED WORK.

PAVEMENT AND/OR ROAD AND RIGHT-OF-WAY WORK

GENERAL DESIGN INTENT

ALL PAVING SURFACES IN INTERSECTIONS AND ADJACENT SECTIONS SHALL BE GRADED TO DRAIN POSITIVELY IN THE DIRECTION SHOWN BY THE FLOW ARROWS ON THE PLANS AND TO PROVIDE A SMOOTHLY TRANSITIONED DRIVING SURFACE FOR VEHICLES WITH NO SHARP BREAKS IN GRADE, AND NO UNUSUALLY STEEP OR REVERSE CROSS SLOPES. APPROACHES TO INTERSECTIONS AND ENTRANCE AND EXIT GRADES TO INTERSECTIONS WILL HAVE TO BE STAKED IN THE FIELD AT DIFFERENT GRADES THAN THE CENTERLINE GRADES TO ACCOMPLISH THE PURPOSES OUTLINED. IN ADDITION, THE STANDARD CROWN WILL HAVE TO BE CHANGED IN ORDER TO DRAIN POSITIVELY IN THE AREA OF INTERSECTIONS. IT IS THE CONTRACTOR'S RESPONSIBILITY TO ACCOMPLISH THE ABOVE AND THE ENGINEER SHALL BE CONSULTED SO THAT HE MAY MAKE ANY AND ALL REQUIRED INTERPRETATIONS OF THE PLANS OR GIVE SUPPLEMENTARY INSTRUCTION TO ACCOMPLISH THE INTENT OF THE PLANS.

MATERIALS/CONSTRUCTION SPECIFICATIONS

MATERIALS AND CONSTRUCTION METHODS FOR THE ROADWAY CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION LATEST EDITION.

PAVEMENT SECTION REQUIREMENTS

CONSTRUCTION OF ROADWAY, SUBGRADE PREPARATION, AND PAVEMENT INSTALLATION SHALL CONFORM TO FDOT STANDARDS AND SOILS REPORT RECOMMENDATIONS UNLESS OTHERWISE NOTED IN THE CONSTRUCTION DOCUMENTS.

SIDEWALKS

SIDEWALKS ARE TO BE CONSTRUCTED IN THE AREA AS SHOWN ON THE CONSTRUCTION PLANS. SIDEWALK SHALL BE CONSTRUCTED OF 4 INCHES OF CONCRETE WITH A 28 DAY COMPRESSION STRENGTH OF 2500 PSI. JOINTS SHALL BE EITHER TOOLED OR SAWCUT AT A DISTANCE OF 5' LENGTHS, HANDICAPPED RAMPS SHALL BE PROVIDED AT ALL INTERSECTIONS AND BE IN ACCORDANCE WITH STATE REGULATIONS FOR HANDICAP ACCESSIBILITY.

SITE ACCESS

ALL ACCESS TO THE JOB SITE FOR CONSTRUCTION AND RELATED ACTIVITIES SHALL BE BY EXISTING STREETS AND ROADS.

LANDSCAPING

PROVIDE MINIMUM 5' SEPARATION FROM UTILITIES AND TREES WITH INVASIVE ROOT SYSTEMS.

