

SOLAR POWER PURCHASE AGREEMENT
CITY OF IOWA CITY
PUBLIC WORKS FACILITY
AND
THE PARK LODGE AT TERRY TRUEBLOOD RECREATION AREA

This SOLAR POWER PURCHASE AGREEMENT (this ‘Agreement’) is made and entered into this ____ day of _____, 2021 (the “Effective Date”) by and between _____ of _____, a [state of incorporation] [type of entity] (Seller”), and the CITY OF IOWA CITY (“Purchaser”). Each of Seller and Purchaser are sometimes referred to as a “Party” and collectively as the “Parties”.

RECITALS

WHEREAS, Purchaser conducts its business at the Designated Premises (defined below);
and

WHEREAS, the Designated Premises are owned by Purchaser (in its capacity as owner of the Premises, “Owner”); and

WHEREAS, Purchaser desires to grant access to Seller to utilize certain available space owned by Purchaser at the Designated Premises for the installation and operation of the System;
and

WHEREAS, Seller desires to install a solar electric generating system on the rooftop of the Iowa City Public Works Facility (3810 Napoleon Lane) and on the trellis structure of The Park Lodge at Terry Trueblood Recreation Area (579 McCollister Blvd.) owned by Purchaser, and sell the electricity generated by the System to Purchaser, on the terms set forth herein; and

WHEREAS, Purchaser desires to purchase electricity generated by the System from the Seller on the terms set forth herein.

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser hereby agree as follows:

AGREEMENT

- 1. DEFINITIONS.** Capitalized terms used herein shall have the respective meanings set forth in Exhibit A.
- 2. PURCHASE AND SALE OF ENERGY.**

2.1.1 Sale of Energy. Seller shall sell to Purchaser and Purchaser shall purchase from Seller all of the Energy generated by the System, as and when the same is produced, at the Energy Price in effect at the time of delivery. The Energy Price for any energy sold after a System Operation Date but prior to the Commercial Operation Date shall be \$

_____/kWh and the Energy Price for any energy sold after the Commercial Operation Date shall be the Energy Price in effect at the time of delivery as set forth in Exhibit E. Seller shall deliver the Energy to the Delivery Points, and Purchaser shall accept the Energy delivered for the full Delivery Term.

2.1.2 If, for any reason, Purchaser's electric requirements are less than the Energy produced by any System, Purchaser shall nevertheless pay for all Energy as and when produced by System pursuant to the terms of this Agreement. To the extent permitted by applicable law, Purchaser may deliver any excess Energy to Utility in accordance with the Net Metering Rules or enter into other arrangements to deliver or exchange such excess Energy to another buyer. Seller shall provide reasonable assistance to Purchaser in arranging and coordinating discussions with utility provider, and coordinating such deliveries or exchanges.

2.1.3 To the extent that Purchaser's electricity requirements exceed the Energy produced by the Systems, Purchaser shall purchase such excess electricity from Utility. Purchaser shall be responsible for all charges, applicable taxes, penalties, ratcheted demand or similar charges assessed by Utility for transmission and distribution service and other services necessary to meet the full energy requirements of Purchaser.

2.1.4 Purchaser shall be entitled to utilize the entire Energy output of the Systems; provided, however, that Seller shall not be required to deliver a minimum amount, or any other specific quantity, of Energy from the Systems. Anything herein to the contrary notwithstanding, there is no guarantee that Purchaser will realize any energy cost savings as result of this Agreement or the purchase of Energy from the Systems.

2.2 Contract Term; Delivery Term. This Agreement shall have a delivery term of _____ () years commencing on the Commercial Operation Date (the "Delivery Term"); provided that the Delivery Term may be extended by Purchaser, for one _____ () year period upon giving notice no less than 60 days nor more than one hundred and twenty (120) days prior to the expiration of the Delivery Term. The term of this Agreement shall commence on the Effective Date and shall end upon the expiration of the Delivery term, unless terminated earlier or extended in accordance with the terms of this Agreement (the "Contract Term").

2.3 Environmental Attributes and Tax Benefits.

2.3.1 Environmental Attributes. Except as set out below, Seller shall have all right, title, and interest in and to all Environmental Attributes related to the System as such Environmental Attributes are produced. At the Purchaser's option, Seller agrees to assign to Purchaser (a) 50% of such right, title and interest in and to all Environmental Attributes related to the System OR (b) 50% of the value from the sale of all Environmental Attributes related to the System. At Seller's expense, Purchaser agrees to cooperate with Seller in any applications for Environmental Attributes related to any System.

2.3.2 Tax Benefits. Seller shall have all right, title, and interest in and to all Tax Benefits related to the System. Any Tax Benefit related to a System that is initially credited or paid to Purchaser shall be assigned by Purchaser to Seller without delay. At Seller's expense, Purchaser agrees to cooperate with Seller in any applications for Tax Benefits related to the Systems.

2.3.3 Assistance with Permits, Environmental Attributes and Tax Benefits.

Purchaser shall promptly assist and cooperate with Seller in acquiring and maintaining in effect all necessary permits and approvals for the Systems from Governmental Authorities. Purchaser shall comply with all laws, regulations and rules relating to acquiring and maintaining Environmental Attributes and Tax Benefits and shall deliver to Seller copies of any documentation related thereto that is required by law to be in the name or physical control of Purchaser. Seller shall reimburse Purchaser for its reasonable and necessary third-party costs incurred in relation to Purchaser's assistance with such matters.

2.3.4 Impairment of Environmental Attributes and Tax Benefits.

Purchaser shall not take any action or support any omission that would have the effect of reducing or impairing the value of the Environmental Attributes and Tax Benefits. Purchaser may not, for example, publicly claim more than a 50% interest in the green or environmental attributes of the solar electricity without compromising the value of the Environmental Attributes. Purchaser shall promptly notify Seller of any event, action or omission that could have the effect of reducing or impairing the value of the Environmental Attributes and Tax Benefits. Upon the occurrence of any such event, action or omission, Purchaser shall consult with Seller as necessary to prevent reduction or impairment of the value of Environmental Attributes and Tax Benefits.

3. THE SYSTEM.

3.1 Installation, Operation, and Maintenance of the System. Seller, at its own cost and expense, shall be responsible for the installation, operation, and maintenance of the System in a manner consistent with Prudent Operating Practice and in doing so shall comply in all material respects with all applicable laws and regulations relating to the operation of the System and the generation and sale of electricity to Purchaser, including obtaining and maintaining all relevant approvals and permits for installation of the systems on Purchaser's property. In particular, Seller agrees through the term of this Agreement to comply in all material respects with any and all operational standards and requirements imposed by any Utility Interconnection Agreement with Purchaser's Utility and to comply with the interconnection requirements. If the supply of Energy from the System is interrupted as a result of a System malfunction, Seller shall use all commercially reasonable efforts to remedy such interruption. Purchaser will cooperate with Seller in good faith to assist with the acquisition of any necessary permit or interconnection agreement. Purchaser and Seller shall hold an annual meeting to discuss and arrange any system updates or modifications.

3.1.a. Seller shall maintain the Engine generator, automatic transfer switch weekly and periodic testing should be conducted to the operational standards of the systems maintenance manuals, this information should be recorded and made available upon request to the Purchaser.

3.2 Maintenance of Health and Safety. Seller shall take all reasonable safety precautions with respect to the operation, maintenance, repair, and replacement of the System and shall comply with all applicable health and safety laws, rules, regulations, and permit requirements. If Seller becomes aware of any circumstances relating to any Designated Premises or System that creates an imminent risk of damage or injury to any Person or any Person's property (and, should Purchaser become aware of such circumstances, Purchaser shall promptly notify Seller with respect thereto), Seller shall take prompt action to prevent such damage or injury and shall promptly notify Purchaser. Such Seller action may include disconnecting and removing all

or a portion of the System or suspending the supply of Energy to Purchaser.

3.3 Assistance with Permits and Licenses. Upon Seller's request, Purchaser shall assist and cooperate with Seller, to acquire and maintain approvals, permits, and authorizations or to facilitate Seller's compliance with all applicable laws and regulations related to the construction, installation, operation, maintenance, and repair of the System, including providing any building owner or occupant authorizations, signing and processing any applications for permits, local utility grid interconnection applications, and rebate applications as are required by law to be signed by Purchaser. Purchaser shall also deliver to Seller copies of any necessary approvals, permits, rebates, or other financial incentives that are required by law in the name or physical control of Purchaser. Seller shall reimburse Purchaser for reasonable and necessary third-party costs incurred by Purchaser in relation to Purchaser's assistance with such matters.

3.4 Commercial Operation Date. Seller shall notify Purchaser of the occurrence of the System Operation Date as well as the Commercial Operation Date.

3.5 Seller's Taxes. Subject to Section 3.6, Seller is solely responsible for all income, gross receipts, ad valorem, personal property, or other similar taxes and any and all franchise fees or similar fees relating to Seller's ownership of the System.

3.6 Purchaser's Taxes. Purchaser is responsible for paying timely all taxes, charges, levies, and assessments against the Designated Premises, if any. Purchaser is also responsible for paying, if any, all sales, use, property, and other taxes, and any and all franchise fees or similar fees assessed against Purchaser as a result of Purchaser's purchase of the Energy and, in the event that Purchaser exercises the Purchase Option, its purchase and ownership of the System, which fees are not otherwise the obligation of Seller. Purchaser is a tax-exempt entity and will provide evidence of the same to Seller.

3.7 Notice of Damage. Purchaser shall promptly notify Seller of any physical conditions or other circumstances of which Purchaser becomes aware that indicate there has been or might be damage to or loss of the use of the System or that could reasonably be expected to adversely affect the System.

4. GRANT OF RIGHTS BY PURCHASER TO SELLER.

4.1 USE OF DESIGNATED PREMISES

4.1.1 Permitted Use. Pursuant to this Agreement, and for the Contract Term hereof, Purchaser hereby grants to Seller the exclusive license to use, have access to, modify, and store its equipment on the Designated Premises as reasonably necessary to design, construct, install, start-up, test, operate and maintain the System and for no other purpose. Purchaser reserves the right to grant additional licenses, whether recorded or unrecorded, that do not unreasonably interfere with Seller's use of the Designated Premises or result in any violation of Purchaser's obligations under this Agreement and do not interfere with the installation, operation, maintenance, or removal of the System. The right of access contained herein does not grant the Seller access to any portion of Purchaser's property except as reasonably necessary for the Seller to access its equipment on the Designated Premises. Seller shall follow OSHA, federal, state, and local regulatory safety guidelines and go through any necessary training required to access the site.

4.1.2 Access to Systems. Seller shall have access to the Designated Premises and System during the Contract Term and for 120 days after expiration or earlier Termination of this Agreement to remove the System if necessary pursuant to the applicable provisions herein. Seller shall be granted access during hours when the Streets Administration building is open and when access can be provided or scheduled. Purchaser shall not interfere with or handle any of Seller's equipment or any System, except in the case of emergency, without written authorization from Seller; provided however that Purchaser shall at all times have the right to observe the installation of, or removal of, the System.

4.1.3 Solar Access. Purchaser agrees that it will not do or suffer to be done on its own property anything that causes reduction of the amount of solar radiation reaching the System. Furthermore, Purchaser shall take all reasonable measures to assist Seller in attempting to prevent buildings, structures or flora from overshadowing or otherwise blocking the System's access to direct sunlight.

4.1.4 Non-Interference. Except as provided for in Section 4.2 or Section 8, Purchaser shall not take any actions that interfere with the installation, operation, maintenance or removal of any System or that interfere with the generation or delivery of Energy from any System.

4.1.5 Quiet Use and Enjoyment. Seller shall enjoy quiet use and enjoyment of the Designated Premises for the Contract Term, subject to the provisions of this Agreement, without interference or molestation by anyone claiming by, through or under Purchaser.

4.1.6 Contractors. Purchaser acknowledges that Seller may retain one or more contractors to perform its obligations hereunder. Purchaser agrees that such contractors shall be permitted to enjoy the rights of access and entry granted to Seller under this Agreement in connection with their performance of services in connection with the System, subject to the terms and conditions of this Agreement and Seller's separate contractual arrangements with such contractors.

4.1.7 Maintaining Premises. Purchaser shall maintain the Designated Premises in good condition and repair consistent with sound engineering and operating practices.

4.1.8 Purchaser's Use of Premises. Subject to Purchaser's obligations hereunder and the rights granted Seller hereunder, Seller shall design, construct, operate, maintain, and repair the System in a manner that will not unreasonably obstruct or interfere with the Purchaser's use of the Designated Premises or the rights or duties of any employees of Purchaser.

4.2 TEMPORARY PURCHASER SHUTDOWN

4.2.1 If an act, omission, or event occurs during the Term, other than from a Force Majeure circumstance described in Section 8, that Purchaser determines requires a Temporary Shutdown of a System, Purchaser shall direct Seller to take the actions, or, if necessary, Seller may take such actions directly, required to effect the Temporary Shutdown.

4.2.2 Shutdown Notice. Purchaser shall promptly give notice to Seller of the Temporary Shutdown, its expected duration, and any Seller actions necessary to facilitate the

Temporary Shutdown. Purchaser shall use good faith efforts to give Seller as much advanced notice as possible. If advanced notice is not possible, Purchaser shall give notice to Seller not later than two (2) days following the first day of the Temporary Shutdown.

4.2.3 Energy Payments Required. When Purchaser has caused, given notice of, or directed Seller to comply with a Temporary Shutdown, Purchaser and Seller may, by mutual consent, do one of the following as a means of avoiding default by Purchaser under this Agreement.

(a) Purchaser may pay Seller “in-lieu” payments during the Temporary Shutdown. These “In-Lieu” payments shall be based on the kWh amounts included in the invoices sent by Seller to Purchaser for Energy generated during the same period in the previous calendar year multiplied by the current Energy Price less any amounts attributable to the Energy generated from the affected System during the same period (the “In-Lieu Calculation”). For the first year of the Delivery Term for which no previous year’s generation data is available, the kWh amounts should be based on the Estimated Annual Output listed in Exhibit E for the applicable month. For any Temporary Shutdown occurring during a portion of a calendar month, the “In-Lieu” amount due for that partial month would be the In-Lieu Calculation multiplied by the fraction where the number of days the Temporary Shutdown is in effect is the numerator and the denominator is the number of days in the month (the “Pro-Rated In-Lieu Calculation”). The In-Lieu Calculation, or Pro-Rated In-Lieu Calculation as appropriate, plus any amounts attributable to Energy generated from the System during the same period shall be included and delivered to Purchaser according to terms set forth in Section 5 (the “In-Lieu Invoice”).

(b) Purchaser and Seller may negotiate an alternative “In-Lieu” payment methodology that is mutually acceptable and agreed upon by both Parties. If no alternative “In-Lieu” methodology can be agreed upon with good faith efforts within thirty (30) days of the first day of the Temporary Shutdown, the method described in 4.2.3(a) must be utilized.

4.2.4 Other Payments.

(a) If the Temporary Shutdown requires additional actions be taken by Seller other than reducing the Energy delivered to Seller, such as moving or making some unanticipated change to the System, Purchaser will reimburse Seller for all associated costs, including those costs as may be required to restore the System, or Systems, to full production.

(b) If the Temporary Shutdown extends for more than thirty (30) days, Purchaser shall reimburse Seller for its share of any lost or recaptured Environmental Attributes or Tax Benefits associated with the Temporary Shutdown; provided further, if the Temporary Shutdown exceeds 90 days, Seller shall be entitled to PPA Damages as set forth in Section 10.4 below.

(c) Seller invoices and Purchaser payments under this Section 4.2.4 shall, to the extent possible, be made in accordance with Section 5.

4.2.5 System Restoration. When a Temporary Shutdown is in effect, Purchaser

will use best efforts to restore conditions as swiftly as possible so that the System can resume full operation.