BID COPY
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11-03-22

CHRISTOPHER M. GERMANA, P.E.
FLORIDA PROFESSIONAL ENGINEER # 61682
ENGINEERING FIRM REGISTRY # 29279

No.	REVISIONS	DATE

CONSTRUCTION NOTES

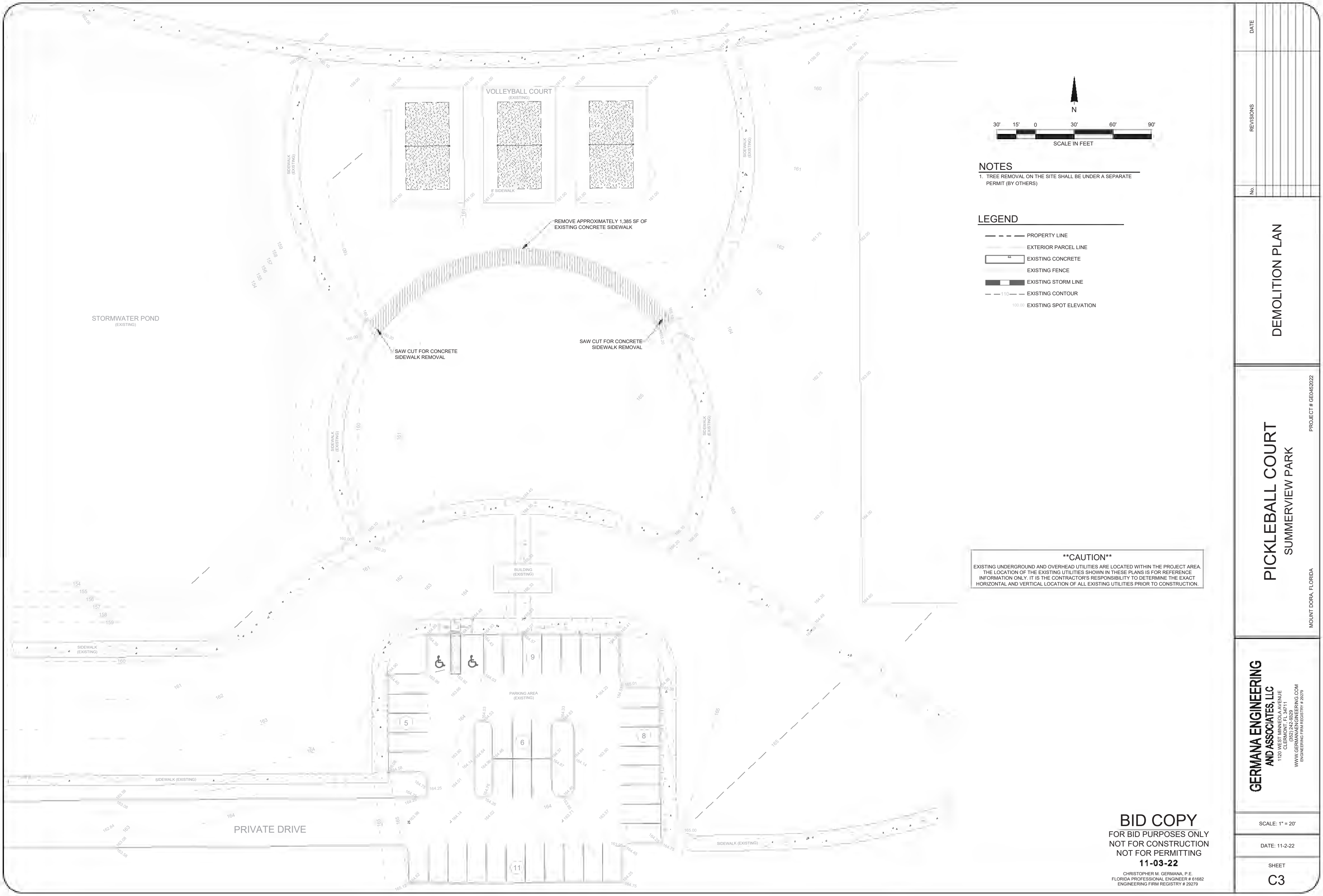
PICKLEBALL COURT
SUMMERVIEW PARK
MOUNT DORA, FLORIDA
PROJECT # GE0452022

GERMANA ENGINEERING
AND ASSOCIATES, LLC
1120 WEST MINNEOLA AVENUE
CLERMONT, FL 34711
(352) 242-9329
WWW.GERMANAENGINEERING.COM
ENGINEERING FIRM REGISTRY # 29279

SCALE: NTS

DATE: 11-2-22

SHEET
C2


VOLLEYBALL COURT
(EXISTING)
REMOVE APPROXIMATELY 1,385 SF OF
EXISTING CONCRETE SIDEWALK
SAW CUT FOR CONCRETE
SIDEWALK REMOVAL
SAW CUT FOR CONCRETE
SIDEWALK REMOVAL
STORMWATER POND
(EXISTING)
BUILDING
(EXISTING)
PARKING AREA
(EXISTING)
SIDEWALK (EXISTING)
PRIVATE DRIVE
N
30' 15' 0 30' 60' 90'
SCALE IN FEET
NOTES
1. TREE REMOVAL ON THE SITE SHALL BE UNDER A SEPARATE PERMIT (BY OTHERS)
LEGEND
PROPERTY LINE
EXTERIOR PARCEL LINE
EXISTING CONCRETE
EXISTING FENCE
EXISTING STORM LINE
EXISTING CONTOUR
EXISTING SPOT ELEVATION
CAUTION
EXISTING UNDERGROUND AND OVERHEAD UTILITIES ARE LOCATED WITHIN THE PROJECT AREA. THE LOCATION OF THE EXISTING UTILITIES SHOWN IN THESE PLANS IS FOR REFERENCE INFORMATION ONLY. IT IS THE CONTRACTOR'S RESPONSIBILITY TO DETERMINE THE EXACT HORIZONTAL AND VERTICAL LOCATION OF ALL EXISTING UTILITIES PRIOR TO CONSTRUCTION.
BID COPY
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11-03-22
CHRISTOPHER M. GERMANA, P.E.
FLORIDA PROFESSIONAL ENGINEER # 61682
ENGINEERING FIRM REGISTRY # 29279
DATE
REVISIONS
No.
DEMOLITION PLAN
PICKLEBALL COURT
SUMMERVIEW PARK
MOUNT DORA, FLORIDA
PROJECT # GE0452022
GERMANA ENGINEERING
AND ASSOCIATES, LLC
SCALE: 1" = 20'
DATE: 11-2-22
SHEET
C3

NOTES

1. THE SITE CONSTRUCTION STAKEOUT SHALL BE PERFORMED UNDER THE DIRECTION OF A FLORIDA REGISTERED SURVEYOR. AUTOCAD FILE WILL BE PROVIDED TO AID IN THE SITE CONSTRUCTION STAKEOUT. ANY DISCREPANCIES FOUND BETWEEN THE AUTOCAD FILES SHALL BE BROUGHT TO THE ENGINEERS ATTENTION FOR CLARIFICATION PRIOR TO THAT STAKEOUT.
2. PROJECT SITE SHALL COMPLY WITH THE FLORIDA ACCESSIBILITY CODE FOR BUILDING CONSTRUCTION (FBC) 2020 EDITION.

SCALE IN FEET: 30' 15' 0 30' 60' 90'

N

LEGEND

PROPERTY LINE
EXTERIOR PARCEL LINE
EXISTING CONCRETE
PROPOSED CONCRETE

SITE DATA

1. SITE AREA = 491,812 SF / 11.29 AC
2. SITE LOCATION
   1600 NILES ROAD
   MOUNT DORA, FLORIDA 32757
   SECTION 27, TOWNSHIP 19 SOUTH, RANGE 27 EAST
3. SITE DESCRIPTION
   ALT KEY: 1124298 (CITY OF MT. DORA)
   ZONING: PUD (SUMMERVIEW AT WOLF CREEK RIDGE)
   FLU: RECREATION

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CHRISTOPHER M. GERMANA, P.E.
FLORIDA PROFESSIONAL ENGINEER # 61682
ENGINEERING FIRM REGISTRY # 29279

No.	REVISIONS	DATE

SHEET C4

SCALE: 1" = 20'