4.3 OTHER

4.3.1 Notice of Loss. Purchaser shall promptly notify Seller of any matters it is aware of pertaining to any damage to or loss of use of any System, or a condition that could reasonably be expected to adversely affect the System.

4.3.2 Liens. Purchaser shall not directly or indirectly cause, create, incur, assume or suffer to exist a mortgage, pledge, lien (including mechanics', labor or materialman's lien), charge, security interest, encumbrance or claim of any nature ("Liens") on or with respect to the System or any interest therein. If Purchaser breaches its obligations under this Section, it shall immediately notify Seller in writing, shall promptly cause such Lien to be discharged and released of record without cost to Seller, and shall indemnify Seller against all costs and expenses (including reasonable attorney's fees) incurred in discharging and releasing such Lien. If prompt action is not taken by Purchaser to remove the Lien, Seller has the right to remove such Lien at Purchaser's cost and expense.

5. PAYMENT AND METERING.

5.1 Consideration for Energy Delivered. As consideration for the delivery of Energy by Seller, Purchaser shall pay for Energy delivered hereunder at the applicable energy Price as presented in Exhibit E.

5.2 Invoicing. Seller shall invoice Purchaser for Energy monthly. Seller shall deliver each invoice within thirty (30) days after the end of each monthly billing period. Each invoice shall set out the amount of Energy delivered in kWh during such billing period, the then- applicable Energy Price, and the total amount then due to Seller on the sale of Energy to Purchaser. Such invoice shall include sufficient details so that Purchaser can reasonably confirm the accuracy of the invoice including, among other details, beginning and ending meter readings. Purchaser shall pay the amount due to Seller within thirty (30) days after receipt of each invoice

5.3 Disputed Amounts. A Party may in good faith dispute the correctness of any invoice (or any adjustment to any invoice) under this Agreement at any time within thirty (30) days following the delivery of the invoice (or invoice adjustment). In the event that either Party disputes any invoice or invoice adjustment, such Party shall nonetheless pay any undisputed amount of the applicable invoice or invoice adjustment (except any portions thereof that are reasonably believed to be inaccurate or are not reasonably supported by documentation, payment of which amounts may be withheld subject to adjustment as hereinafter set forth) on the applicable payment due date, except as expressly provided otherwise in this Agreement, and shall give written notice of the dispute to the other Party. Any required payment will be made within fourteen (14) Days after resolution of the applicable dispute.

5.4 Metering of Delivery. Seller shall measure the amount of Energy supplied to

Purchaser at each Delivery Point using a commercially available, revenue-grade metering system. Such meter shall be installed and maintained at Seller's cost. Purchaser shall cooperate with Seller to enable Seller to have reasonable access to the meter as needed to inspect, repair, and maintain such meter. At Seller's option, the meter may have standard industry telemetry and/or automated meter reading capabilities to allow Seller to read the meter remotely. If Seller elects to install telemetry allowing for remote reading, Purchaser shall allow for the installation of necessary communication lines in a mutually agreeable location (which may be underground) and shall reasonably cooperate in providing access for such installation. The meter shall be kept under seal, such seal to be broken only when the meter is to be tested, adjusted, modified, or relocated. In the event that either Party breaks a seal, such Party shall notify the other Party as soon as practicable.

5.5 Internet Availability. Purchaser will provide Seller at no cost to Seller (i) the right to connect equipment for monitoring each System and its production to Purchaser's internet networks so as to allow Seller, or its subcontractors, to remotely monitor each System and its production, and (ii) a working connection to access the internet at each Designated Premise.

5.6 Meter Verification. From time to time as Seller may, in its discretion, determine, but in any event on each of the fifth, tenth and fifteenth anniversary of the Commercial Operation Date, Seller shall test the meters and provide copies of any related test results to Purchaser. The tests shall be conducted by a qualified independent third party. Seller shall notify Purchaser seven (7) days in advance of each such test and shall permit Purchaser to be present during such tests. If a meter is inaccurate, Seller shall promptly cause the meter to be repaired or replaced.

5.7 Books and Records. To facilitate payment and verification, each Party shall maintain all books and records necessary for billing and payments, including copies of all invoices under this Agreement, for a period of at least two (2) years, and Seller shall grant Purchaser reasonable access to those books, records, and data at the principal place of business of Seller. Purchaser may examine such books and records relating to transactions under, and administration of, this Agreement, at any time during the period the records are required to be maintained, upon request with reasonable notice and during normal business hours.

6. OPTION TO PURCHASE SYSTEM; END OF YEAR 0, YEAR 10, YEAR 15, YEAR 20 OR END OF MAXIMUM PPA TERM.

6.1 Grant of Purchase Option. Seller hereby grants to Purchaser the right and option to purchase all of the Seller's right, title, and interest in the System on the terms set forth herein ("Purchase Option"). Purchaser may exercise the Purchase Option upon completion, on the tenth (10th), fifteenth (15th) or twentieth (20th) anniversary of the Commercial Operation Date, or simultaneously with the termination of this Agreement pursuant to Section 10.2 (either a "Purchase Option Date") provided it does not precede the tenth (10th) anniversary of the Commercial Operation Date and provided that no Purchaser Event of Default, or any event which with notice or the passage of time will become a Purchaser Event of Default, has then occurred and is ongoing.

6.2 Determination of Purchase Price. If Purchaser wishes to exercise the Purchase Option consistent with Section 6.1, it shall deliver an exercise notice to Seller not less than thirty (30) days prior to and not more than ninety (90) days prior to Purchase Option Date (the "Exercise Period"). If Purchaser elects to exercise its Purchase Option pursuant to Section 10.2, the written notice to Seller under that Section 10.2 must include notice of Purchaser's intent to exercise its Purchase Option and give at least thirty (30) days' notice prior to exercising the Purchase Option.

Any such notice shall be irrevocable once delivered except upon mutual agreement of the parties. The Purchase Price for the System shall be as defined in Exhibit F below.

6.3 Terms and Date of System Purchase. If the Purchase Option is exercised in connection with termination of the Agreement under Section 10.2, the Parties shall consummate the sale of the System to Purchaser no later than thirty (30) days following Purchaser's written notice under Section 10.2 that includes the intent to exercise the Purchase Option. If the Purchase Option is exercised pursuant to Section 6.1, the sale of the System to Purchaser shall be consummated at the end of the Contract Term, upon installation completion (Year 0), or the tenth (10th) or fifteenth (15th) anniversary, as applicable and as described in Section 6.2. On the effective date of such sale (the "Transfer Date") (a) Seller shall surrender and transfer to Purchaser all of Seller's right, title, and interest in and to the System and shall retain all liabilities, Environmental Attributes (excluding any portion owned by Purchaser), Tax Benefits, and profits arising from or relating to the System that arose prior to the Transfer Date; (b) Purchaser shall pay the Purchase Price to Seller, and shall assume all liabilities arising from or relating to the System or Systems as of and after the Transfer Date; (c) Purchaser shall pay all amounts due under this Agreement for Energy delivered hereunder; and (d) both the Seller and the Purchaser shall (i) execute and deliver a bill of sale and assignment of contract rights, together with such other conveyance and transaction documents as are reasonably required to fully transfer and vest title to the System or Systems in Purchaser, and (ii) deliver ancillary documents, including releases, resolutions, certificates, third-party consents and approvals, and such similar documents as may be reasonably necessary to complete and conclude the sale of the System to Purchaser. The purchase and sale of the System shall be on an "as-is, where-is" basis, and Seller shall not be required to make any warranties or representations with regard to the System, but Seller shall, to the extent reasonably possible, transfer or assign to Purchaser all manufacturers' and third-party warranties with respect to the System or any part thereof.

6.4 End of Term. In the event Purchaser declines to exercise its Purchase Option with respect to the System, then the Parties may, but need not, negotiate and document an extension of the Contract Terms for the remaining System. In the event the Parties do not agree to such an extension, then Seller shall, within one hundred twenty (120) days after the date of expiration of the Contract Term, remove any portion of the remaining System from the Premises, provided that Seller shall be required to remove electrical wiring or infrastructure, or any portion of the System below grade level. Other than as specifically provided otherwise herein, the removal of the System, and patching of materials where system was removed shall be at the cost of Seller. Patches shall be compatible with adjacent materials and finish shall be similar in appearance.

7. TITLE AND RISK OF LOSS.

7.1 Title. Absent a purchase of the System pursuant to Section 6 above, Seller shall at all times retain title to and be the legal and beneficial owner of the System, and the System shall remain the personal property of Seller and shall not be deemed a part or fixture of any Designated Premises. Seller may file one or more precautionary financing statements in jurisdictions it deems appropriate with respect to each System in order to protect its rights in such System.

7.2 Risk of Loss. Seller shall bear the risk of loss for each System, except to the extent caused by the breach by Purchaser of its obligations under this Agreement or the negligence or intentional misconduct of Purchaser or its employees.

7.3 System Casualty. Upon the total damage, destruction, or loss of any System, or, in the reasonable opinion of Seller's insurance provider, any System is determined to have experienced a constructive total loss, Seller shall have the option, in its sole discretion, to repair or replace the System or terminate this Agreement with respect to the System experiencing the loss. Seller shall notify Purchaser in writing of its election within ninety (90) days after the date of the damage to the System. Seller shall under all circumstances be entitled to all insurance proceeds with respect to the System. If Seller elects to repair or replace the damaged System, Seller shall undertake such repair or replacement as quickly as practicable, and in no event take longer than sixty (60) days following their election. If Seller elects to terminate this Agreement with respect to the damaged System, the termination shall be effective immediately upon delivery of the notice under this Section 7.3.

7.4 Financing. The Parties acknowledge that Seller may obtain construction and long-term financing or other credit support from one or more Financing Parties. "Financing Parties" means person or persons providing construction or permanent financing to Seller in connection with construction, ownership, operation and maintenance of the System, or if applicable, means, if applicable, any person to whom Seller has transferred the ownership interest in the System, subject to a leaseback of the System from such person. Both Parties agree in good faith to consider and to negotiate changes or additions to this Agreement that may be reasonably requested by the Financing Parties; provided, that such changes do not alter the fundamental economic terms of this Agreement. In conjunction with any such financing, Purchaser agrees to execute any consent, estoppel or acknowledgement in form and substance customary for comparable financing transactions and reasonably acceptable to such Financing Parties, including the collateral assignment agreement attached hereto as Exhibit G.

8. FORCE MAJEURE.

8.1 Force Majeure. To the extent either Party is prevented by an event of Force Majeure from performing any obligation under this Agreement (other than an obligation to make payments hereunder as provided herein), such Party shall be excused from the performance of such obligation under this Agreement during the period in which such Force Majeure event prevents performance thereof. For the Party experiencing such Force Majeure to get the benefit of Force Majeure, it must give timely notice of the occurrence of such Force Majeure event and the resulting anticipated period of delay to the other Party. The Party claiming Force Majeure shall use commercially reasonable efforts to eliminate or avoid the Force Majeure and resume performing its obligations; provided, however, that neither Party is required to settle any strikes, lockouts or similar disputes except on terms acceptable to such Party, in its sole discretion. The non-claiming Party shall not be required to perform or resume performance of its obligations to the claiming Party corresponding to the obligations of the claiming Party excused by Force Majeure.

8.2 Notice. In the event of any delay or nonperformance resulting from an event of Force Majeure, the Party suffering the event of Force Majeure shall, as soon as practicable, notify the other Party in writing of the nature, cause, date of commencement thereof and the anticipated extent of any delay or interruption in performance; provided, however, that a Party's failure to give timely notice shall not affect such Party's ability to assert Force Majeure unless the delay in giving notice prejudices the other Party.

8.3 In the event that either Party is unable to perform due to changes in laws,

regulations, tariffs mandated or approved by federal, state, governmental or regulatory entities, or court injunction or order (“Legal Requirements”), the Parties agree to negotiate in good faith modifications to the terms of this Agreement in order to comply with such Legal Requirements for the remainder of the term of the Agreement.

9. REPRESENTATIONS AND WARRANTIES.

9.1 Representations and Warranties of Purchaser. Purchaser represents and warrants to Seller that:

9.1.1 Purchaser has the requisite capacity and authority to enter into this Agreement and fulfill its obligations hereunder, the execution and delivery by it of this Agreement and the performance by it of its obligations hereunder have been duly authorized by all requisite action by the City Council, and subject to compliance with and obtaining all required governmental approvals under any applicable regulatory laws or regulations governing the sale or delivery of Energy, the entering into of this Agreement and the fulfillment of its obligations hereunder does not contravene any law, statute or contractual obligation of Purchaser;

9.1.2 Purchaser has or timely will obtain any and all governmental approvals it requires to enter into this Agreement and fulfill its obligations hereunder;

9.1.3 This Agreement constitutes Purchaser’s legal, valid and binding obligation enforceable against it in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, and other similar laws now or hereafter in effect relating to creditors’ rights generally;

9.1.4 No suit, action or arbitration, or legal administrative or other proceeding is pending or has been threatened against the Purchaser that would have a material adverse effect on the validity or enforceability of this Agreement or the ability of Purchaser to fulfill its commitments hereunder, or that could result in any material adverse change in the business or financial condition of Purchaser; and

9.1.5 No governmental approval (other than any governmental approvals which have been previously obtained) is required in connection with the due authorization, execution and delivery of this Agreement by Purchaser or the performance by Purchaser of its obligations hereunder which Purchaser will be unable to obtain in due course.

9.2 Representations and Warranties of Seller. Seller represents and warrants to Purchaser that:

9.2.1 Seller has the requisite legal capacity to enter into this Agreement and fulfill its obligations hereunder, the execution and delivery by it of this Agreement and the performance by it of its obligations hereunder have been duly authorized by all requisite action of its stockholders, partners or members, and by its board of directors or other governing body, and subject to compliance with and obtaining all required governmental approvals under any applicable regulatory laws or regulations governing the sale or delivery of Energy, the entering into of this Agreement and the fulfillment of its obligations hereunder does not contravene any law, statute or contractual obligation of Seller; and

9.2.2 This Agreement constitutes Seller's legal, valid and binding obligation enforceable against it in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, and other similar laws now or hereafter in effect relating to creditors' rights generally; and

9.2.3 No suit, action or arbitration, or legal administrative or other proceeding is pending or has been threatened against the Seller that would have a material adverse effect on the validity or enforceability of this Agreement or the ability of Seller to fulfill its commitments hereunder, or that could result in any material adverse change in the business or financial condition of Seller; and

9.2.4 Neither the System nor any of Seller's services provided to Purchaser pursuant to this Agreement infringe on any third party's intellectual property or other proprietary rights.

10. DEFAULTS/REMEDIES.

10.1 Seller Event of Default. Each of the following events shall constitute a "Seller Event of Default":

10.1.1 Seller fails to pay to Purchaser any amount when due under this Agreement and such breach remains uncured for ten (10) Business Days following notice of such breach to Seller;

10.1.2 Seller materially breaches any other term of this Agreement and (i) if such breach is capable of being cured within thirty (30) days after Purchaser's notice to Seller of such breach, Seller has failed to cure the breach within such thirty (30) day period, or (ii) if Seller has diligently commenced work to cure such breach during such thirty (30) day period but such breach is not capable of cure within such period, Seller has failed to cure the breach within a further ninety (90) day period (such aggregate period not to exceed one hundred twenty (120) days from the date of Purchaser's notice).

10.2 Purchaser's Remedies. If a Seller Event of Default has occurred and is continuing, Purchaser may terminate this Agreement by written notice to Seller following the expiration of the applicable cure period, and may exercise any other remedy it may have at law or equity, including recovering from Seller all resulting damages, which damages shall include, but not be limited to, the cost of removing the System from the Designated Premises; any loss or damage to Purchaser due to lost or recaptured Environmental Attributes or Tax Benefits, including, without limitation, lost revenue from the sale of Environmental Attributes to third parties (including any damages due to the early termination of any agreement for such sale); and all other amounts of any nature due under this Agreement.