DATE: 11-2-22

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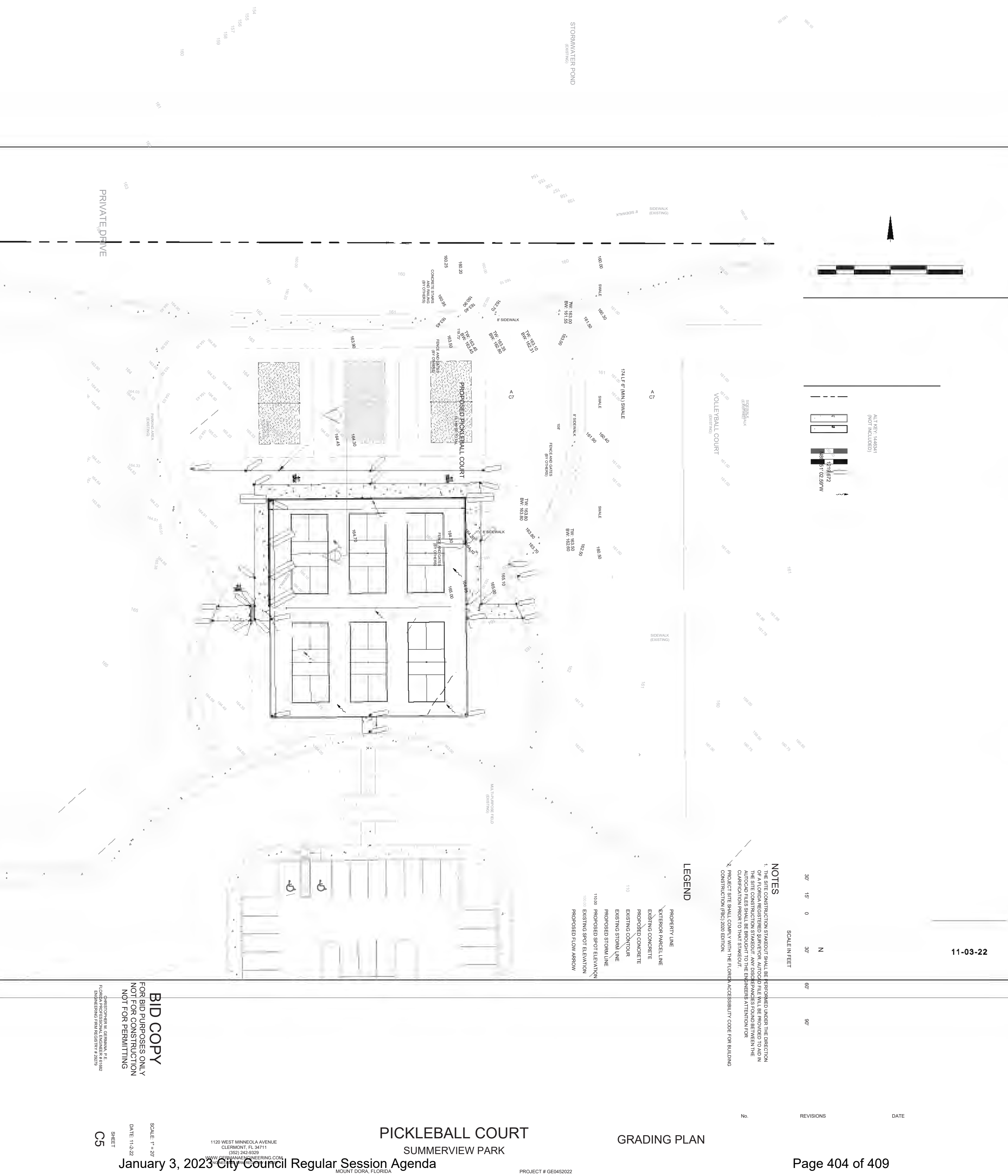
MOUNT DORA, FLORIDA

PICKLEBALL COURT

SUMMERVIEW PARK

SITE PLAN

PROJECT # GE0452022


STORMWATER POND
PRIVATE DRIVE
PROPOSED PICKLEBALL COURT
VOLLEYBALL COURT
174 LF 6" (MIN) SWALE
8' SIDEWALK
FENCE AND GATES (BY OTHERS)
NOTES
1. THE SITE CONSTRUCTION STAKEOUT SHALL BE PERFORMED UNDER THE DIRECTION OF A FLORIDA REGISTERED SURVEYOR. AUTOCAD FILE WILL BE PROVIDED TO AID IN THE SITE CONSTRUCTION STAKEOUT. ANY DISCREPANCIES FOUND BETWEEN THE AUTOCAD FILES SHALL BE BROUGHT TO THE ENGINEERS ATTENTION FOR CLARIFICATION PRIOR TO THAT STAKEOUT.
2. PROJECT SITE SHALL COMPLY WITH THE FLORIDA ACCESSIBILITY CODE FOR BUILDING CONSTRUCTION (FBC) 2020 EDITION.
LEGEND
PROPERTY LINE
EXTERIOR PARCEL LINE
EXISTING CONCRETE
PROPOSED CONCRETE
EXISTING CONTOUR
EXISTING STORM LINE
PROPOSED STORM LINE
PROPOSED SPOT ELEVATION
EXISTING SPOT ELEVATION
PROPOSED FLOW ARROW
SCALE IN FEET
11-03-22
BID COPY
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NOT FOR PERMITTING
CHRISTOPHER M. GERMANA, P.E.
No.
REVISIONS
DATE
PICKLEBALL COURT
SUMMERVIEW PARK
MOUNT DORA, FLORIDA
GRADING PLAN
PROJECT # GE0452022
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CLERMONT, FL 34711
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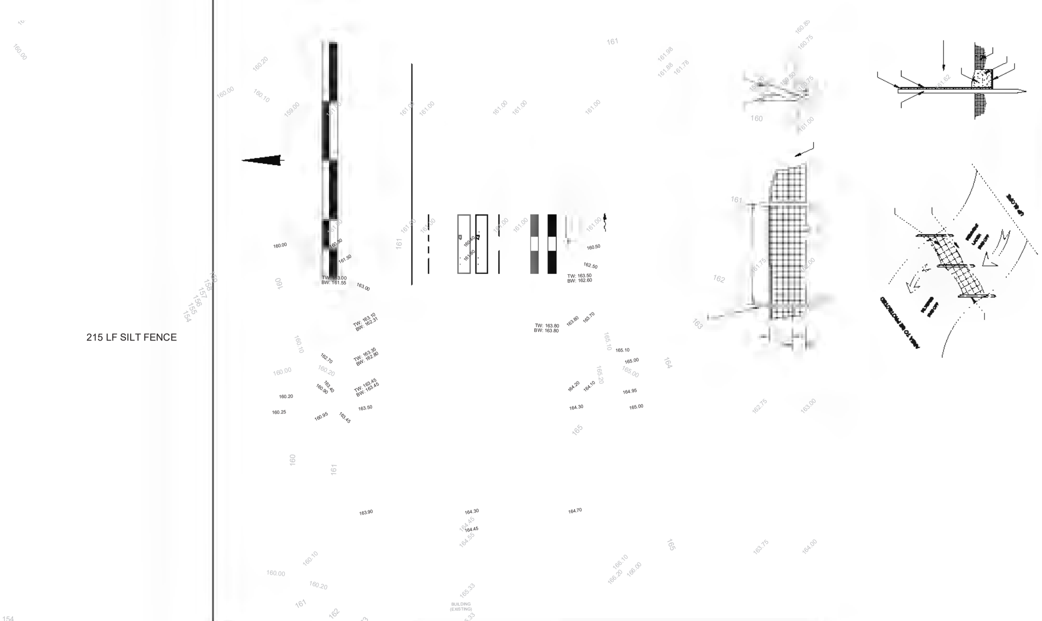
SCALE: 1" = 20'
DATE: 11-2-22
SHEET
C5