10.3 Purchaser Event of Default. Each of the following events shall constitute a "Purchaser Event of Default":

10.3.1 Purchaser fails to pay to Seller any undisputed amount when due under this Agreement and such breach remains uncured for ten (10) Business Days following notice of such

breach to Purchaser;

10.3.2 (i) Purchaser commences a voluntary case under any bankruptcy law, (ii) Purchaser fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against Purchaser in an involuntary case under any bankruptcy law; or (iii) any involuntary bankruptcy proceeding commenced against Purchaser remains undismissed or undischarged for a period of one hundred and twenty (120) days;

10.3.3 Purchaser breaches any of its obligations under Section 2.3.4;

10.3.4 Purchaser materially breaches any other term of this Agreement (i) if such breach is capable of being cured within thirty (30) days after Seller's notice to Purchaser of such breach and Purchaser has failed to cure the breach within such thirty (30) day period, or (ii) if Purchaser has diligently commenced work to cure such breach during such thirty (30) day period but such breach is not capable of cure within such period, Purchaser has failed to cure the breach within a further ninety (90) day period (such aggregate period not to exceed one hundred twenty (120) days from the date of Seller's notice).

10.3.5 Purchaser ceases to conduct business at the building the System was designed to serve; and

10.3.6 Purchaser (i) unreasonably refuses to execute any document required for Seller to obtain any Environmental Attributes or Tax Benefits related to a System, or (ii) causes any material change to the condition of the Premises that has a material adverse effect on any System.

10.4 Seller's Remedies. If a Purchaser Event of Default under Sections 10.3.1 through 10.3.4 has occurred and is continuing, Seller may terminate this Agreement by written notice to Purchaser following the expiration of the applicable cure period. If a Purchaser Event of Default under Sections 10.3.5 or 10.3.6 has occurred and is continuing, Seller may terminate this Agreement with respect to the affected System by written notice to Purchaser following the expiration of the applicable cure period. Seller may also exercise any other remedy it may have at law or equity, including recovering from Purchaser all resulting damages, which damages shall include, but not be limited to, projected payments for Energy generated for the remainder of the Contract Term; the cost of removing the System from the Designated Premises; any loss or damage to Seller due to lost or recaptured Environmental Attributes or Tax Benefits, including, without limitation, lost revenue from the sale of Environmental Attributes to third parties (including any damages due to the early termination of any agreement for such sale), and the recapture of the investment tax credit under Section 48 of the Internal Revenue Code and accelerated depreciation for the System (including any gross up necessary to make the payments reasonably equivalent to the Tax Benefits recaptured); and all other amounts of any nature due under this Agreement (collectively, the "PPA Damages"). Pending Purchaser's payment of the PPA Damages, Seller may remain on the Premises and sell Energy and Environmental Attributes produced by the System to any third party.

10.5 Waiver of Consequential Damages. EXCEPT AS SPECIFICALLY PROVIDED HEREIN, THE PARTIES AGREE THAT TO THE FULLEST EXTENT ALLOWED BY LAW, IN NO EVENT SHALL EITHER PARTY BE RESPONSIBLE OR LIABLE, WHETHER IN CONTRACT, TORT, WARRANTY, OR UNDER ANY STATUTE OR ON ANY OTHER

BASIS, FOR SPECIAL, INDIRECT, INCIDENTAL, MULTIPLE, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES OR DAMAGES FOR LOST PROFITS OR LOSS OR INTERRUPTION OF BUSINESS, ARISING OUT OF OR IN CONNECTION WITH THE SYSTEM OR THIS AGREEMENT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, THE PPA DAMAGES SHALL NOT BE CONSIDERED CONSEQUENTIAL DAMAGES AND SHALL NOT BE SUBJECT TO THE LIMITATIONS SET FORTH IN THIS SECTION.

10.6 Limitation of Liability. Each party shall be responsible for their own liability.

10.7 Notwithstanding this Section 10, or any other provision herein to the contrary, Purchaser shall have the right to terminate this Agreement without penalty in the event the decision to enter into the same is appealed pursuant to Iowa Code Sections 331.301(10) and 331.443 (2015).

11. FINANCING ACCOMMODATIONS.

11.1 Purchaser Acknowledgment. Purchaser acknowledges that Seller may finance the System and that Seller's obligations may be secured by, among other collateral, a pledge or collateral assignment of this Agreement and a security interest in each or any System. In order to facilitate such financing, and with respect to any financing Seller of which Seller has notified Purchaser in writing (each, a "Financing Party"), Purchaser agrees as follows:

11.1.1 Consent to Collateral Assignment. Seller shall have the right to assign this Agreement as collateral for financing or refinancing of the System, and Purchaser hereby consents to the collateral assignment by Seller to any Financing Party of Seller's right, title, and interest in and to this Agreement.

11.1.2 Financing Party's Rights following Default. Notwithstanding any contrary term of this Agreement:

(a) Financing Party, as collateral assignee, shall be entitled to exercise, in the place and stead of Seller, any and all rights and remedies of Seller under this Agreement in accordance with the terms of this Agreement. Financing Party shall also be entitled to exercise all rights and remedies of secured parties generally with respect to this Agreement and the Systems.

(b) Financing Party shall have the right, but not the obligation, to pay all sums due under this Agreement and to perform any other act, duty, or obligation required of Seller hereunder or cause to be cured any default or event of default of Seller in the time and manner provided by the terms of this Agreement. Nothing herein requires Financing Party to cure any default of Seller (unless Financing Party has succeeded to Seller's interests) to perform any act, duty, or obligation of Seller, but Purchaser hereby gives Financing Party the option to do so.

(c) Upon the exercise of remedies under its security interest in the System, including any sale thereof by Financing Party, whether by judicial proceeding or under any power of sale, or any conveyance from Seller to Financing Party, Financing Party shall give notice to Purchaser of the transferee or assignee of this Agreement. Any

such exercise of remedies shall not constitute a Seller Event of Default.

(d) Upon any rejection or other termination of this Agreement pursuant to any process undertaken with respect to Seller under the United States Bankruptcy Code, seller shall forfeit all assets and rights to the equipment.

11.1.3 Financing Party Cure Rights. Purchaser shall not exercise any right to terminate or suspend this Agreement unless Purchaser has given prior written notice to each Financing Party of which Purchaser has notice. Purchaser's notice of an intent to terminate or suspend must specify the condition giving rise to such right. Financing Party shall have the longer of thirty (30) days and the cure period allowed for a default of that type under this Agreement to cure the condition; provided that if the condition cannot be cured within such time but can be cured within the extended period, Financing Party may have up to an additional ninety (90) days to cure if Financing Party commences to cure the condition within the thirty (30) day period and diligently pursues the cure thereafter. Purchaser's and Seller's obligations under this Agreement shall otherwise remain in effect, and Purchaser and Seller shall be required to fully perform all of their respective obligations under this Agreement during any cure period.

11.1.4 Continuation Following Cure. If Financing Party or its assignee acquires title to or control of Seller's assets and cures all defaults existing as of the date of such change in title or control within the time allowed by Section 10.1.2, then this Agreement shall continue in full force and effect.

11.2 Notice of Defaults and Events of Default. Purchaser agrees to deliver to each Financing Party a copy of all notices that Purchaser delivers to Seller pursuant to this Agreement.

12. NOTICES. Any notice required, permitted, or contemplated hereunder shall be in writing and addressed to the Party to be notified at the address set forth below or at such other address or addresses as a Party may designate for itself from time to time by notice hereunder. Such notices may be sent by personal delivery or recognized overnight courier and shall be deemed effective upon receipt.

To Seller: Seller Business Name:
 Address:
 Attention: name
 Phone:

To Purchaser: City of Iowa City
 City Hall
 Attn: Purchasing
 410 East Washington Street
 Iowa City, IA 52240

With a copy to: Attn: Facilities Manager
 Robert A. Lee Rec Center
 220 S. Gilbert Street
 Iowa City, IA 52240

13. GOVERNING LAW; DISPUTES.

13.1 Choice of Law. This Agreement shall be construed in accordance with the laws of the State of Iowa, without regard to its conflict of laws principles.

13.2 Disputes.

13.2.1 Management Negotiations. The Parties shall use all reasonable efforts to settle disputes through negotiation between authorized members of each Party's senior management. Either Party may, by written notice to the other Party, request a meeting to initiate negotiations to be held within fifteen (15) Business Days of the other Party's receipt of such request, at a mutually agreed time and place. If the matter is not resolved within thirty (30) Business Days of their first meeting, either Party may pursue whatever legal or equitable remedy they wish

14. INDEMNIFICATION.

14.1 Seller's Indemnity to Purchaser. Seller shall indemnify, defend, and hold harmless Purchaser (including Purchaser's permitted successors and assigns) and Purchaser's subsidiaries, directors, officers, members, shareholders, employees and agents (collectively, "Purchaser Indemnified Parties") from and against any and all damages sustained or incurred by any third party Person for personal injury, illness, death or property damage, to the extent caused by the negligence (including gross negligence) or willful misconduct of the Seller arising out of or in connection with this Agreement. Seller's indemnification obligations under this Section 14.1 shall not extend to any claim to the extent such claims are due to the gross negligence or willful misconduct of any Purchaser Indemnified Party.

14.2 Purchaser's Indemnity to Seller. Purchaser shall indemnify, defend, and hold harmless Seller (including Seller's permitted successors and assigns) and Seller's subsidiaries, directors, officers, members, shareholders, employees and agents (collectively, "Seller Indemnified Parties") from and against any and all damages sustained or incurred by any third party Person for personal injury, illness, death or property damage, to the extent caused by the negligence (including gross negligence) or willful misconduct of the Purchaser arising out of or in connection with this Agreement. Purchaser's indemnification obligations under this Section 14.2 shall not extend to any claim to the extent such claims are due to the gross negligence or willful misconduct of any Seller Indemnified Party.

15. INSURANCE.

15.1 Insurance Required. Each Party shall maintain in full force and effect throughout the Contract Term, with insurers of recognized responsibility authorized to do business in Iowa, assigned an A.M. Best rating of no less than A IX, insurance coverage of its respective interests in the amounts and types set forth on Exhibit C. Each policy of insurance maintained by Seller shall (a) name Purchaser as an additional insured as its interests may appear (to the extent covering any other risk); and (b) contain endorsements providing that such policy shall not be cancelled or amended with respect to the insured and its designees without thirty (30) days' prior written notice

to Purchaser. Each Party shall, within ten (10) days of written request therefor, furnish current certificates of insurance to the other Party evidencing the insurance required hereunder.

15.2 Waiver of Subrogation. Each policy of insurance required hereunder shall provide for a waiver of subrogation rights against the other Party, and of any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of that policy.

15.3 No Waiver of Obligations. The provisions of this Agreement shall not be construed in a manner so as to relieve any insurer of its obligations to pay any insurance proceeds in accordance with the terms and conditions of valid and collectable insurance policies. The liabilities of the Parties to one another shall not be limited by insurance.

16. CONFIDENTIAL INFORMATION.

16.1 Confidentiality. Nothing contained in this Agreement or its attachments shall be considered confidential Information and the Parties shall each make their best efforts to avoid disclosing to the other Party any confidential Information. To the extent either Party discloses Confidential Information to the other Party, neither Party (the “Receiving Party”) shall use for any purpose other than performing its obligations under this Agreement or divulge, disclose, produce, publish, or permit access to, without the prior written consent of the other Party (the “Disclosing Party”), any Confidential Information of the Disclosing Party. Confidential Information includes information containing trade secrets under Iowa law (See, e.g., U.S. West Comm., Inc., v. Office of Consumer Advocate, 498 N.W.2d 711 (Iowa 1993)). Confidential Information does not include (a) information known to the Receiving Party prior to obtaining the same from the Disclosing Party; (b) information in the public domain at the time of disclosure by the Receiving Party; or (c) information obtained by the Receiving Party from a third party who did not receive same, directly or indirectly, from the Disclosing Party. The Receiving Party shall use the higher of the standard of care that the Receiving Party uses to preserve its own confidential information or a reasonable standard of care to prevent unauthorized use or disclosure of such Confidential Information. Notwithstanding anything herein to the contrary, the Receiving Party has the right to disclose Confidential Information without the prior written consent of the Disclosing Party (i) as required by any court or other Governmental Authority, or by any stock exchange on which the shares of any Party are listed; (ii) as otherwise required by law; (iii) as advisable or required in connection with any government or regulatory filings, including, without limitation, filings with any regulating authorities covering the relevant financial markets; (iv) to its attorneys, accountants, financial advisors, or other agents, in each case bound by confidentiality obligations, (v) to banks, investors, and other financing sources and their advisors, in each case if any such Person has agreed to abide by the terms of this Section 16.1; (vi) in connection with an actual or prospective merger or acquisition or similar transaction where the party receiving the Confidential Information is bound by the same or similar confidentiality obligations; or (vii) to any Governmental Authority in connection with any Environmental Incentive. If a Receiving Party believes that it will be compelled by a court or other Governmental Authority to disclose Confidential Information of the Disclosing Party, it shall give the Disclosing Party prompt written notice so that the Disclosing Party may determine whether to take steps to oppose such disclosure.

16.2 Irreparable Injury; Remedies. Purchaser and Seller each agree that disclosing Confidential Information of the other Party in violation of the terms of this Article 16 may cause

irreparable harm, and that, notwithstanding Section 10.5, the harmed Party may immediately seek any and all remedies available to it at law or in equity, including, but not limited to, injunctive relief from a court of competent jurisdiction.

17. MISCELLANEOUS.

17.1 Assignments. Neither Party shall have the right to assign any of its rights, duties, or obligations under this Agreement without the prior written consent of the other Party, which consent may not be unreasonably withheld or delayed. the foregoing notwithstanding, Seller may assign any of its rights, duties, or obligations under this Agreement, without the consent of Purchaser, (i) to any of its Affiliates, (ii) to any third party in connection with a financing transaction, or (iii) to any purchaser of the System.

17.2 Entire Agreement. This Agreement represents the full and complete agreement between the Parties hereto with respect to the subject matter contained herein and supersedes all prior written or oral agreements between the Parties with respect to the subject matter hereof.

17.3 Amendments. This Agreement may only be amended, modified, or supplemented by an instrument in writing executed by duly authorized representatives of Seller and Purchaser.

17.4 No Partnership or Joint Venture. Seller and Seller's agents, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of Purchaser. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement).

17.5 Headings; Exhibits. The headings in this Agreement are solely for convenience and ease of reference and shall have no effect in interpreting the meaning of any provision of this Agreement. Any Exhibits referenced within and attached to this Agreement, including any attachments to the Exhibits, shall be a part of this Agreement and are incorporate by reference herein.

17.6 Remedies Cumulative. No remedy herein conferred upon or reserved to any Party shall exclude any other remedy herein or by law provided, but each shall be cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

17.7 Waiver. The waiver by either Party of any breach of any term, condition, or provision herein contained shall not be deemed to be a waiver of such term, condition, or provision, or any subsequent breach of the same, or any other term, condition, or provision contained herein. Any such waiver must be in a writing executed by the Party making such waiver.

17.8 Severability. If any part, term, or provisions of this Agreement is determined by an arbitrator or court of competent jurisdiction to be invalid, illegal, or unenforceable, such determination shall not affect or impair the validity, legality, or enforceability of any other part, term, or provision of this Agreement and shall not render this Agreement unenforceable as a whole. Instead, the part of the Agreement found to be invalid, unenforceable, or illegal shall be amended, modified, or interpreted to the extent possible to most closely achieve the intent of the Parties and in the manner closest to the stricken provision.

17.9 No Public Utility. Nothing contained in this Agreement shall be construed as an intent by Seller to dedicate the System to public use or subject itself to regulation as a “public utility” or as an “electric utility” (as such term may be defined under any applicable law).