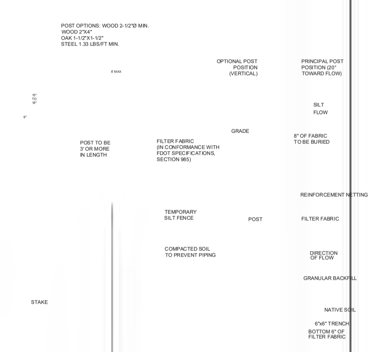
N

30' 15' 0 30' 60' 90'

SCALE IN FEET

LEGEND

- PROPERTY LINE
- EXTERIOR PARCEL LINE
- EXISTING CONCRETE
- PROPOSED CONCRETE
- 110 PROPOSED CONTOUR
- 110 EXISTING CONTOUR
- EXISTING STORM LINE
- PROPOSED STORM LINE
- 110.00 PROPOSED SPOT ELEVATION
- 100.00 EXISTING SPOT ELEVATION
- PROPOSED FLOW ARROW



SILT FENCE
NTS

EROSION CONTROL NOTES

STORMWATER POLLUTION PREVENTION PLAN

1. ATTENTION IS DRAWN TO THE FACT THAT THIS PROJECT IS PERMITTED UNDER THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION GENERIC PERMIT FOR STORMWATER DISCHARGE FROM LARGE AND SMALL CONSTRUCTION ACTIVITIES. IT IS THE CONTRACTOR'S RESPONSIBILITY TO BE FAMILIAR WITH THE REQUIREMENTS OF THIS PERMIT, AND TO UNDERTAKE ANY MEASURES NECESSARY TO COMPLY WITH SAID REQUIREMENTS.
2. IT MAY BE NECESSARY, DUE TO WEATHER CONDITIONS, PHASING OF CONSTRUCTION ACTIVITIES, QUANTITY AND TYPE OF MATERIALS, ETC., TO TAKE ADDITIONAL MEASURES TO COMPLY WITH THE N.P.D.E.S. PERMIT THAT ARE NOT OUTLINED IN THESE PLANS. THE CONTRACTOR IS FULLY RESPONSIBLE FOR IMPLEMENTATION OF WHATEVER MEANS ARE NECESSARY TO PREVENT THE DISCHARGE OF POLLUTANTS, INCLUDING BUT NOT LIMITED TO TURBID WATER RUNOFF, AND FUGITIVE AIRBORNE PARTICULATE POLLUTANTS.
3. THE CONTRACTOR IS FURTHER ADVISED THAT A SEPARATE STORMWATER POLLUTION PREVENTION PLAN (S.W.P.P.P.) HAS BEEN PREPARED FOR THIS PROJECT AND IS HEREBY MADE PART OF THE CONSTRUCTION DOCUMENTS.
4. THIS INFORMATION REPRESENTS THE MINIMUM AMOUNT OF EROSION AND SEDIMENT CONTROL MEASURES, IN THE OPINION OF THE ENGINEER, THAT MAY BE NECESSARY FOR ANY ADDITIONAL MEASURES OR PRACTICES THAT MAY BE NECESSARY TO CONTROL EROSION, TURBID DISCHARGE, FUGITIVE PARTICULATES, ETC. TO FULLY COMPLY WITH ALL GOVERNMENTAL RULES AND/OR PERMIT REQUIREMENTS.

GENERAL NOTES

1. THE FOLLOWING LIST REPRESENTS A BASIC EROSION AND SEDIMENT CONTROL PROGRAM WHICH IS TO BE IMPLEMENTED TO HELP PREVENT OFF-SITE SEDIMENTATION DURING AND AFTER CONSTRUCTION OF THE PROJECT.
2. TEMPORARY EROSION CONTROL TO BE UTILIZED DURING CONSTRUCTION AT AREAS DESIGNATED BY THE ENGINEER OR AREAS ON SITE WHERE UNSTABILIZED GRADES MAY CAUSE EROSION PROBLEMS. EROSION CONTROL MAY BE REMOVED AFTER UPSLOPE AREA HAS BEEN STABILIZED BY SOD, OR COMPACTED AS DETERMINED BY THE ENGINEER.
3. PERMANENT EROSION AND SEDIMENT CONTROL MEASURES SHALL BE INSTALLED AT THE EARLIEST PRACTICAL TIME CONSISTENT WITH GOOD CONSTRUCTION PRACTICES. ONE OF THE FIRST CONSTRUCTION ACTIVITIES SHOULD BE THE PLACEMENT OF PERMANENT AND TEMPORARY EROSION AND SEDIMENT CONTROL MEASURES AROUND THE PERIMETER OF THE PROJECT OR THE INITIAL WORK AREA TO PROTECT THE PROJECT, ADJACENT PROPERTIES AND WATER RESOURCES.
4. TEMPORARY EROSION AND SEDIMENT CONTROL MEASURES SHALL BE COORDINATED WITH PERMANENT MEASURES TO ASSURE ECONOMICAL, EFFECTIVE, AND CONTINUOUS CONTROL THROUGHOUT THE CONSTRUCTION PHASE. TEMPORARY MEASURES SHALL NOT BE CONSTRUCTED FOR EXPEDIENCY IN LIEU OF PERMANENT MEASURES.
5. EROSION AND SEDIMENT CONTROL MEASURES SHALL BE ADEQUATELY MAINTAINED TO PERFORM THEIR INTENDED FUNCTION DURING CONSTRUCTION OF THE PROJECT.
6. NECESSARY REPAIRS TO BARRIERS OR REPLACEMENT OF BARRIERS SHALL BE ACCOMPLISHED PROMPTLY.
7. SEDIMENT DEPOSITS SHOULD BE REMOVED AFTER EACH RAINFALL. THEY MUST BE REMOVED WHEN THE LEVEL OF DEPOSITION REACHES APPROXIMATELY ONE HALF THE HEIGHT OF THE BARRIER.
8. MATERIAL FROM SEDIMENT TRAPS SHALL NOT BE STOCKPILED OR DISPOSED OF IN A MANNER WHICH MAKES THEM READILY SUSCEPTIBLE TO BEING WASHED INTO ANY WATERCOURSE BY RUNOFF OR HIGH WATER.
9. ANY SEDIMENT DEPOSITS REMAINING IN PLACE AFTER THE BARRIERS ARE NO LONGER REQUIRED SHALL BE DRESSED TO CONFORM TO THE EXISTING GRADE, PREPARED, AND SEEDED.

SEDIMENT FENCE

1. THE SEDIMENT BARRIER UTILIZES STANDARDS STRENGTH OR EXTRA STRENGTH SYNTHETIC FILTER FABRICS. IT IS DESIGNED FOR SITUATIONS IN WHICH ONLY SHEET OR OVERLAND FLOWS ARE EXPECTED.
2. THE HEIGHT OF A SEDIMENT FENCE SHALL NOT EXCEED 36-INCHES (HIGHER FENCES MAY IMPOUND VOLUMES OF WATER SUFFICIENT TO CAUSE FAILURE OF THE STRUCTURE).
3. THE FILTER FABRIC SHALL BE PURCHASED IN A CONTINUOUS ROLL CUT TO THE LENGTH OF THE BARRIER TO AVOID THE USE OF JOINTS. WHEN JOINTS ARE NECESSARY, FILTER CLOTH SHALL BE SPLICED TOGETHER ONLY AT A SUPPORT POST, WITH A MINIMUM 6-INCH OVERLAP, AND SECURELY SEALED.
4. POSTS SHALL BE SPACED A MAXIMUM OF 10 FEET APART AT THE BARRIER LOCATION AND DRIVEN SECURELY INTO THE GROUND (MINIMUM OF 12 INCHES). WHEN EXTRA STRENGTH FABRIC IS USED WITHOUT THE WIRE SUPPORT FENCE, POST SPACING SHALL NOT EXCEED 6 FEET.
5. A TRENCH SHALL BE EXCAVATED APPROXIMATELY 4 INCHES WIDE AND 4 INCHES DEEP ALONG THE LINE OF POSTS AND UPSLOPE FROM THE BARRIER.
6. WHEN STANDARD STRENGTH FILTER FABRIC IS USED, A WIRE MESH SUPPORT FENCE SHALL BE FASTENED SECURELY TO THE UPSLOPE SIDE OF THE POSTS USING HEAVY DUTY WIRE STAPLES AT LEAST 1-INCH LONG, TIE WIRES, OR HOG RINGS. THE WIRE SHALL EXTEND INTO THE TRENCH A MINIMUM OF 2 INCHES AND SHALL NOT EXTEND MORE THAN 36 INCHES ABOVE THE ORIGINAL GROUND SURFACE.
7. THE STANDARD STRENGTH FILTER FABRIC SHALL BE STAPLES OR WIRED TO THE FENCE, AND 8-INCHES OF THE FABRIC SHALL BE EXTENDED INTO THE TRENCH. THE FABRIC SHALL NOT EXTEND MORE THAN 36 INCHES ABOVE THE ORIGINAL GROUND SURFACE. FILTER FABRIC SHALL NOT BE STAPLED TO EXISTING TREES.
8. WHEN EXTRA STRENGTH FILTER FABRIC AND CLOSURE POST SPACING ARE USED, THE WIRE MESH SUPPORT FENCE MAY BE ELIMINATED IN SUCH A CASE, THE FILTER FABRIC IS STAPLED OR WIRE DIRECTLY TO THE POSTS WITH ALL OTHER PROVISION OF ITEM NO. 6 APPLYING.
9. THE TRENCH SHALL BE BACKFILLED AND SOIL COMPACTED OVER THE FILTER FABRIC.
10. SEDIMENT FENCES SHALL BE REMOVED WHEN THEY HAVE SERVED THEIR USEFUL PURPOSE, BUT NOT BEFORE THE UPSLOPE AREA HAS BEEN PERMANENTLY STABILIZED.

SEDIMENT FENCE MAINTENANCE

1. SEDIMENT FENCES AND FILTER BARRIERS SHALL BE INSPECTED IMMEDIATELY AFTER EACH RAINFALL AND AT LEAST DAILY DURING PROLONGED RAINFALL. ANY REQUIRED REPAIRS SHALL BE MADE IMMEDIATELY.
2. SHOULD THE FABRIC ON A SEDIMENT FENCE OR FILTER BARRIER DECOMPOSE OR BECOME INEFFECTIVE PRIOR TO THE END OF THE EXPECTED USABLE LIFE AND THE BARRIER IS STILL NECESSARY, THE FABRIC SHALL BE REPLACED PROMPTLY.
3. SEDIMENT DEPOSITS SHOULD BE REMOVED AFTER EACH STORM EVENT. THEY MUST BE REMOVED WHEN DEPOSITS REACH APPROXIMATELY ONE-THIRD THE HEIGHT OF THE BARRIER.
4. ANY SEDIMENT DEPOSITS REMAINING IN PLACE AFTER THE SEDIMENT FENCE OR FILTER BARRIER IS NO LONGER REQUIRED SHALL BE DRESSED TO CONFORM WITH THE EXISTING GRADE, PREPARED, AND SEEDED.

DITCH BARRIERS

1. BALES SHALL BE PLACED IN A SINGLE ROW, LENGTHWISE, ORIENTED PERPENDICULAR TO THE CONTOUR, WITH ENDS OF ADJACENT BALES TIGHTLY ABUTTING ONE ANOTHER.
2. THE REMAINING STEPS FOR INSTALLING A STRAW BALE BARRIER FOR SHEET FLOW APPLICATIONS APPLY HERE, WITH THE FOLLOWING ADDITION.
3. THE STRAW BALES SHALL BE INSTALLED SUCH THAT UNDERCUTTING BENEATH THE BALES IS MINIMIZED BY THE USE OF ROCK CHECK DAMS PLACED ADJACENT TO THE STRAW BALES.
4. THE BARRIER SHALL BE EXTENDED TO SUCH A LENGTH THAT THE BOTTOMS OF THE END BALES ARE HIGHER IN ELEVATION THAN THE TOP OF THE LOWEST MIDDLE BALE TO ASSURE THAT SEDIMENT-LADEN RUNOFF WILL FLOW EITHER THROUGH OR OVER THE BARRIER BUT NOT AROUND IT.

DITCH BARRIER MAINTENANCE

1. STRAW BALES SHALL BE INSPECTED IMMEDIATELY AFTER EACH RAINFALL AND AT LEAST DAILY DURING PROLONGED RAINFALL.
2. CLOSE ATTENTION SHALL BE PAID TO THE REPAIR OF DAMAGED BALES, END RUNS, AND UNDERCUTTING BENEATH BALES.
3. NECESSARY REPAIRS TO BARRIERS OR REPLACEMENT OF BALES SHALL BE ACCOMPLISHED PROMPTLY.
4. SEDIMENT DEPOSITS SHOULD BE REMOVED AFTER EACH RAINFALL. THEY MUST BE REMOVED WHEN THE LEVEL OF DEPOSITION REACHES APPROXIMATELY ONE-HALF THE HEIGHT OF THE BARRIER.
5. ANY SEDIMENT DEPOSITS REMAINING IN PLACE AFTER THE STRAW BALE BARRIER IS NO LONGER REQUIRED SHALL BE DRESSED TO CONFORM TO THE EXISTING GRADE, PREPARED AND SEEDED.

TIMING OF SEDIMENT CONTROL PRACTICES

1. SEDIMENT CONTROL PRACTICES SHALL BE FUNCTIONAL THROUGHOUT EARTH DISTURBING ACTIVITY.
2. SETTLING FACILITIES, PERIMETER CONTROLS, AND OTHER PRACTICES INTENDED TO TRAP SEDIMENT SHALL BE IMPLEMENTED AS THE FIRST STEP OF GRADING AND WITHIN SEVEN DAYS FROM THE START OF GRUBBING. THEY SHALL CONTINUE TO FUNCTION UNTIL THE UPSLOPE DEVELOPMENT AREA IS RESTABILIZED.

STABILIZATION OF NON-STRUCTURAL PRACTICES

1. CONTROL PRACTICES SHALL PRESERVE EXISTING VEGETATION WHERE ATTAINABLE AND DISTURBED AREAS SHALL BE RE-VEGETATED AS SOON AS IT IS PRACTICAL AFTER GRADING OR CONSTRUCTION.
2. PERMANENT OR TEMPORARY SOIL STABILIZATION SHALL BE APPLIED TO DENUDED AREAS WITHIN FOURTEEN DAYS AFTER FINAL GRADE IS REACHED ON ANY PORTION OF THE SITE, AND SHALL ALSO BE APPLIED WITHIN SEVEN DAYS TO DENUDED AREAS WHICH MAY NOT BE AT FINAL GRADE, WHERE CONSTRUCTION ACTIVITIES HAVE PERMANENTLY OR TEMPORARILY CEASED.

MAINTENANCE

TEMPORARY EROSION CONTROL FEATURES SHALL BE ACCEPTABLY MAINTAINED AND SHALL BE REMOVED OR REPLACED BY THE ENGINEER AT NO COST TO THE OWNER. ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH THE SPECIFICATIONS.

SEDIMENT BARRIERS

SHEET FLOW RUNOFF FROM DENUDED AREAS SHALL BE INTERCEPTED BY SEDIMENT BARRIERS. SEDIMENT BARRIERS SUCH AS A SEDIMENT FENCE OR DIVERSIONS TO SETTLING FACILITIES SHALL PROTECTED ADJACENT PROPERTIES AND WATER RESOURCES FROM SEDIMENT TRANSPORTED BY SHEET FLOW.

STOCKPILES

ALL SOIL STOCKPILES SHALL BE PROTECTED FROM EROSION BY PERIMETER CONTROL DEVICES SUCH AS STRAW BALE DIKES OR FILTER FABRIC FENCES, AND THESE PERIMETER CONTROL DEVICES SHALL BE MAINTAINED THROUGHOUT THE LIFE OF THE PROJECT.

INLET PROTECTION

ALL STORM SEWER INLETS WHICH ACCEPT WATER RUNOFF FROM THE DEVELOPMENT AREA SHALL BE PROTECTED SO THAT SEDIMENT-LADEN WATER WILL NOT ENTER THE STORM SYSTEM WITHOUT FIRST BEING PONDED AND FILTERED

CONSTRUCTION ACCESS ROUTES

MEASURES SHALL BE TAKEN TO PREVENT SOIL TRANSPORT ONTO SURFACES OR PUBLIC ROADS WHERE RUNOFF IS NOT CHECKED.

PERMANENT VEGETATION

PERMANENT VEGETATION SHALL NOT BE CONSIDERED ESTABLISHED UNTIL GROUND COVER IS ACHIEVED WHICH, IN THE OPINION OF THE ENGINEER, PROVIDES ADEQUATE COVER AND IS MATURE ENOUGH TO CONTROL SOIL EROSION SATISFACTORILY AND TO SURVIVE ADVERSE WEATHER CONDITIONS.

INSPECTION SCHEDULE

1. DIVERSION SWALE AND STRUCTURAL PROTECTION - INSPECT EVERY 7 DAYS OR AFTER EACH RAINSTORM PRODUCING RUNOFF. REPAIR AS REQUIRED.
2. INLET PROTECTION - INSPECT FOR SEDIMENT ACCUMULATION AFTER EACH RAINFALL AND DAILY DURING CONTINUED RAINFALL. REPAIR OR REPLACE WHEN WATER FLOW IS RESTRICTED BY SEDIMENT.
3. VEGETATIVE PLANTING - INSPECT AFTER SPROUTING OCCURS AND REPLANT BARE AREAS. INSPECT ESTABLISHED COVER EVERY 15 DAYS FOR DAMAGE; REPLANT AS REQUIRED. MAINTAIN ESTABLISHED COVER AT MAXIMUM 6" HEIGHT. IRRIGATE AS REQUIRED DURING DRY PERIODS TO MAINTAIN LIVE VEGETATION.

SEDIMENT AND EROSION CONTROL SUMMARY

EROSION PLAN DESIGNER:	GERMANA ENGINEERING AND ASSOCIATES, LLC 1120 WEST MINNEOLA AVENUE CLERMONT, FLORIDA 34711 (352) 242-9329
OWNER/DEVELOPER:	**CITY OF MOUNT DORA** CONTACT: CHET CRAMER 510 N. BAKER STREET MOUNT DORA, FLORIDA 32757 (352) 901-7805
AREA ADJACENT TO SITE:	THE SITE BORDERS SINGLE FAMILY RESIDENTIAL ON THE NORTH, SOUTH AND WEST AND TREATMENT PLANT TO THE EAST
EROSION CONTROL MEASURES:	EROSION AND RUNOFF WILL BE CONTROLLED BY SILT FENCE AND INLET PROTECTION AS NEEDED.

11-03-22

No.	REVISIONS	DATE

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NOT FOR PERMITTING

CHRISTOPHER M. GERMANA, P.E.
FLORIDA PROFESSIONAL ENGINEER # 61682
ENGINEERING FIRM REGISTRY # 29279

EROSION CONTROL PLAN

PICKLEBALL COURT
SUMMERVIEW PARK
MOUNT DORA, FLORIDA

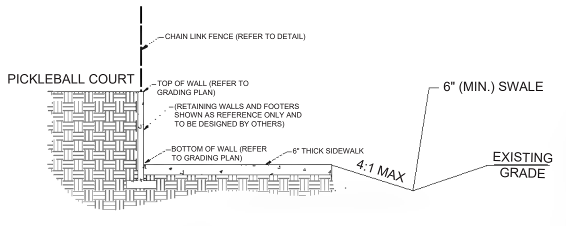
PROJECT # GE0452022

1120 WEST MINNEOLA AVENUE
CLERMONT, FL 34711
(352) 242-9329
WWW.GERMANAENGINEERING.COM

SCALE: 1" = 20'

DATE: 11-2-22

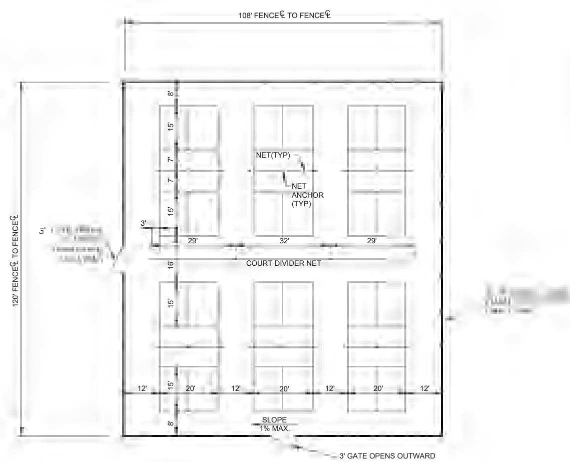
SHEET
C6



CROSS SECTION A-A

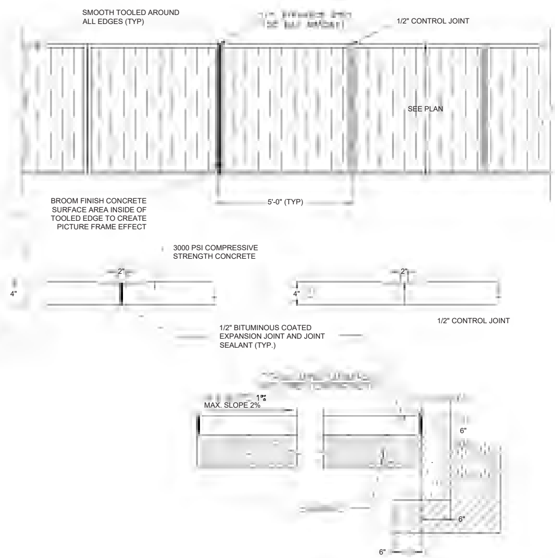
NOTES:
1. ACRYLIC SURFACE AND COLOR FINISH AS MANUFACTURED BY DYNAFLEX, OR TRUFLEX, OR OWNER APPROVED EQUAL. INSTALLED PER MANUFACTURER'S INSTRUCTIONS.
2. OWNER SHALL APPROVE USE OF RECYCLED ASPHALT.

COURT SECTION

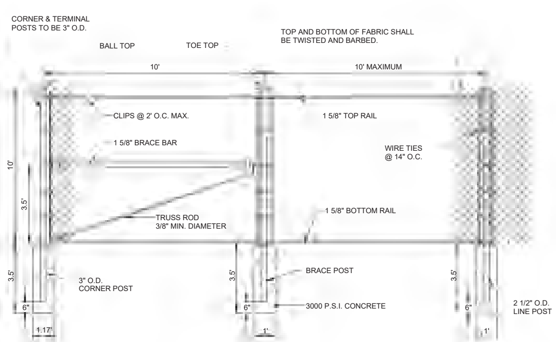


NOTE:
1. COURT FINISH COLOR SHALL BE APPROVED BY OWNER'S REPRESENTATIVE.
2. 8' MINIMUM MUST BE MAINTAINED BETWEEN BASELINE AND FENCE.

TYPICAL PICKLEBALL COURT DETAIL

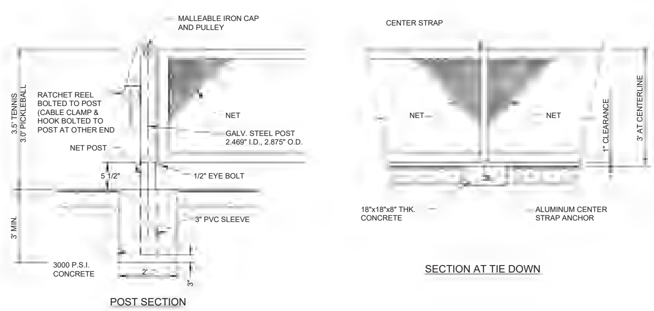


TYPICAL CONCRETE SIDEWALK DETAIL

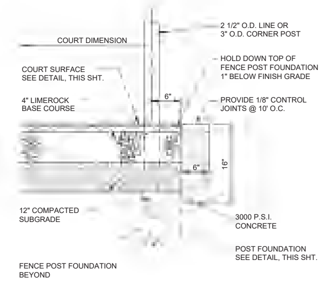


NOTES:
1. FENCE AND GATE FABRIC SHALL BE VINYL COATED PER SPECIFICATIONS (COLOR GREEN).
2. ALL POSTS AND ACCESSORIES SHALL BE PAINTED TO MATCH FABRIC COLOR.

CHAIN LINK FENCE DETAIL



NET DETAIL



COURT PERIMETER CURB

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11-03-22

CHRISTOPHER M. GERMANA, P.E.
FLORIDA PROFESSIONAL ENGINEER # 61682
ENGINEERING FIRM REGISTRY # 29279

DATE | REVISIONS | No.

CONSTRUCTION DETAILS

PICKLEBALL COURT
SUMMERVIEW PARK
MOUNT DORA, FLORIDA
PROJECT # GE0452022

GERMANA ENGINEERING AND ASSOCIATES, LLC
1120 WEST MINNEOLA AVENUE
CLERMONT, FL 34711
(352) 242-9329
WWW.GERMANAENGINEERING.COM
ENGINEERING FIRM REGISTRY # 29279

SCALE: NTS
DATE: 11-2-22
SHEET C7

CITY OF MOUNT DORA/CRA/Northeast CRA
TASK AUTHORIZATION

In accordance with the terms and conditions of the Agreement between Faden Builders, Inc. (Construction Manager) and the City of Mount Dora/CRA/Northeast CRA, dated April 7, 2020, the parties hereto agree to the scope of work, pricing/GMP, schedule, construction team and subcontractors attached hereto.

City Project Manager:
Chet Cramer

Construction Manager Contact:
Richard Charleson

Project Name:
Summerview Park Pickleball Courts

Project Number:
22-027

NOTE: THE CONTRACTOR <u>MAY NOT BEGIN WORK</u> UNTIL THIS FULLY SIGNED TASK AUTHORIZATION IS DELIVERED TO THE CONSTRUCTION MANAGER.

SUMMARY OF WORK TO BE COMPLETED
Each Task Authorization package shall include: Exhibit A – Scope of Work Exhibit B – Price/GMP Breakdown Exhibit C – Basic Schedule Exhibit D – Construction Team Exhibit E – Construction Manager's Staff Exhibit F – Sub-Contractors
Recommended By: Print: ______________ Date: ______________ Signature: ______________
Reviewed By (if applicable): Print: ______________ Date: ______________ Signature: ______________

CONTRACTOR ACCEPTANCE	CITY APPROVAL
Print Name: Todd M. Faden	**Print Name:** Crissy Stile
Title: President	**Title:** Mayor
Signature: [signature]	**Signature:**
Date: 12/19/2022	**Date:**

FADEN BUILDERS, INC

December 16, 2022

Exhibit A – Scope of Work
Faden Builders will provide perform all construction related activities to provide six-(6) pickleball courts at Summerview Park as outlined on the civil engineering plans from Germana Engineering (C1 through C7) dated October 20, 2022.

Exhibit B – GMP Proposal:

Division	Description	Amount
01	General Conditions	
	• Staffing (2 months)	60,500
	• Temp Fencing	Incl
	• Toilets / Dumpster	Incl
	• Office Supplies / Telephone	Incl
	• Pickup Truck	Incl
	Design (Construction Administration)	1,100
	Third Party Testing & Inspection	800
	Surveying	2,900
02	Sitework	
	• Erosion Control	128,200
	• Mass Earthwork	Incl
	• Limerock	Incl
	• Asphalt Paving	Incl
	• Concrete Retaining Wall	8,000
	• Concrete Sidewalks & Steps	10,900
	• Court Surfacing	33,500
	• Netting & Posts	9,000
	• Fencing	27,000
02	Landscaping	
	• Sod	4,000
05	Metal Fabrications	
	• Painted Railing	1,600
16	Electrical	
	• Conduit Only for Future Lights	5,400
	Subtotal	292,900
	Other	
	• General Liability Insurance	3,800
	• Contractor's Fee	37,400
	• Contingency at 5%	14,800
	• Performance & Payment Bond	8,700
	• Building Permit	4,400
	Total	$ 362,000

Note: To provide fabric windscreen on the perimeter fencing, add $4,900.00.

Exhibit C - Basic Schedule

The time estimated to complete the work is eight-(8) weeks following issuance of a building permit and procurement of materials.

Exhibit D - Design and Construction Team

Owner's Representative: Chet Cramer (City of Mount Dora)
Designer of Record: Chris Germana (Germana Engineering)
Constructor's Representative: Todd Faden
Construction Project Manager: Shawn Howard