17.10 Service Contract. The Parties acknowledge and agree that, for accounting and tax purposes, this Agreement is not and shall not be construed as a capital lease financing contract and, pursuant to Section 7701(e)(3) of the Internal Revenue Code, this Agreement is and shall be deemed to be a service contract for the sale to Purchaser of energy produced at an alternative energy facility.

17.11 Counterparts and Facsimile Signatures. This Agreement may be executed in counterparts, which shall together constitute one and the same agreement. Facsimile or portable document format (“PLIF”) signatures shall have the same effect as original signatures, and each Party consents to the admission in evidence of a facsimile or photocopy of this Agreement in any court proceedings between the Parties.

17.12 Further Assurances.

17.12.1 Additional Documents. 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.

17.12.2 Certificates. From time to time, Purchaser shall provide within fourteen (14) days after receipt of a written request from Seller (i) a lien waiver from any party purporting to have a lien, security interest, or other encumbrance on the Premises, confirming that it has no interest in the System, or (ii) an estoppel certificate attesting, to the knowledge of Purchaser, of Seller’s compliance with the terms of this Agreement or detailing any known issues of noncompliance, and making such other representations, warranties, and accommodations reasonably requested by the recipient of the estoppel certificate.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties have caused this Power Purchase Agreement to be duly executed and delivered as of the Effective Date.

VENDOR NAME

CITY OF IOWA CITY, IOWA PURCHASER

By:

By:

Name:

Name:

Title:

Title:

Attest: _____

EXHIBIT A

DEFINITIONS

“Affiliate” means, with respect to any person or entity, any other person or entity controlling, controlled by or under common control with such first person or entity. For purposes of this definition and this Agreement, the term “control” (and correlative terms) means the right and power, directly or indirectly through one or more intermediaries, to direct or cause the direction of substantially all of the management and policies of a person or entity through ownership of voting securities or by contract, including, but not limited to, the right to fifty percent (50%) or more of the capital or profits of a partnership or, alternatively, ownership of fifty percent (50%) or more of the voting stock of a corporation.

“Agreement” has the meaning set forth in the Preamble.

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

“Commercial Operation Date” means the date when the System(s) listed in Exhibit B is “placed in service” for purposes of Section 48 of the Internal Revenue Code.

“Confidential Information” has the meaning set forth in Section 16.1.

“Contract Term” has the meaning set forth in Section 2.2.

“Contract Year” means the twelve (12) month period commencing on the Commercial Operation Date, and each consecutive twelve (12) month period thereafter during the Delivery Term.

“Delivery Point” means the point of interconnection between a System and the Designated Premises’ internal electrical system.

“Delivery Term” has the meaning set forth in Section 2.2.

“Designated Premises” means all the real property and improvements (exclusive of any System) as described in Exhibit D.

“Effective Date” has the meaning set forth in the Preamble.

“Energy” means electrical energy that is generated by any System, expressed in kWh.

“Energy Price” means, for any Contract Year, the applicable amount set forth in Exhibit E.

“Environmental Attributes” means any and all environmental benefits, air quality credits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to energy generation by a renewable fuel source and its displacement of energy generation by conventional, nonrenewable, and/or carbon-based fuel sources. Environmental Attributes include, but are not limited to, (1) any benefit accruing from the renewable nature of the generation’s motive source; (2) any avoided emissions of pollutants to the air, soil, or water (such as sulfur oxides (SO_x),

nitrogen oxides NO_x), carbon monoxide (CO), and other pollutants other than those that are regulated pursuant to state or federal law); (3) any avoided emissions of carbon dioxide (CO₂), methane (CH₄), and other greenhouse gases that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; (4) any property rights that may exist with respect to the foregoing attributes howsoever entitled; (5) any green tags, renewable energy credits or similar credits, including RECs created pursuant to applicable law ("RECs"); and (6) any reporting rights to these avoided emissions, including, but not limited to, green tag or REC reporting rights. Environmental Attributes do not include (i) any energy, capacity, reliability, or other power attributes, (ii) Tax Benefits, or (iii) emission reduction credits encumbered or used for compliance with local, state, or federal operating and/or air quality permits.

"Estimated Output" has the meaning set forth in Exhibit F.

"Exercise Period" has the meaning set forth in Section 6.2.

"Financing Party" has the meaning set forth in Section 11.1.

"Force Majeure" means any act or event that delays or prevents a Party from timely performing obligations under this Agreement or from complying with conditions required under this Agreement if such act or event despite the exercise of reasonable efforts, cannot be abided by, and is beyond the reasonable control of and without the fault or negligence of, the Party relying thereon as justification for such delay, nonperformance, or noncompliance, which includes, without limitation, an act of God or the elements, site conditions, extreme or severe weather conditions, explosion, fire, epidemic, landslide, mudslide, sabotage, terrorism, lightning, earthquake, flood, volcanic eruption or similar cataclysmic event, an act of public enemy, war, blockade, civil insurrection, riot, civil disturbance, or strike or other labor difficulty caused or suffered by a Party or any third party beyond the reasonable control of such Party. However, financial cost alone or as the principal factor shall not constitute grounds for a claim of force Majeure.

"Governmental Authorities" means any national, state, regional, municipal or local government, any political subdivision thereof, or any governmental, quasi-governmental, regulatory, judicial or administrative agency, authority, commission, board or similar entity having jurisdiction over the System or its operations, the Premises, or otherwise over any Party.

"Interest Rate" means an annual rate equal to the lesser of (a) twelve (12) percent and (b) the highest interest rate permitted by applicable law.

"kWh" means kilowatt-hours.

"Net Metering Rules" means the rules established pursuant to applicable law in the state of Iowa or the Purchaser's specific utility.

"Notice to Proceed Date" means the date on which physical work of a significant nature relating to the installation of the System at the Designated Premises commences.

"Owner" has the meaning set forth in the Preamble.

“Party” and “Parties” have the meanings set forth in the Preamble.

“Person” means any individual, corporation (including, without limitation, any non-stock or non-profit corporation), limited liability company, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, or governmental body.

“PPA Damages” has the meaning set forth in Section 10.4.

“Prudent Operating Practice” means the practices, methods, and standards of professional care, skill, and diligence engaged in or approved by a significant portion of the electric power industry for solar energy facilities of similar size, type, and design as the System 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, applicable codes, and standards of economy and expedition.

“Purchase Option” has the meaning set forth in Section 6.1.

“Purchase Price” means the Fair Market Value (or “FMV”) as defined to mean the greater of: (i) the amount that would be paid for the equipment comprising the System in an arm’s length, free market transaction, for cash, between an informed, willing seller and an informed willing buyer, neither of whom is under compulsion to complete the transaction, taking into account, among other things, the age, condition and performance of such equipment and advances in solar technology, and (ii) the amount set forth on Exhibit F attached hereto for the respective Purchase Option Year.

“Purchase Option Date” has the meaning set forth in Section 6.1.

“Purchaser” has the meaning set forth in the Preamble.

“Purchaser Event of Default” has the meaning set forth in Section 10.3.

“Purchaser Indemnified Parties” has the meaning set forth in Section 14.1.

“Seller” has the meaning set forth in the Preamble.

“Seller Event of Default” has the meaning set forth in Section 10.1.

“Seller Indemnified Parties” has the meaning set forth in Section 14.2.

“Substantial Completion” has the meaning set forth in the construction or installation agreement entered into by Seller for the construction or installation of the System.

“System” means the solar energy generation system(s) described in Exhibit B and located at the Designated Premises described in Exhibit D.

“System Operation Date” means the date when an individual System is “placed in service” for purposes of Section 48 of the Internal Revenue Code.

“Tax Benefits” means any and all new or existing federal, state or local tax credits, cash grants, production incentives or similar tax or cash benefits for which the Systems, or the owner

or operator thereof, is eligible or which it receives, or any depreciation, expenses, credits, benefits or other federal, state or local tax treatment for which the Systems, or the owner or operator thereof, is eligible or which it receives.

“Temporary Shutdown” means a partial or complete shutdown of a System or discontinuance of, or reduction in, energy delivered from a System at the written direction of Buyer to Seller that lasts longer than 24 hours.

“Utility” means the Purchaser’s electrical utility company.

EXHIBIT B

DESCRIPTION OF THE SYSTEMS

Facility 1

Name: The Park Lodge at Terry Trueblood Recreation Area

Location: 579 McCollister Blvd., Iowa City, IA 52240

Size: 18.9 KW DC

Mounting: Exterior trellis

	The Park Lodge at Terry Trueblood Recreation Area
Panel Make	
Panel Model	
Panel Type	
Panel Wattage DC	
Panel Count	
Panel Tilt	degrees
Panel Warranty	25 years
Efficiency	
Tolerance Ratio	(+) 10 W
# of Cells	
Inverter Manufacturer	
Inverter Type	
Inverter Model	
Inverter Size	
Inverter Count	
Inverter Warranty	10 years
Inverter Efficiency	%
Racking Manufacturer	
Attachment Type of System	Attached to Trellis
Racking Warranty	20 years
Exterior Equipment Model Number and Weather Ratings	
Signage Allowance Amount	

Facility 2

Name: City of Iowa City, Iowa City Public Works Facility

Location: 3810 Napoleon Lane, Iowa City, IA 52240

Size: 39.0 KW DC

Mounting: Roof Mount - Ballasted

	Iowa City Public Works Facility
Panel Make	
Panel Model	
Panel Type	
Panel Wattage DC	
Panel Count	
Panel Tilt	degrees
Panel Warranty	25 years
Efficiency	
Tolerance Ratio	(+) 10 W
# of Cells	
Inverter Manufacturer	
Inverter Type	
Inverter Model	
Inverter Size	
Inverter Count	
Inverter Warranty	10 years
Inverter Efficiency	%
Racking Manufacturer	
Attachment Type of System	Roof, ballasted
Racking Warranty	20 years
Exterior Equipment Model Number and Weather Ratings	
Signage Allowance Amount	

EXHIBIT C

INSURANCE REQUIREMENTS

(a) Seller shall obtain and maintain the following insurance policies:

(i) Workers' compensation insurance, with limits of liability at least equal to the statutory requirements therefor;

(ii) Employer's liability insurance of not less than one million dollars (\$1,000,000);

(iii) Comprehensive general liability insurance against liability for injury to or death of any Person or damage to property in connection with the use, operation or condition of the Systems of not less than one million dollars (\$1,000,000) combined single limit per occurrence and not less than two million dollars (\$2,000,000) annual aggregate. Purchaser shall be named as an additional insured under this liability insurance, provided however that Seller shall in no event be obligated to repair or replace Purchaser's buildings or Premises;

(iv) Seller may satisfy the insurance requirements contained in this Agreement through any combination of primary and/or excess coverage; and

(v) Seller may elect to self-insure any or all the insurance requirements contained in this Agreement.

(b) Purchaser shall obtain and maintain the following insurance policies:

(i) Workers' compensation insurance, with limits of liability at least equal to the statutory requirements therefor;

(ii) Employer's liability insurance of not less than one million dollars (\$1,000,000);

(iii) Comprehensive general liability insurance against liability for injury to or death of any Person or damage to property in connection with the use, operation or condition of the Designated Premises of not less than one million dollars (\$1,000,000) combined single limit per occurrence and not less than two million dollars (\$2,000,000) annual aggregate. Seller shall be named as an additional insured under this liability insurance;

(iv) Purchaser may satisfy the insurance requirements contained in this Agreement through any combination of primary and/or excess coverage; and

(v) Purchaser may elect to self-insure any or all of the insurance requirements contained in this Agreement.

EXHIBIT D

DESIGNATED PREMISES/SITE PLAN

A portion of the rooftop of the Iowa City Public Works Facility, located at 3810 Napoleon Lane, Iowa City, Iowa, and a portion of the trellis at The Park Lodge at Terry Trueblood Recreation Area, located at 579 McCollister Blvd, Iowa City, Iowa as specifically shown and described in attached Bidding Documents

EXHIBIT E

ENERGY PRICE
(During the delivery Term)

The Park Lodge at Terry Trueblood Recreation Area

		Energy Production	Energy Rate	Energy
		(kWh)	\$	\$
1	2021			
2	2022			
3	2023			
4	2024			
5	2025			
6	2026			
7	2027			
8	2028			
9	2029			
10	2030			
11	2031			
12	2032			
13	2033			
14	2034			
15	2035			
16	2036			
17	2037			
18	2038			
19	2039			
20	2040			
TOTAL			TOTAL	

Iowa City Public Works Facility

		Energy Production	Energy Rate	Energy
		(kWh)	\$	\$
1	2021			
2	2022			
3	2023			
4	2024			
5	2025			
6	2026			
7	2027			
8	2028			
9	2029			
10	2030			
11	2031			
12	2032			
13	2033			
14	2034			
15	2035			
16	2036			
17	2037			
18	2038			
19	2039			
20	2040			
TOTAL			TOTAL	

EXHIBIT F

FAIR MARKET VALUE REFERENCE AMOUNTS

THE PARK LODGE AT TERRY TRUEBLOOD
RECREATION AREA

END OF CONTRACT YEAR	FIXED BUYOUT AMOUNT
*0	
10	
15	
20	

*Turn installed system and maintenance over to Owner upon completion.

FAIR MARKET VALUE REFERENCE AMOUNTS

IOWA CITY PUBLIC WORKS FACILITY

END OF CONTRACT YEAR	FIXED BUYOUT AMOUNT
*0	
10	
15	
20	

*Turn installed system and maintenance over to Owner upon completion.

EXHIBIT G

COLLATERAL ASSIGNMENT AGREEMENT

NAME OF ASSIGNOR, Solar Power Purchase Agreement

by and between

City of Iowa City and NAME OF ASSIGNOR dated _____

Purchaser Name:	City of Iowa City	Lessor Name:	
Address:	City Hall	Address:	
	410 East Washington		
	Iowa City, IA 52240		

Assignor Name:
Address:

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, the undersigned, _____ (herein referred as "Assignor", and as Seller in the Solar Power Purchase Agreement) hereby assigns, transfers and sets over unto _____ and its successors and assigns (herein referred to as "Lessor" or "Assignee"), at _____, all monies due and to become due under Solar Power Purchase Agreement dated _____, 2021 executed by Assignor and City of Iowa City, and any revisions, modifications, amendments, options, claims and extensions thereto (hereinafter referred to as the 'Contract').

ASSIGNOR HEREBY AUTHORIZES AND DIRECTS the City of Iowa City, its agents and officers, at the direction of the Assignee, to make all payments due or that may be hereafter due or owing under the Contract to the Assignee by checks or other orders, payable to the order of the Assignee. Assignor hereby constitutes and appoints Assignee its true and lawful attorney, irrevocably, with full power or substitution for it and in its name or in the name of the Assignor or otherwise, to ask, require, demand, and receive and give acquaintance for any and all said monies due or to become due, and to endorse the name of the Assignor to any checks, drafts or other orders for the payment of money payable to the Assignor.

ASSIGNOR HERE BY WARRANTS that it is the lawful owner of all rights under the Contract and any and all amendments thereof and supplements thereto ; that it has good right to assign the same; that its rights are free and clear of all liens and encumbrances and that it will warrant and defend the same against the lawful claims and demands of all persons. Assignor agrees (a) that, if any payment under the Contract shall be made to Assignor, it will receive and hold the same in trust for Assignee and will forthwith upon receipt deliver the same to Assignee in the identical form of payment received by Assignor, and (b) that it will execute and deliver all such further instruments and do all such further acts and things as Assignee may reasonably request or as shall be necessary or desirable to further and more perfectly assume to Assignee its rights under the Contract.

ASSIGNEE SHALL NOT HAVE OR BE UNDER any duty whatsoever to perform or carry out any of the obligations undertaken by Assignor under the Contract.

IN WITNESS WHEREOF, ASSIGNOR HAS EXECUTED THIS ASSIGNMENT THIS _____ DAY OF _____, 2020.

ASSIGNOR:

X _____
Signature

Name, Title

PURCHASER:

X _____
Signature

City Title:
City of Iowa City

Attest: