

STAFF REPORT*CITY OF OCEANSIDE*

DATE: January 24, 2024

TO: Honorable Mayor and City Councilmembers

FROM: City Manager's Office

SUBJECT: **MAKE CERTAIN FINDINGS AND ADOPT RESOLUTIONS APPROVING AN ENERGY SERVICES CONTRACT FOR ENERGY EFFICIENCY EQUIPMENT AND IMPROVEMENTS AND AUTHORIZING DELIVERY OF A LEASE PURCHASE AGREEMENT AND AN ESCROW AGREEMENT TO FINANCE THE ENERGY EFFICIENCY EQUIPMENT AND IMPROVEMENTS**

SYNOPSIS

Staff recommends that the City Council:

- 1) Hold a Public Hearing regarding the proposed energy conservation measures and energy services contract with ENGIE Services U.S. Inc. ("ENGIE");
- 2) Adopt the Resolution ("Findings & Energy Contract Resolution") that will make the required findings under Government Code section 4217.10, et seq., enabling the City to enter into an Energy Services Contract with ENGIE;
- 3) Authorize the City Manager to execute the Energy Services Contract with ENGIE substantially in the form attached as Exhibit B to the Findings & Energy Contract Resolution in an amount not to exceed \$20,910,327 for the design and construction of certain energy conservation facilities and measures ("ECMs"), subject to non-monetary changes to the Energy Services Contract approved by the City Manager and City Attorney, and contingent on finalizing and obtaining financing for the project; and
- 4) Adopt the Resolution ("Lease Purchase Agreement Resolution") authorizing the execution and delivery of a Lease Purchase Agreement and an Escrow Agreement for the purposes of financing the ECMs described in the Energy Services Contract.

BACKGROUND**ENGIE Services U.S. Inc. - Energy Conservation Project**

On April 6, 2022, the City Council authorized ENGIE to perform an integrated assessment and Investment Grade Energy Audit of City owned facilities to identify potential energy savings. Inclusive of this study was an engineering and financial analysis for

recommended improvements. The goal of the ENGIE program is that all the project costs (e.g. design, materials, construction, etc.) are offset by the future energy cost savings.

Energy Conservation Measures ("ECMs") were developed to meet the technical, operational, and financial goals of the City. The anticipated energy savings will also serve to complement various Climate Action Plan (CAP) goals. Various system configurations and technologies were evaluated for cost-effectiveness and technical consistency. The proposed City program is estimated to provide a reduction in greenhouse gas emissions of 2,764 metric tons of CO₂, each year, furthering the City's CAP goals.

In summary, the ECMs identified in the scope of the proposed project consist of the following:

1. Solar Photovoltaics (PV) – This measure would generate clean, on site power via solar shade structures and rooftop canopies. This measure would also reduce SDGE charges and protect against rising energy costs.
2. Civic Center Plant upgrades – This measure would replace the existing chiller which has reached the end of its expected service life with a new 260-ton high efficiency water cooled chiller.
3. LED lighting upgrades – This measure would upgrade lighting at City facilities to energy efficient LEDs to reduce energy consumption and maintenance costs.
4. HVAC unit and duct replacements and refurbishments – This measure considers repairing, optimizing, and/or replacing aging HVAC systems to reduce maintenance costs, extend equipment life, provide energy savings and improve building comfort.
5. Advanced Energy Management Systems – This measure provides City-wide consistency in energy management and control systems to allow for easier and more efficient monitoring and adjustment of temperature in City facilities. This measure allows City staff to have better control of heating and cooling, saving costs and staff time.
6. Distribution Transformer Replacements – This measure replaces old transformers with newer and more efficient units. This measure also reduces losses, both when operating and in stand-by modes, and improves site electrical infrastructure reliability.
7. Generator Heat Pump Installations – This measure provides heating redundancy for generators and extends the life of heating systems by 15-20 years.
8. Battery Energy Storage – This measure would help the City avoid peak demand charges and optimize energy rates.

A list of the specific facilities and identified ECMs may be found under Exhibit C to the Findings & Energy Contract Resolution. City facilities excluded from this project were determined to not have the infrastructure needs and/or capacity to provide sufficient energy savings to offset costs.

Inclusive of the proposed project are a number of Community Engagement programs ENGIE is committed to supporting. Examples include but are not limited to:

- Paid internships
- CivicSpark Fellow to support the City's CAP or other special projects
- Summer and After-School Science, Technology, Engineering, and Math (STEM) activities
- Support of Mobile and Community Outreach (STEM and Energy education)

ENGIE provided an energy savings analysis attached to the Findings & Energy Contract Resolution as Exhibit A ("Energy Analysis") demonstrating the energy savings of \$26 million the City is expected to generate over a 30-year period from the installation of the ECM's. ENGIE agrees to design and construct the ECM's for an amount not to exceed \$20,910,327 and City staff has worked with the City Attorney to negotiate the Energy Services Contract.

The ECM's are projected to provide significant savings to the City from reduced energy costs. Implementing LED lighting retrofits offers energy savings, and improved visual quality, while reducing maintenance costs. HVAC upgrades will realize energy savings, improve facility occupancy comfort, and reduce maintenance and repair costs. PV systems serve as an effective energy solution for offsetting utility costs. Future costs that would have been applied to upgrades in this project will offset the Equipment lease payments or otherwise be allocated to other budgetary obligations.

City staff worked with the City Attorney's office to prepare the Energy Services Contract with ENGIE for the City Council's consideration. If the City Council desires to approve that agreement and the specified scope of work, that approval should be conditioned on the City obtaining financing for the project, which financing will be structured as a Lease Purchase Agreement between the City and TD Equipment Finance, Inc. (described further below).

ANALYSIS

Government Code §4217.10 - §4217.18 allows public agencies without voter approval to select and contract with a qualified design/build company to develop, design and build energy conservation, cogeneration, and alternative energy savings projects under one energy service contract.

Specifically, Government Code § 4217. 13 provides in relevant part, "a public agency may enter into a facility financing contract and a facility ground lease on terms that its governing body determines are in the best interest of the public agency if the

determination is made at a regularly scheduled public hearing, public notice of which is given at least two weeks in advance, and if the governing body finds that funds for the repayment of the financing or the cost of design, construction, and operation of the energy conservation facility, or both, as required by the contract, are projected to be available from revenues resulting from sales of electricity or thermal energy from the facility or from funding that otherwise would have been used for purchase of electrical, thermal, or other energy required by the public agency in the absence of the energy conservation facility, or both."

ENGIE provided the Energy Analysis that reasonably demonstrates that the City will achieve savings in an amount sufficient to satisfy the required finding under Section 4217.12 through the construction of the ECM's under the Energy Services Contract. That analysis is set forth in Exhibit A to the Findings & Contract Resolution and is based on the financing parameters being presented to and considered by the City Council in the Lease Purchase Agreement.

If the City Council desires to proceed with the project, the City Council must first make the required findings under Section 4217.12 enabling the City to enter into the Energy Services Contract (accomplished by approving the Findings & Energy Contract Resolution), and authorize the City Manager to enter into the Energy Services Contract with ENGIE.

In addition, if the City Council approves the Findings & Energy Contract Resolution, it will authorize City staff (City Manager and the City Attorney) to negotiate any further changes, insertions and omissions to the Energy Services Contract. The City Council's authorization to enter into the Energy Services Contract will be fully contingent on the City obtaining financing for the project and the City Attorney's approval.

The City's Municipal Advisor, Urban Futures, Inc., distributed requests for proposals on behalf of the City to four financial institutions to provide financing for the ECM's. All four financial institutions responded on December 6, 2023. After City staff's review of the financing proposals, TD Equipment Finance, Inc. ("TDEF") was selected based on its lowest interest rate bid of 3.99 percent and other favorable financing terms.

The Lease Purchase Agreement Resolution approves, among other actions, the terms of a Lease Purchase Agreement and Escrow Agreement between TDEF and the City, whereby the City will make lease payments in order to lease, with the option to purchase, the ECMs that will be installed as part of the project. Pursuant to the Resolution, the Lease Purchase Agreement is approved with a maximum principal amount to be financed not to exceed \$21.5 million (along with the City's costs incurred for the financing), an interest rate not to exceed 4.50 percent, and a term not to exceed 21 years. The Lease Purchase Agreement Resolution also approves the terms of an Escrow Agreement under which an escrow holder will hold the loan proceeds and disburse such proceeds to the City for the cost of work performed under the Energy Services Contract, subject to certain conditions set forth in the Escrow Agreement. The Lease Purchase Agreement and

Escrow Agreement collectively constitute a Facility Financing Contract within the meaning of Government Code Section 4217.13.

The Lease Purchase Agreement Resolution also approves the engagement of the financing team, including Stradling Yocca Carlson & Rauth LLP as special counsel and Urban Futures, Inc., as Municipal Advisor, and authorizes the Mayor, the City Manager and the Financial Services Director as "Authorized Officers" to execute the Lease Purchase Agreement and Escrow Agreement. Given the specific nature of this equipment lease financing, the City maintains the flexibility to utilize its real property assets as collateral for potential future lease revenue bond financing.

FISCAL IMPACT

The Lease Purchase Agreement has a 20-year term with an interest rate currently estimated at 3.99 percent, and lease payments totaling approximately \$30.9 million. Assuming a level lease payment structure, annual lease payments are estimated to be approximately \$1.54 million.

As required by Government Code Section 5852.1, City staff has obtained the following good faith estimates of the financing terms, which Good Faith Estimates are also provided in the Lease Purchase Agreement Resolution:

Principal Amount	\$21,000,327
True Interest Cost	3.99%
Issuance Costs	\$90,000
Net Proceeds Amount	\$20,910,327
Total Payments	\$30,880,747

These Good Faith Estimates are preliminary and subject to change, but any changes will be within the cost-saving parameters noted above and which support the necessary findings under Government Code Sections 4217.12 and 4217.13.

ENGIE has projected that certain energy savings, Operation and Maintenance (O&M) savings, new renewable savings, and Direct Pay Investment Tax Credit ("ITC") for the project will offset the lease payments and generate net savings of approximately \$26 million at the end of a 30-year period. The average annual projected savings of the project are estimated at \$492,857 (\$165,299 General Fund) over the 20-year financing term. Regardless of whether any such savings come to fruition, the City would be obligated to make payments to TDEF in the amounts and on the dates described in the Lease Purchase Agreement. Should the City fail to make these payments, the Lender has the right to retake possession of the financed equipment and pursue other remedies; and the City's credit would be negatively impacted.

The Energy Services Contract with ENGIE provides a "savings guarantee" for twenty measurement periods. This provision provides some level of assurance that Oceanside will achieve the cost savings ENGIE predicts. Under the terms of this guarantee, ENGIE

warrants that Oceanside will realize total energy cost savings during the term of not less than the total guaranteed savings. For any measurement period in which there is a shortfall in the guaranteed savings, ENGIE will pay to Oceanside the guarantee payment which is defined to mean a cash payment as defined in the Energy Services Contract. However, should Oceanside realize excess savings for any measurement period, Oceanside is obligated to repay ENGIE any guarantee payments previously paid by ENGIE to Oceanside. This provision appears to provide an incentive to ENGIE to reach the guarantees represented in the Energy Services Contract. While there is some risk to the City, any payments made by Oceanside to ENGIE are limited to the guarantee payments previously made by ENGIE.

COMMISSION OR COMMITTEE REPORT

Does not apply.

CITY ATTORNEY'S ANALYSIS

The City Attorney has reviewed the documents and has approved such documents as to form.

RECOMMENDATION

Staff recommends that the City Council:

- 1) Hold a Public Hearing regarding the proposed energy conservation measures and energy services contract Services with ENGIE;
- 2) Adopt the Findings & Energy Contract Resolution to make the required findings under Government Code section 4217.10, et seq., enabling the City to enter into an Energy Services Contract with ENGIE;
- 3) Authorize the City Manager to execute the Energy Services Contract with ENGIE substantially in the form attached as Exhibit B to the Findings & Energy Contract Resolution in an amount not to exceed \$20,910,327 for the design and construction of certain energy conservation facilities and measures, subject to non-monetary changes to the Energy Services Contract approved by the City Manager and City Attorney, and contingent on finalizing and obtaining financing for the project; and
- 4) Adopt the Lease Purchase Agreement Resolution authorizing the execution and delivery of a Lease Purchase Agreement with TD Equipment Finance, Inc. and an Escrow Agreement for the purposes of financing the energy conservation facilities described in the Energy Services Contract.

PREPARED BY:


Robert O'Brien
Deputy City Manager

SUBMITTED BY:


Jonathan Borrego
City Manager

REVIEWED BY:

Michael Gossman, Assistant City Manager
Jill Moya, Financial Services Director



ATTACHMENTS:

- A: Findings and Contract Resolution
 - a. Exhibit A—Cash Flow/Savings Analysis
 - b. Exhibit B—Energy Services Contract
 - c. Exhibit C—List of Facilities and ECMs
- B: Lease Purchase Agreement Resolution
 - a. Exhibit A—Lease Purchase Agreement
 - b. Exhibit B—Escrow Agreement

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
OCEANSIDE ADOPTING CERTAIN FINDINGS AND
APPROVE ENERGY SERVICE CONTRACT FOR ENERGY
RELATED IMPROVEMENT TO CITY OF OCEANSIDE
FACILITIES WITH ENGIE SERVICES U.S. INC.

WHEREAS, California Government Code Sections 4217.10 through 4217.18, authorize the Oceanside City Council to enter into an energy service contract for the implementation of energy related improvements if the Oceanside City Council finds that it is in the best interest of the City of Oceanside to enter into such energy service contract and that the anticipated cost to the City of Oceanside for thermal or electrical energy or conservation services provided by the energy conservation facility under the contract will be less than the anticipated marginal cost to the City of Oceanside of thermal, electrical, or other energy that would have been consumed by the City of Oceanside in the absence of those purchases; and

WHEREAS, the cost to the City of Oceanside for the energy service contract by and between the City of Oceanside and ENGIE Services U.S., Inc. for the implementation of certain energy measures for thermal or electrical energy or conservation services will be less than the anticipated marginal cost to the City of Oceanside of thermal, electrical, or other energy that would have been consumed by the City of Oceanside in the absence of the implementation of the improvements under the energy service contract.

NOW, THEREFORE, the City Council of the City of Oceanside does resolve as follows:

The City Council of the City of Oceanside finds that (1) it is in the best interest of the City of Oceanside to enter into an energy service contract with ENGIE Services U.S., Inc. for the implementation of certain energy related improvements to the City of Oceanside facilities, and (2) the anticipated cost to the City of Oceanside for thermal or electrical energy or conservation services provided by the energy conservation facility under the contract will be less than the anticipated marginal cost to the City of Oceanside of thermal, electrical, or other energy that would have been consumed by the City of Oceanside in the absence of those purchases. Therefore, the City Council of the City of Oceanside hereby authorizes the City Manager to execute the energy service contract by and between the City of Oceanside and

1 ENGIE Services U.S., Inc. for the implementation of certain energy related improvements to
2 City of Oceanside facilities in accordance with these findings and California Government Code
3 Sections 4217.10 through 4217.18.

4
5
6 PASSED AND ADOPTED by the City Council of the City of Oceanside, California,
7 this _____ day of _____, 20__, by the following vote:

8 AYES:

9 NAYS:

10 ABSENT:

11 ABSTAIN:

12
13 MAYOR OF THE CITY OF OCEANSIDE

14
15 ATTEST:

16 APPROVED AS TO FORM:

17
18 _____
19 City Clerk

20
21 
22 City Attorney

City of Oceanside - All In Project w/ 2023 SDGE Rates

Preliminary Cash Flow Analysis - 4% Escalation No Capitalized Interest

Project Cost												\$20,910,327
Customer Contribution												\$0
Cost of Issuance												\$90,000
Amount to be Financed												\$21,000,327
Construction Duration (months)												18
Finance Term												20
Estimated Annual Interest Rate												3.99%
Annual Escalation of Electricity Cost												4.00%
Annual Escalation of O&M Cost/Savings												3.00%
Annual Escalation of Gas/Water Cost												3.00%
Project Savings								Project Costs				Net Savings
Year	Projected Solar Savings	Project Battery Storage Savings	Projected ECM Electricity Savings	Projected O&M Savings	Incentives / Rebates	Projected IRA Direct Pay Amount	Total Program Savings	Lease Payment	PV + BESS M&V Cost	PV + BESS O&M Cost	Total Program Costs	
Year 1	\$755,954	\$51,952	\$438,954	\$152,590	\$75,000	\$2,963,376	\$4,437,825	\$1,544,038	\$22,792	\$68,472	\$1,635,302	\$2,802,523
Year 2	\$782,261	\$54,030	\$456,512	\$157,167	\$25,000	\$0	\$1,474,970	\$1,544,038	\$23,476	\$70,527	\$1,638,040	-\$163,070
Year 3	\$809,484	\$56,191	\$474,772	\$161,882	\$25,000	\$0	\$1,527,330	\$1,544,038	\$24,180	\$72,642	\$1,640,860	-\$113,531
Year 4	\$837,654	\$58,439	\$493,763	\$166,739	\$25,000	\$0	\$1,581,595	\$1,544,037	\$24,905	\$74,822	\$1,643,764	-\$62,170
Year 5	\$866,805	\$60,776	\$513,514	\$171,741	\$0	\$0	\$1,612,835	\$1,544,037	\$25,653	\$77,066	\$1,646,756	-\$33,921
Year 6	\$896,969	\$63,207	\$534,054	\$176,893	\$0	\$0	\$1,671,124	\$1,544,038	\$0	\$79,378	\$1,623,416	\$47,708
Year 7	\$928,184	\$65,735	\$555,416	\$182,200	\$0	\$0	\$1,731,536	\$1,544,037	\$0	\$81,760	\$1,625,797	\$105,739
Year 8	\$960,485	\$68,365	\$577,633	\$187,666	\$0	\$0	\$1,794,148	\$1,544,038	\$0	\$84,212	\$1,628,250	\$165,898
Year 9	\$993,910	\$71,099	\$600,738	\$193,296	\$0	\$0	\$1,859,043	\$1,544,038	\$0	\$86,739	\$1,630,776	\$228,267
Year 10	\$1,028,498	\$73,943	\$624,768	\$199,095	\$0	\$0	\$1,926,304	\$1,544,038	\$0	\$89,341	\$1,633,379	\$292,925
Year 11	\$1,064,289	\$76,901	\$649,758	\$205,068	\$0	\$0	\$1,996,017	\$1,544,038	\$0	\$92,021	\$1,636,059	\$359,958
Year 12	\$1,101,327	\$79,977	\$675,749	\$211,220	\$0	\$0	\$2,068,272	\$1,544,037	\$0	\$94,782	\$1,638,819	\$429,454
Year 13	\$1,139,653	\$83,176	\$702,779	\$217,556	\$0	\$0	\$2,143,164	\$1,544,037	\$0	\$97,625	\$1,641,662	\$501,502
Year 14	\$1,179,313	\$86,503	\$730,890	\$224,083	\$0	\$0	\$2,220,789	\$1,544,038	\$0	\$100,554	\$1,644,592	\$576,197
Year 15	\$1,220,353	\$89,963	\$760,126	\$230,806	\$0	\$0	\$2,301,247	\$1,544,037	\$0	\$97,458	\$1,641,495	\$659,752
Year 16	\$1,262,821	\$0	\$790,531	\$237,730	\$0	\$0	\$2,291,081	\$1,544,037	\$0	\$100,382	\$1,644,419	\$646,662
Year 17	\$1,306,767	\$0	\$822,152	\$244,862	\$0	\$0	\$2,373,780	\$1,544,037	\$0	\$103,393	\$1,647,430	\$726,350
Year 18	\$1,352,243	\$0	\$855,038	\$252,207	\$0	\$0	\$2,459,488	\$1,544,038	\$0	\$106,495	\$1,650,533	\$808,955
Year 19	\$1,399,301	\$0	\$889,239	\$259,774	\$0	\$0	\$2,548,314	\$1,544,037	\$0	\$109,690	\$1,653,728	\$894,586
Year 20	\$1,447,996	\$0	\$924,809	\$267,567	\$0	\$0	\$2,640,372	\$1,544,037	\$0	\$112,981	\$1,657,018	\$983,354
Year 21	\$1,498,387	\$0	\$0	\$0	\$0	\$0	\$1,498,387	\$0	\$0	\$116,370	\$116,370	\$1,382,016
Year 22	\$1,550,530	\$0	\$0	\$0	\$0	\$0	\$1,550,530	\$0	\$0	\$119,861	\$119,861	\$1,430,669
Year 23	\$1,604,489	\$0	\$0	\$0	\$0	\$0	\$1,604,489	\$0	\$0	\$123,457	\$123,457	\$1,481,032
Year 24	\$1,660,325	\$0	\$0	\$0	\$0	\$0	\$1,660,325	\$0	\$0	\$127,161	\$127,161	\$1,533,164
Year 25	\$1,718,104	\$0	\$0	\$0	\$0	\$0	\$1,718,104	\$0	\$0	\$130,976	\$130,976	\$1,587,129
Year 26	\$1,777,895	\$0	\$0	\$0	\$0	\$0	\$1,777,895	\$0	\$0	\$134,905	\$134,905	\$1,642,990
Year 27	\$1,839,765	\$0	\$0	\$0	\$0	\$0	\$1,839,765	\$0	\$0	\$138,952	\$138,952	\$1,700,813
Year 28	\$1,903,789	\$0	\$0	\$0	\$0	\$0	\$1,903,789	\$0	\$0	\$143,121	\$143,121	\$1,760,668
Year 29	\$1,970,041	\$0	\$0	\$0	\$0	\$0	\$1,970,041	\$0	\$0	\$147,414	\$147,414	\$1,822,627
Year 30	\$2,038,598	\$0	\$0	\$0	\$0	\$0	\$2,038,598	\$0	\$0	\$151,837	\$151,837	\$1,886,762
	\$38,896,189	\$1,040,259	\$13,071,193	\$4,100,140	\$150,000	\$2,963,376	\$60,221,157	\$30,880,747.20	\$121,006	\$3,134,395	\$34,136,148	\$26,085,009

ENGIE SERVICES U.S. IS NOT A MUNICIPAL ADVISOR AND CANNOT GIVE ADVICE WITH RESPECT TO MUNICIPAL SECURITIES OR MUNICIPAL FINANCIAL PRODUCTS. THIS INFORMATION IS PROVIDED FOR EDUCATIONAL PURPOSES ABOUT POSSIBLE FINANCING OPTIONS AND IS NOT THE PROVISION OF ADVICE, OR A RECOMMENDATION TO PURSUE, ANY PARTICULAR FINANCING OPTION. CONSULT WITH YOUR MUNICIPAL ADVISOR OR FINANCIAL ADVISOR ABOUT THE FINANCING OPTION APPROPRIATE FOR YOUR SITUATION. ENGIE SERVICES U.S. CAN PROVIDE INFORMATION TO YOUR MUNICIPAL ADVISOR OR FINANCIAL ADVISOR ABOUT THE HYPOTHETICAL ASSUMPTIONS AND EDUCATIONAL SCENARIOS USED IN THESE MATERIALS.



Energy Services Contract
Oceanside and ENGIE Services U.S.

DIR Project Registration # _____
ENGIE Services Project #: CN-001199
ENGIE Services Contract # R 3590

ENERGY SERVICES CONTRACT

This **ENERGY SERVICES CONTRACT** (this "Contract") is made and entered into as of January 24, 2024 (the "Contract Effective Date") by and between **ENGIE Services U.S. Inc.**, a Delaware corporation, with California State Contractor's License Number 995037 ("ENGIE Services U.S."), and **City of Oceanside** ("Oceanside") and together with ENGIE Services U.S. the "Parties" and each of Oceanside and ENGIE Services U.S. a "Party").

CONTRACT RECITALS

WHEREAS, Oceanside owns and/or operates certain public facilities specifically described in Attachment A (the "Facilities") and Oceanside wishes to reduce the Facilities' energy consumption and costs and improve the Facilities' energy quality and reliability; and

WHEREAS, ENGIE Services U.S. is a full-service energy services company with the technical capabilities to provide services to Oceanside including identifying supply-side and/or demand-side energy conservation measures ("ECMs"), engineering, procurement, construction management, installation, construction and training; and

WHEREAS, ENGIE Services U.S. has identified potential energy and operational savings opportunities at Oceanside's Facilities and estimated program costs to implement the ECMs and presented an overall potential energy cost and consumption savings for implementing the ECMs; and

WHEREAS, pursuant to California Government Code §4217.12, Oceanside held a regularly scheduled public hearing on January 24, 2024, of which two weeks advance public notice was given regarding this Contract and its subject matter, and

WHEREAS, Oceanside has determined that the anticipated cost to Oceanside to implement the ECMs will be less than the anticipated cost to Oceanside for thermal, electrical, and other energy, together with anticipated operational, maintenance and other costs, that would have been consumed by Oceanside in the absence of the ECMs in compliance with California Government Code §§4217.10 through 4217.18; and

WHEREAS, Oceanside has determined that entering into this energy services contract to implement the ECMs is in the best interests of Oceanside and that California Government Code §4217.10 *et seq.* allows Oceanside to enter into this Contract; and

WHEREAS, by adoption of Resolution No. _____ at the above-referenced meeting, Oceanside approved this Contract and authorized its execution.

NOW, THEREFORE, Oceanside and ENGIE Services U.S. hereby agree as follows:

ARTICLE 1. DEFINITIONS

For purposes of this Contract and its Attachments, defined terms will have the following meanings:

"Abnormally Severe Weather Conditions" means typhoons, hurricanes, tornadoes, lightning storms and other climatic and weather conditions that are abnormally severe for the period of time when, and the area where, such storms or conditions occur, in each case occurring at a property, the access roads to a property, or any other location where Work or Professional Services are then being performed. The term "Abnormally Severe Weather Conditions" specifically includes rain, snow or sleet in excess of one hundred fifty percent (150%) of the median level over the preceding ten (10) year period for the local geographic area and time of year in which such rain, snow or sleet accumulates.

"Act" is defined in ARTICLE 14.

"Affiliate" means any Person that directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the Person specified. For purposes of this definition, control of a Person means the power, direct or indirect, to direct or cause the direction of the management and policies of such Person whether by contract or otherwise; ownership of fifty percent (50%) or more of the voting securities of another Person creates a rebuttable presumption that such Person controls such other Person.

"Applicable Law" means any statute, law, treaty, building code, rule, regulation, ordinance, code, enactment, injunction, writ, order, decision, authorization, judgment, decree, protocol, procedure or other legal or regulatory

determination or restriction by a court or Governmental Authority of competent jurisdiction, as may be in effect at the time the Work or Professional Services are undertaken.

"Applicable Permits" means all permits, approvals, inspections and certifications required to be issued by any Governmental Authority in connection with the Professional Services or the building, installation and start-up of the Work as of the Contract Effective Date.

"Application for Payment" means a monthly progress payment as described in Section 8.01 or an invoice for materials stored off-site as described in Section 8.02.

"Attachment" means the following attachments to this Contract, each of which is an "Attachment:"

Attachment A	Oceanside's Facilities and Existing Equipment
Attachment B	Standards of Occupancy and Control
Attachment C	Scope of Work
Attachment D	Scope of Monitoring Installation
Attachment E	M&V Services
Attachment F	Maintenance Services
Attachment G	Community Engagement Services
Attachment H	LED Lighting Line by Line
Attachment I	Mechanical Equipment Schedule and Specifications
Attachment J	Claim Resolution Process

"Beneficial Use" means when major new equipment and systems included in the Scope of Work are properly installed, inspected, operational, and are capable of being used for their intended purpose. Criteria for Beneficial Use of equipment / systems will be established as defined in Attachment C.

"Business Day" means any calendar day other than a Saturday, a Sunday or a calendar day on which banking institutions in San Francisco, California, are authorized or obligated by law or executive order to be closed.

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

"Certificate of Beneficial Use" means the certificate, issued by ENGIE Services U.S. to Oceanside and subcontractor(s), which identifies when Oceanside took Beneficial Use of the Work or any portion thereof. A Certificate of Beneficial Use may be executed for an individual subcontract, a specific building, a portion of the Work, or the entire Work.

"Certificate of Final Completion" means the certificate issued by ENGIE Services U.S. to Oceanside, in accordance with Section 6.03. A Certificate of Final Completion may be executed for an individual subcontract, a specific building, a portion of the Work, or the entire Work.

"Certificate of Substantial Completion" means the certificate issued by ENGIE Services U.S. to Oceanside, in accordance with Section 6.02. A Certificate of Substantial Completion may be executed for an individual subcontract, a specific building, a portion of the Work, or the entire Work.

"Change" means any addition to, deletion from, suspension of, or other modification to the quality, function, or intent of the Work or Professional Services.

"Change in Law" means any of the following events or circumstances occurring after the Contract Effective Date: (i) an amendment, modification, interpretation, construction, enforcement standard, supplement or other change in or repeal of an existing Applicable Law; or (ii) an enactment or making of a new Applicable Law (excluding a change in any income or franchise tax law, worker's compensation, payroll or withholding tax law, but including any change in law imposing new or additional tariffs or import duties).

"Change Order" means a written document, signed by both ENGIE Services U.S. and Oceanside, authorizing ENGIE Services U.S. to perform a Change. The Change Order modifies the Scope of Work and should identify: (i) the applicable Change; (ii) any additional compensation to be paid to ENGIE Services U.S. to perform such Change; and (iii) any extension of time to complete the Project.

"Community Engagement Services" (if any) are defined in Attachment G.

"Construction" means any and all Work to be performed that involves construction, alteration, repair, installation or removal of equipment, addition to, subtraction from, improving, moving, wrecking or demolishing any building, parking facility, excavation, or other structure or improvement, or any part thereof.

"Construction Documents" means the final designs, drawings, specifications and submittals that are used for Construction, and any Change Orders affecting those documents, that describe the technical requirements for the installation of all the materials and equipment pursuant to this Contract.

"Construction Period" means the period beginning with the first day of the month in which material or equipment is first installed at the Facilities and continuing until the M&V Commencement Date.

"Contract" is defined in the Preamble, and includes all Attachments hereto (all of which are incorporated herein by this reference), as well as all Change Orders, amendments, restatements, supplements and other modifications hereto.

"Contract Amount" means Twenty Million Eight Hundred Forty-Nine Thousand Two Hundred Twenty-Two Dollars (\$20,849,222.00), which is inclusive of the mobilization payment, as set forth in Section 8.01, but exclusive of any fees for Professional Services.

"Contract Bonds" is defined in Section 12.02.

"Contract Effective Date" is defined in the Preamble.

"Delay" means any circumstances involving delay, disruption, hindrance or interference affecting the time of performance of the Work or the Professional Services.

"Dispute" is defined in Section 19.02.

"ECM" is defined in the Recitals.

"EMS" means an energy management system.

"Energy Delivery Point" means, for each Generating Facility, the point at which Utility meter energy is being delivered, as designated in the Interconnection Agreement.

"Energy Usage Data" is defined in Section 2.05.

"ENGIE Services U.S." is defined in the Preamble.

"Event of Default" is defined in ARTICLE 16.

"Excusable Event" means an act, event, occurrence, condition or cause beyond the control of ENGIE Services U.S., including, but not limited to, the following: (i) any act or failure to act of, or other Delay caused by any Oceanside Person; (ii) the failure to obtain, or delay in obtaining, any Interconnection Agreement, Applicable Permit, or approval of a Governmental Authority (including due to failure to make timely inspection), or Delays caused by Changes and/or modifications to the Scope of Work required by a Governmental Authority, other than a failure caused by the action or inaction of ENGIE Services U.S.; (iii) changes in the design, scope or schedule of the Work required by any Governmental Authority or Oceanside Person; (iv) undisclosed or unforeseen conditions encountered at the Project Location, including discovery or existence of Hazardous Substances; (v) the failure to obtain, or delay in obtaining, approval of any Governmental Authority for design and installation of any portion of the Work, including any further or subsequent approval required with respect to any Change, other than a failure caused by the action or inaction of ENGIE Services U.S.; (vi) information provided to ENGIE Services U.S. by any Oceanside Person or Utility is later found to be inaccurate or incomplete; (vii) any Change in Law; (viii) Delay caused by pending litigation; (ix) acts of God; (x) acts of the public enemy or terrorist acts; (xi) relocation or construction of transmission facilities or the shutdown of such facilities for the purpose of necessary repairs; (xii) work or delays by Utility; (xiii) flood, earthquake, tornado, storm, fire, explosions, lightning, landslide or similar cataclysmic occurrence; (xiv) sabotage, vandalism, riots or civil disobedience; (xv) labor disputes or strikes; (xvi) labor or material shortages; delay in manufacturing and deliveries of equipment; supply chain disruptions; material price increases that equal or exceed fifteen percent (15%) in a six (6) month period; (xvii) Abnormally Severe Weather Conditions; (xviii) an annual level of direct beam solar resource availability that is less than or equal to 90% of historical averages as measured by long-term weather data (minimum 5 years) collected at the applicable Facility and/or other reliable calibrated and appropriate weather station representative of such Facility; (xix) requirement by Utility that any Generating Facility discontinue operation; (xx) any action by a Governmental Authority that prevents or inhibits the Parties from carrying out their respective obligations under this Contract (including an unstayed order of a court or administrative agency having the effect of subjecting the sales of energy output to federal or state regulation of prices and/or services); (xxi) any Utility power outage at a Facility; or (xxii) regional epidemic or global pandemic.

"Facilities" is defined in the Recitals.

"Final Completion" means the stage in the progress of the Work at which the Construction Work as identified in the Scope of Work, or a designated portion thereof, has been completed and commissioned, including completion of all

Punch List items, completion of all required training, and delivery to Oceanside of the final documentation (as-built drawings, operation and maintenance manuals, warranty documentation and final submittals).

"Generating Facility" means each of the photovoltaic, solar powered generating facilities located at the sites listed in Attachment E, and includes all associated photovoltaic panels, mounting assemblies, inverters, converters, metering, lighting fixtures, transformers, ballasts, disconnects, combiners, switches, wires and other equipment that may be necessary to connect the Generating Facility to the applicable Energy Delivery Point.

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

"Hazardous Substances" means (i) any hazardous, toxic, or dangerous wastes, substances, chemicals, constituents, contaminants, pollutants, and materials and any other carcinogenic, liquids, corrosive, ignitable, radioactive, reactive, toxic, or otherwise hazardous substances or mixtures (whether solids, liquids, gases) now or at any time subject to regulation, control, remediation, or otherwise addressed under Applicable Laws; (ii) any "hazardous substance" as defined by the Resource, Conservation and Recovery Act of 1976 (42 U.S.C. §6901 *et seq.*), as amended, and regulations promulgated thereunder; (iii) any "hazardous, toxic or dangerous waste, substance or material" specifically defined as such in 42 U.S.C. §9601 *et seq.*, as amended and regulations promulgated thereunder; and (iv) any hazardous, toxic or dangerous waste, substance, or material as defined in any so-called "superfund" or "superlien" law.

"Incentive Funds" is defined in Section 8.06.

"Installation" means the setting up, construction, and placement of any equipment or materials in the manner it will be operated, in accordance with the Scope of Work and in accordance with all Applicable Laws.

"Instruments of Service" is defined in Section 10.01(c).

"Interconnection Agreement" means the Interconnection Agreement to be entered into between Oceanside and the Utility with respect to the Generating Facilities.

"Interconnection Facilities" is defined in Section 18.02.

"Interest" means interest calculated at the lesser of (i) the prime rate plus two percent (2%) or (ii) the maximum rate permitted by Applicable Law. The "prime rate" will be the "Prime Rate" of interest per annum for domestic banks as published in The Wall Street Journal in the "Money Rates" section.

"Liquidated Damages" is defined in Section 2.05.

"M&V Commencement Date" means the first day of the month immediately following the later of (i) ENGIE Services U.S.'s receipt of the fully signed Certificate of Final Completion, and (ii) ENGIE Services U.S.'s receipt of the full Contract Amount.

"M&V Services" (if any) are defined in Attachment E.

"Maintenance Services" (if any) are defined in Attachment F.

"Measurement Period" means each one-year period following the M&V Commencement Date.

"NEC" means the National Electric Code.

"Notice to Proceed" is defined in Section 2.04.

"Oceanside" is defined in the Preamble.

"Oceanside Persons" means Oceanside, its agents, employees, subcontractors, architects, general contractors, lease/leaseback contractors or other Persons acting on behalf of Oceanside or for whom Oceanside is responsible.

"Party" and **"Parties"** are defined in the Preamble.

"Person" means any natural person, corporation, general partnership, limited partnership, limited liability company, proprietorship, other business organization, trust, union, association or Governmental Authority.

"Professional Services" means professional services (such as Community Engagement Services, Maintenance Services and M&V Services, if any) provided by ENGIE Services U.S. to Oceanside under this Contract.

"Project" means the entirety of Work to be performed by ENGIE Services U.S. pursuant to the Scope of Work, and any Change Orders.

"Project Location" means the area or areas where the Project materials and equipment and any other energy related equipment, as described in the Scope of Work, are installed, and the general area where the Work is performed.

"Punch List" means, with respect to any portion of the Work, a list of minor corrective items which need to be completed or corrected in order to complete such portion of the Work, but do not impair Oceanside's ability to beneficially operate and utilize such portion of the Work.

"Retained Items" is defined in Section 10.02.

"Retention" is defined in Section 8.03.

"Schedule of Values" is defined in Section 8.01.

"Scope of Work" means the Work set forth in Attachments C and D, as modified by any Change Order.

"Substantial Completion" means the stage in the progress of the Work at which the Work, or a designated portion thereof, is sufficiently complete, in conformance with the Scope of Work, the Construction Documents and any Change Orders, so that Oceanside can take Beneficial Use thereof.

"Surety" means the surety supplying the Contract Bonds, which must be an "admitted surety insurer," as defined by California Code of Civil Procedure §995.120, authorized to do business in the State of California, and reasonably satisfactory to Oceanside.

"Utility" is defined in Section 18.02.

"Work" means the Work to be done by ENGIE Services U.S. pursuant to the Scope of Work, subject to any Change Orders.

ARTICLE 2. TERM; PERFORMANCE OF THE WORK

Section 2.01 Contract Term. The term of this Contract commences on the Contract Effective Date and ends on the last day on which Professional Services are provided, unless terminated earlier as provided in this Contract.

Section 2.02 Performance of Work. The Work and Professional Services to be performed hereunder will be provided in accordance with the terms of this Contract and the applicable standard of care. ENGIE Services U.S. will perform its obligations under this Contract (i) using the degree of skill and care that is required by current, good and sound professional procedures and practices, and (ii) in conformance with (x) generally accepted professional standards prevailing at the time the Work is performed, (y) the covenants, terms and conditions of this Contract, and (z) applicable laws, codes, rules and regulations, including, without limitation, the applicable provisions of the California Building Code. ENGIE Services U.S. represents and warrants that it is fully experienced in projects of the nature and scope of the Work and Professional Services, and that it is properly qualified, licensed and equipped to supply and perform the Work and Professional Services. The Work completed herein will be subject to Oceanside's general right of inspection and supervision to secure the satisfactory completion thereof in accordance with this Contract.

Section 2.03 Scope of Work.

- (a) The Scope of Work may not exceed that set forth in Attachments C and D, except pursuant to a Change Order.
- (b) The Professional Services may not exceed those set forth in Attachments E, F and G, except pursuant to a Change Order.

Section 2.04 Notice to Proceed. Within ten (10) days after Oceanside has closed the financing referenced in Section 2.07, Oceanside may issue to ENGIE Services U.S. a written Notice to Proceed ("Notice to Proceed"). ENGIE Services U.S. will begin Work within thirty (30) calendar days after ENGIE Services U.S.'s receipt of the Notice to Proceed. A delay in issuing the Notice to Proceed will impact the Project Schedule.

Section 2.05 Project Schedule/Liquidated Damages. After receipt of the Notice to Proceed, ENGIE Services U.S. will develop, with input from Oceanside, a master project schedule using Microsoft Project®. ENGIE Services U.S. will establish a weekly construction meeting at which time the Work of the previous week will be reviewed and a two-week look ahead will be coordinated. The project schedule will be updated monthly.

Failure of ENGIE Services U.S. to complete the Work according to the project schedule will result in damages being sustained by Oceanside. Such damages are, and will continue to be, impracticable and extremely difficult to determine. For each consecutive calendar day in excess of the Time for Substantial Completion specified in the project schedule, as it may be adjusted in accordance with this Contract, for which all work is not substantially completed, ENGIE Services U.S. shall pay to Oceanside, or have withheld from monies due it, the sum of one thousand dollars (\$1,000.00).

Execution of the Contract shall constitute agreement by Oceanside and ENGIE Services U.S. that one thousand dollars (\$1,000.00) per day is the reasonable estimate of the value of the costs and actual damage caused by failure of ENGIE Services U.S. to substantially complete the Work within the allotted Time for Substantial Completion, that such sum is liquidated damages and shall not be construed as a penalty, and that such sum may be deducted from payments due to ENGIE Services U.S. if such delay occurs. Such liquidated damages, if assessed, shall be Oceanside's sole remedy for delay in completion of the Project as set forth above.

Section 2.06 Oceanside's Energy and Operational Records and Data. If ENGIE Services U.S. requests, Oceanside will provide to ENGIE Services U.S., within thirty (30) calendar days after such request, Oceanside's Energy Usage Data for the twelve (12) months preceding the Contract Effective Date, and will make commercially reasonable efforts to provide the Energy Usage Data for the thirty-six (36) months preceding the Contract Effective Date. "Energy Usage Data" means all of Oceanside's records and complete data concerning energy usage, energy-related maintenance, and other related costs for the Facilities, and including, without limitation, utility records; occupancy information; descriptions of any past, present or anticipated changes in a building's structure or its heating, cooling, lighting or other systems or energy requirements; descriptions of all energy consuming or saving equipment used in the Facilities; applicable building drawings, specifications, existing AutoCAD files, operation and maintenance manuals, and as-builts; bills and records relating to operation and maintenance of systems and equipment within the Facilities, and a description of operation and management procedures currently utilized. Oceanside agrees that ENGIE Services U.S. may rely on the foregoing data as being accurate in all respects. If ENGIE Services U.S. requests, Oceanside will also provide to ENGIE Services U.S., within thirty (30) calendar days after such request, any prior energy audits of the Facilities, and copies of Oceanside's financial statements and records related to energy usage and operational costs for said time period at the Facilities, and will authorize its agents and employees to provide and freely discuss such records and to make themselves available for consultations and discussions with authorized representatives, employees, subcontractors, and agents of ENGIE Services U.S.

Section 2.07 Finance Contingency. It is acknowledged and agreed by the Parties that the continued existence of this Contract is expressly contingent upon Oceanside closing financing that will allow it to make the payments to ENGIE Services U.S. required by this Contract. Oceanside will have thirty (30) calendar days after the Contract Effective Date to close such financing. If the financing is not closed within this time, for any reason, either Party may by written notice to the other Party declare this Contract to be null and void; and the Contract will be null and void as of the other Party's receipt of this notice; *provided that* Oceanside may not declare this Contract to be null and void after it has issued the Notice to Proceed. It is acknowledged and agreed that ENGIE Services U.S. will have no obligation to commence performance of the Work unless and until the financing has been closed.

Section 2.08 Proof of Financial Arrangements. Prior to the commencement of the Work, Oceanside will provide ENGIE Services U.S. proof that financial arrangements have been made to fulfill Oceanside's obligations under this Contract. Oceanside's requirement to furnish such proof to ENGIE Services U.S. is a condition precedent to commencement of the Work. After commencement of the Work, ENGIE Services U.S. may request such proof if (i) Oceanside fails to make payments to ENGIE Services U.S. as this Contract requires; (ii) a Change in the Work materially changes the Contract Amount; or (iii) ENGIE Services U.S. has other reasonable concerns regarding Oceanside's ability to fulfill its payment obligations under this Contract when due. Oceanside will furnish such proof as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After Oceanside furnishes any such proof, Oceanside will not materially vary such financial arrangements without prior consent of ENGIE Services U.S. If Oceanside fails to provide ENGIE Services U.S. with such proof within ten (10) calendar days of receiving a demand from ENGIE Services U.S., ENGIE Services U.S. will be entitled to suspend its performance under this Contract until such proof is received.

ARTICLE 3. PROJECT IMPLEMENTATION - GENERAL

Section 3.01 Registrations, Permits and Approvals.

- (a) Prior to issuing the Notice to Proceed, Oceanside must register the Project with the California Department of Industrial Relations, using Form PWC-100.
- (b) ENGIE Services U.S. is responsible for obtaining (but not paying for) all Applicable Permits required under this Contract. Oceanside will cooperate fully with and assist ENGIE Services U.S. in obtaining Applicable Permits.
- (c) Oceanside is responsible for paying for all permit fees (including expedited plan check fees), inspections, and certifications costs, including any additional work that may be required by the Authority(ies) Having Jurisdiction as part of the permitting process.
- (d) Oceanside is responsible for hiring and paying for all inspectors, site testing (including geotechnical observations) and laboratory testing.
- (e) Oceanside is responsible for paying for all utility interconnection(s) costs, including any additional work that may be required by the Utility(ies) as part of the Interconnection Agreement(s).
- (f) Oceanside is responsible for obtaining and paying for any annual operating permits and approvals or exemptions required by CEQA, as applicable.

Section 3.02 Coordination. Oceanside will be responsible for coordinating the activities of ENGIE Services U.S. and ENGIE Services U.S.'s subcontractors and suppliers with those of Oceanside Persons.

Section 3.03 Project Meetings/Status Updates. During the course of the Work, ENGIE Services U.S. will periodically meet with Oceanside to report on the general status and progress of the Work. ENGIE Services U.S. may

(but is not required to) make food and beverage items of nominal value available to Oceanside and Oceanside's employees and agents at such meetings, which if offered will be deemed part of the Scope of Work and included in the Contract Amount.

Section 3.04 Project Location Access. Oceanside hereby grants to ENGIE Services U.S., without cost to ENGIE Services U.S., all rights of ingress and egress at the Project Location, necessary for ENGIE Services U.S. to perform the Work and provide all services contemplated by this Contract. ENGIE Services U.S. will provide twenty-four-hour advance notice to Oceanside for access to any Oceanside Facilities. All persons entering the Project Location, including Oceanside and its employees and agents, must follow ENGIE Services U.S.'s safety procedures. ENGIE Services U.S. may (but is not required to) make transportation available to Oceanside and Oceanside's employees and agents between and within Project Locations, which if offered will be deemed part of the Scope of Work and included in the Contract Amount.

Section 3.05 Consents; Cooperation. Whenever a Party's consent, approval, satisfaction, or determination will be required or permitted under this Contract, and this Contract does not expressly state that the Party may act in its sole discretion, such consent, approval, satisfaction, or determination will not be unreasonably withheld, qualified, conditioned, or delayed, whether or not such a "reasonableness" standard is expressly stated in this Contract. Whenever a Party's cooperation is required for the other Party to carry out its obligations hereunder, each Party agrees that it will act in good faith and reasonably in so cooperating with the other Party or its designated representatives or assignees or subcontractors. Each Party will furnish decisions, information, and approvals required by this Contract in a timely manner so as not to delay the other Party's performance under this Contract.

Section 3.06 Independent Contractor. The Parties hereto agree that ENGIE Services U.S., and any agents and employees of ENGIE Services U.S., its subcontractors and/or consultants, is acting in an independent capacity in the performance of this Contract, and not as a public official, officer, employee, consultant, or agent of Oceanside for purposes of conflict of interest laws or any other Applicable Law.

ARTICLE 4. FINAL DESIGN PHASE – CONSTRUCTION DOCUMENTS / EQUIPMENT PROCUREMENT

Section 4.01 General Provisions.

- (a) After receipt of the Notice to Proceed, ENGIE Services U.S. will proceed with the preparation of any necessary designs, drawings, and specifications related to the Scope of Work.
- (b) After completion of the design phase and approval of the final plans and specifications by Oceanside, ENGIE Services U.S. will order the equipment identified in the Scope of Work, and any other necessary materials and supplies in order to meet the project schedule.
- (c) Oceanside will designate a single-point representative with whom ENGIE Services U.S. may consult on a reasonable, regular basis and who is authorized to act on Oceanside's behalf with respect to the Project design. Oceanside's representative will render decisions in a timely manner with regard to any documents submitted by ENGIE Services U.S. and to other requests made by ENGIE Services U.S. in order to avoid delay in the orderly and sequential progress of ENGIE Services U.S.'s design services.
- (d) Within ten (10) Business Days after ENGIE Services U.S.'s request, Oceanside will:
 - (i) furnish all surveys or other information in Oceanside's possession that describe the physical characteristics, legal limitations, and utility locations in and around the Project Location;
 - (ii) disclose any prior environmental review documentation and all information in its possession concerning subsurface conditions, including without limitation the existence of any known Hazardous Substances, in or around the general area of the Project Location;
 - (iii) supply ENGIE Services U.S. with all relevant information in Oceanside's possession, including any as-built drawings and photographs, of prior construction undertaken at the Project Location;
 - (iv) obtain any and all easements, zoning variances, planning approvals, including any resolution of any environmental impact issues, and any other legal authorization regarding utilization of the Project Location for the execution of the Work; and
 - (v) obtain any and all title reports for those Project Locations reasonably requested by ENGIE Services U.S.
- (e) All information furnished pursuant to this Section 4.01 will be supplied at Oceanside's expense, and ENGIE Services U.S. will be entitled to rely upon the accuracy and completeness of all information provided. If ENGIE Services U.S. is adversely affected by any failure to provide, or delay in providing, the information specified in Section 4.01(d), ENGIE Services U.S. may be entitled to an equitable extension of time and/or an equitable adjustment in the Contract Amount, if applicable.

- (f) If any information disclosed under this Section 4.01 gives rise to a Change to the Work or an Excusable Event, ENGIE Services U.S. will notify Oceanside. The Parties will meet and confer with respect to those Changes, and ENGIE Services U.S. may be entitled to an equitable extension of time and/or an equitable adjustment in the Contract Amount. If the Parties, however, are unable to agree on whether Oceanside's disclosed information gives rise to a Change to the Work or an Excusable Event, those disputes are to be resolved in accordance with ARTICLE 19.
- (g) ENGIE Services U.S. contemplates that it will not encounter any Hazardous Substances at the Project Location, except as has been disclosed as a pre-existing condition by Oceanside prior to the Contract Effective Date. However, any disclosure of Hazardous Substances that will affect the performance of the Work after the Contract Effective Date may constitute a valid basis for a Change Order.

Section 4.02 Review of Construction Documents. ENGIE Services U.S. will prepare and submit all drawings and specifications to Oceanside for review. Oceanside (as the Project Owner, not in its regulatory capacity) will review the documents and provide any comments in writing to ENGIE Services U.S. within ten (10) Business Days after receipt of the documents. ENGIE Services U.S. will incorporate appropriate Oceanside comments into the applicable drawings and specifications. ENGIE Services U.S. reserves the right to issue the drawings and specifications in phases to allow Construction to be performed in phases. The parties understand that delay in approval of documents will impact the Project Schedule.

Section 4.03 Permits. The respective obligations of the Parties in obtaining inspections and permits are as specified in Section 3.01. Oceanside will agree to any changes to the designs, drawings, and specifications required by any Governmental Authority provided that such changes do not affect the Contract Amount or the time required to complete the Work. In the event the required changes increase the Contract Amount or the time required to complete the Work, the Parties shall meet and confer to determine whether a Change Order will be issued or the affected portion of the Scope of Work will be removed.

Section 4.04 Changes During Final Design Phase. If during the design phase any Oceanside Person with authority to do so requests Changes and/or modifications to the Work and/or an Excusable Event occurs, ENGIE Services U.S. may be entitled to an equitable extension of time and/or an equitable adjustment in the Contract Amount.

ARTICLE 5. CONSTRUCTION PHASE

Section 5.01 General Provisions. Upon securing the requisite Applicable Permits pursuant to Section 3.01, completion of Construction Documents, and approval by Oceanside of the Construction Documents, ENGIE Services U.S. will commence the construction of the Project in accordance with the Construction Documents. Construction shall not commence until after Oceanside's approval of the Construction Documents pursuant to Government Code §830.6. The construction will be performed in accordance with all Applicable Laws and Applicable Permits, by ENGIE Services U.S. and/or one or more licensed subcontractors qualified to perform the Work.

Section 5.02 ENGIE Services U.S.'s Responsibilities during Construction Phase.

- (a) As an independent contractor to Oceanside, ENGIE Services U.S. will provide, or cause to be provided by its subcontractor(s), all labor, materials, equipment, tools, transportation, and other facilities and services necessary for the proper execution, construction, and completion of the Work. ENGIE Services U.S. will purchase in advance all necessary materials and supplies for the construction of the Project in order to assure the prompt and timely delivery of the completed Work pursuant to the project schedule. ENGIE Services U.S. will also be responsible for all means, methods, techniques, sequences, and procedures required by the Construction Documents.
- (b) ENGIE Services U.S. will make commercially reasonable efforts to coordinate construction activities and perform the Work to minimize disruption to Oceanside's operations at the Project Location. ENGIE Services U.S. will provide at least fifteen (15) calendar days' written notice to Oceanside of any planned power outages that will be necessary for the construction. ENGIE Services U.S. will cooperate with Oceanside in scheduling such outages, and Oceanside agrees to provide its reasonable approval of any scheduled outage.
- (c) ENGIE Services U.S. will initiate, maintain, and supervise all safety precautions and programs in connection with the Work which are necessary to prevent damage, or injury to, or loss of: (i) any employees, laborers, suppliers, other persons performing the Work or authorized by ENGIE Services U.S. to be on the jobsite; (ii) any work and materials and equipment incorporated in the Project, or to be incorporated therein, whether in storage on or off the site; (iii) any personal property of ENGIE Services U.S. or its subcontractors; and (iv) other property at the site or adjacent thereto (both public and private) which is not designated for removal, relocation or replacement in the course of construction, including trees, shrubs, lawn, walks, pavements, roadways, structures, utilities, and underground facilities.

ENGIE Services U.S. shall be responsible for any of the above described damage, injury, or loss arising out of the nature of the work, until its acceptance by Oceanside, except as is otherwise provided in California Public Contract Code Section 7105.

In the event of an occurrence of one of the above described damage, injury, or loss to public property or other property to be incorporated into the project, ENGIE Services U.S. shall repair or replace the damage, injury, or loss at its cost, and to the reasonable satisfaction of Oceanside. Repairs and replacements shall be at least equal in quality to existing improvements, and shall match them in finish and dimension.

ENGIE Services U.S. shall give reasonable notice to occupants or owners of adjacent property with improvements (including trees, plants, fences, irrigation, and other improvements) which may be adversely impacted by ENGIE Services U.S.'s work. ENGIE Services U.S. shall repair or replace any damage, injury, or loss to private improvements on adjacent property at ENGIE Services U.S.'s expense and to the reasonable satisfaction of the property owner and occupant as well as Oceanside.

As applicable, ENGIE Services U.S. shall have at the worksite, copies of: Construction Safety Orders, Tunnel Safety Orders, and General Industry Safety Orders issued by the State Division of Industrial Safety. ENGIE Services U.S. shall comply with provisions of these and all other applicable laws, ordinances, and regulations.

- (d) ENGIE Services U.S. will provide notice to Oceanside of scheduled test(s) of installed equipment, if any, and Oceanside and/or its designees will have the right to be present at any or all such tests conducted by ENGIE Services U.S., any subcontractor, and/or manufacturers of the equipment.
- (e) Pursuant to California Labor Code §6705, if the Work is a public work involving an estimated expenditure in excess of \$25,000 and includes the excavation of any trench or trenches five (5) feet or more in depth, ENGIE Services U.S. will, in advance of excavation, submit to Oceanside and/or a registered civil or structural engineer, employed by Oceanside, to whom authority to accept has been delegated, a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation of such trench or trenches, which provisions will be no less effective than the current and applicable CAL-OSHA Construction Safety Orders. No excavation of such trench or trenches may be commenced until this detailed plan has been accepted by Oceanside or by the person to whom authority to accept has been delegated by Oceanside. Pursuant to California Labor Code §6705, nothing in this Section 5.02(e) imposes tort liability on Oceanside or any of its employees.
- (f) Pursuant to California Public Contract Code §7104, if the Work is a public work involving digging trenches or other excavations that extend deeper than four (4) feet below the surface of the ground:
 - (i) ENGIE Services U.S. will promptly, and before the following conditions are disturbed, notify Oceanside, in writing, of any:
 - 1) Material that ENGIE Services U.S. believes may be material that is hazardous waste, as defined in California Health and Safety Code §25117, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law;
 - 2) Subsurface or latent physical conditions at the site differing from those indicated by information about the site made available to ENGIE Services U.S. prior to or during the Design Phase, before commencement of Construction;
 - 3) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract.
 - (ii) Oceanside will promptly investigate the conditions and, if it finds that the conditions do materially so differ or do involve hazardous waste, and cause a decrease or increase in ENGIE Services U.S.'s cost of, or the time required for, performance of any part of the Work will issue a Change Order under the procedures described in this Contract.
 - (iii) If a dispute arises between Oceanside and ENGIE Services U.S., whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in ENGIE Services U.S.'s cost of, or time required for, performance of any part of the Work, ENGIE Services U.S. will not be excused from any scheduled completion date provided for by this Contract but will proceed with all Work to be performed under this Contract. ENGIE Services U.S. will retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the Parties.

Section 5.03 Oceanside's Responsibilities during Construction Phase.

- (a) Oceanside will designate a single-point representative authorized to act on Oceanside's behalf with respect to Project construction and/or equipment installation. Oceanside may from time to time change the designated representative and will provide written notice to ENGIE Services U.S. of such change. Any independent review of the construction will be undertaken at Oceanside's sole expense, and will be performed in a timely manner so as to not unreasonably delay the orderly progress of ENGIE Services U.S.'s Work.
- (b) Oceanside will provide a temporary staging area for ENGIE Services U.S., or its subcontractors, to use during the construction phase to store and assemble equipment for completion of the Work, if needed. Oceanside will provide sufficient space at the Facilities for the performance of the Work and the storage, installation, and operation of any equipment and materials. Oceanside will provide access to the Facilities, including parking permits and identification tags, for ENGIE Services U.S. and subcontractors to perform the Work during regular business hours, or such other reasonable hours as may be requested by ENGIE Services U.S. and acceptable to Oceanside. Oceanside will also either provide a set or sets of keys to ENGIE Services U.S. and its subcontractors (signed out per Oceanside policy) or provide a readily available security escort to unlock and lock doors. Oceanside will not unreasonably restrict ENGIE Services U.S.'s access to Facilities to make emergency repairs or corrections as ENGIE Services U.S. may determine are needed.
- (c) Oceanside will keep the designated Project Location and staging area for the Project free of obstructions, waste, and materials within the control of Oceanside.
- (d) Oceanside will obtain any required environmental clearance from, and any inspections, including special inspections, or permits required by, any federal, state, and local jurisdictions, including but not limited to any clearances required under CEQA, prior to scheduled construction start date.
- (e) Oceanside will prepare the Project Location for construction, including, but not limited to, clearance of all above and below ground obstructions, such as vegetation, buildings, appurtenances, and utilities. Subsurface conditions and obstacles (buried pipe, utilities, etc.) that are not otherwise previously and accurately documented by Oceanside and such documentation made available to ENGIE Services U.S. are the responsibility of Oceanside. If ENGIE Services U.S. encounters such unforeseen conditions in the performance of the Work, ENGIE Services U.S. may be entitled to an equitable extension of time and/or an equitable adjustment in the Contract Amount.
- (f) Oceanside will remove any Hazardous Substances either known to Oceanside prior to the commencement of the Work or encountered by ENGIE Services U.S. during the construction of the Project, if necessary in order for the Work to progress safely, that were not knowingly released or brought to the site by ENGIE Services U.S. ENGIE Services U.S. will respond to the discovery of Hazardous Substances at or around the Project Location during the course of ENGIE Services U.S.'s construction in accordance with Section 5.06.
- (g) Oceanside will coordinate the Work to be performed by ENGIE Services U.S. with its own operations and with any other construction project that is ongoing at or around the Project Location, with the exception that ENGIE Services U.S. will coordinate the Interconnection Facilities work, if any, which will be performed by the local utility.
- (h) Oceanside will, and will cause Oceanside Persons to, allow ENGIE Services U.S. and its subcontractors access to and reasonable use of necessary quantities of Oceanside's water and other utilities, including electrical power, as needed for the construction of the Work, at no cost to ENGIE Services U.S.
- (i) Oceanside will, and will cause Oceanside Persons to, provide ENGIE Services U.S. and/or its subcontractors with reasonable access to the Project Location to perform the Work, including without limitation and at no extra cost to ENGIE Services U.S., access to perform Work on Saturdays, Sundays, legal holidays, and non-regular working hours.
- (j) Oceanside will also do the following:
 - (i) Attend the regularly scheduled progress meetings. Participate as needed regarding scheduling of the Work.
 - (ii) When requested by ENGIE Services U.S., participate in the job inspection walk-through with ENGIE Services U.S. to determine Substantial Completion or Beneficial Use of major equipment, and will sign the Certificate(s) of Substantial Completion when Oceanside reasonably determines the Work is substantially complete.
 - (iii) Perform a final walk-through of the Project and, upon receipt of the operation and maintenance manuals and as-built drawings, sign the Certificate of Final Completion for the related Work when Oceanside reasonably determines the related Work is finally complete.
 - (iv) Upon the completion of the entire Scope of Work listed in Attachment C, including training, if any, and submission of close-out documents, sign a Certificate of Final Completion for the entire Project when Oceanside reasonably determines the entire Project is finally complete.

Section 5.04 Changes.

- (a) Change Orders Generally. Changes and/or modifications to the Scope of Work will be authorized by a written Change Order signed by both Parties. The Change Order should state the change and/or modification to the Scope of Work, any additional compensation to be paid, and any applicable extension of time.
- (b) ENGIE Services U.S. may request changes by submitting written Contract Change Proposals to Oceanside's authorized representative. The Change Proposal shall be reviewed by Oceanside's authorized representative, and may be approved if the change is the result of an Excusable Event and is received by Oceanside's authorized representative within ten (10) working days of the discovery of the condition that caused the change, or within such time as may be reasonably necessary to determine the impact of the condition on the Contract Amount and Contract Time. Nothing herein shall be construed as granting a right to ENGIE Services U.S. to demand approval of Change Proposals.
 - (i) If ENGIE Services U.S. wishes to make a Claim for an increase in Contract Time or Contract Amount, such claim shall be submitted in writing to Oceanside's authorized representative within ten (10) working days of the discovery of the condition which purportedly necessitated the increase in Contract Time or Contract Amount. The Claim shall be formally submitted and include all the information required by Subsection (d) below within ten (10) business days of such information becoming available. In order to substantiate the Claim, ENGIE Services U.S. shall, at a minimum, submit a specific description of the manner in which the condition impacts the construction schedule
 - (ii) Oceanside shall review the claim and (i) may authorize extensions of time in accordance with the criteria set forth in this section only when a delay is caused to the entire Work for the Project; and/or (ii) may authorize a change in the Contract Amount in accordance with the terms of this Contract. Extensions of time shall not be granted for noncontrolling delays to portions of the Work unless ENGIE Services U.S. demonstrates that such delays also delay the progress of the entire Work.
 - (iii) If delays or cost increases are caused by events which are reasonably foreseeable to and within the control of ENGIE Services U.S., ENGIE Services U.S. shall be entitled to no extension of time or increase in the Contract Amount. Such events shall include, but are not limited to, Oceanside's suspension of work due to ENGIE Services U.S.'s failure to maintain required insurance, and failure to provide adequate safety measures at the site.
- (c) Increase in Contract Amount Must Not Defeat Energy Cost Savings. The parties understand that funding to implement the ECMs identified by ENGIE Services U.S. is finite, and Oceanside's approval of this Agreement is based on certain assumptions and findings regarding energy cost savings due to implementation of the ECMs. Accordingly, the parties agree that ENGIE Services U.S. shall not be entitled to an increase in the Contract Amount under any circumstances if such increase impacts the projected energy cost savings such that the findings required by California Government Code sections 4217.12 and 4217.13 can no longer be made.
- (d) Any Change Proposal or Claim submitted by ENGIE Services U.S. shall be signed by its authorized representative and shall include the information set forth below; a Change Order issued by Oceanside shall be signed by its authorized representative and contain the following information: (i) the project name and number; (ii) detailed description of the change or claim; (iii) the reason for the change or claim; (iv) the increase or decrease in dollar value of the Contract Amount resulting from the change or claim, or the method of determining compensation for the change or claim; and (v) the number of work days which will be added or subtracted from the date of completion of all work under the Agreement by virtue of the change or claim.
- (e) Method for Adjustment. An increase or decrease in the Contract Amount and/or time resulting from a Change in the Work and/or Excusable Event must be determined by one or more of the following methods:
 - (i) unit prices set forth in this Contract or as subsequently agreed;
 - (ii) a mutually accepted, itemized lump sum; or
 - (iii) costs calculated on a basis agreed upon by Oceanside and ENGIE Services U.S. plus a fee (either a lump sum or a fee based on a percentage of cost) to which the Parties agree.
- (f) Disputed Work. In the event that a dispute arises between Oceanside and ENGIE Services U.S. as to the interpretation of Contract, including change orders, or the compensation for Work, or the time for completion of the Work, ENGIE Services U.S. shall not be excused from any scheduled completion date provided for by the Contract, but shall diligently proceed with all work to be performed under the Contract. No work shall be delayed or postponed by ENGIE Services U.S. pending resolution of any disputes or disagreements with Oceanside unless otherwise agreed upon in writing. Disputes are to be resolved in accordance with the provisions of ARTICLE 19.

Section 5.05 Minor Changes to Scope of Work. ENGIE Services U.S. has the authority to make minor changes that do not change the total Contract Amount and are consistent with the intent of the Construction Documents, without prior notice to Oceanside. ENGIE Services U.S. will either promptly inform Oceanside, in writing, of any minor changes made during the implementation of the Project, or make available to Oceanside at the site a set of as-built drawings that will be kept current to show those minor changes.

Section 5.06 Hazardous Substances.

- (a) ENGIE Services U.S. will promptly provide written notice to Oceanside if ENGIE Services U.S. observes any Hazardous Substance, as defined herein, at or around the Facilities during the course of construction or installation of any equipment which have not been addressed as part of the Scope of Work. ENGIE Services U.S. will have no obligation to investigate the Facilities for the presence of Hazardous Substances prior to commencement of the Work unless otherwise specified in the Scope of Work. Oceanside will be solely responsible for investigating Hazardous Substances and determining the appropriate removal and remediation measures with respect to the Hazardous Substances. Oceanside will comply with all Applicable Laws with respect to the identification, removal and proper disposal of any Hazardous Substances known or discovered at or around the Facilities, and in such connection will execute all generator manifests with respect thereto. ENGIE Services U.S. will comply with all Applicable Laws in connection with the use, handling, and disposal of any Hazardous Substances in the performance of its Work. In connection with the foregoing, Oceanside will provide ENGIE Services U.S., within ten (10) Business Days after the Contract Effective Date, a written statement that represents and warrants (i) whether or not, to its knowledge, there are Hazardous Substances either on or within the walls, ceiling or other structural components, or otherwise located in the Project Location, including, but not limited to, asbestos-containing materials; (ii) whether or not, to its knowledge, conditions or situations exist at the Facilities which are subject to special precautions or equipment required by federal, state, or local health or safety regulations; and (iii) whether or not, to its knowledge, there are unsafe working conditions at the Facilities.
- (b) Oceanside will indemnify, defend, and hold ENGIE Services U.S. harmless from and against any and all Losses that in any way result from, or arise under, such Oceanside owned or generated Hazardous Substances, except for liabilities to the extent due to the negligence or willful misconduct of ENGIE Services U.S., or its subcontractors, agents or representatives, in the handling, disturbance or release of Hazardous Substances. This indemnification will survive any termination of this Contract.

Section 5.07 Pre-Existing Conditions. Certain pre-existing conditions may be present within the Facilities that (i) are non-compliant with applicable codes, (ii) may become non-compliant with applicable codes upon completion of ENGIE Services U.S.'s Work, (iii) may cause ENGIE Services U.S.'s completed Work to be non-compliant with applicable codes, (iv) may prevent Oceanside from realizing the full benefits of ENGIE Services U.S.'s Work, (v) may present a safety or equipment hazard, or (vi) are otherwise outside the scope of ENGIE Services U.S.'s Work. Regardless of whether or not such conditions may have been readily identifiable prior to the commencement of Work, ENGIE Services U.S. will not be responsible for repairing such pre-existing conditions unless such responsibility is expressly provided for in the Scope of Work or an approved Change Order. ENGIE Services U.S., in its sole discretion, may determine whether it will bring said pre-existing conditions into compliance by agreeing to execute a Change Order with Oceanside for additional compensation and, if appropriate, an extension of time.

ARTICLE 6. PROJECT COMPLETION

Section 6.01 Occupancy or Use of Work Prior to Acceptance. Oceanside reserves the right to take over and utilize all or part of any completed work. ENGIE Services U.S. will be notified in writing in advance of such action. Such action by Oceanside will relieve ENGIE Services U.S. of responsibility for injury or damage to said completed portions of the improvements resulting from use by public traffic or from the action of the elements or from any other cause, except injury or damage resulting from ENGIE Services U.S.'s operations or negligence. ENGIE Services U.S. will not be required to reclean such portions of the improvement before field acceptance, except for cleanup made necessary by its operations. Nothing in this section shall be construed as relieving ENGIE Services U.S. from full responsibility for correcting defective work or materials, nor from completing all work under the Contract.

In the event the Oceanside exercises its right to place into service and utilize all or part of any completed Work, Oceanside shall assume the responsibility and liability for injury to persons or property arising out of or resulting from the utilization of the facility or appurtenance so placed into service, except for any such injury to persons or property caused by any willful or negligent act or omission by ENGIE Services U.S., its subcontractors, their officers, employees, or agents.

Section 6.02 Substantial Completion. When ENGIE Services U.S. considers the Work, or any portion thereof, to be Substantially Complete, ENGIE Services U.S. will supply to Oceanside a written Certificate of Substantial Completion with respect to such portion of the Work, including a Punch List of items and the time for their completion or correction. Oceanside will within ten (10) Business Days of receipt of the Certificate of Substantial Completion, review such portion of the Work for the sole purpose of determining whether it is Substantially Complete in accordance with the

requirements of this Contract. If Oceanside determines the Work is not Substantially Complete, Oceanside shall provide the reasons for its determination to ENGIE Services U.S. in writing within two (2) business days of its review of the Work. When Oceanside determines, in its reasonable discretion, that the Work is Substantially Complete, Oceanside will sign and return the Certificate of Substantial Completion to ENGIE Services U.S. acknowledging and agreeing: (i) that such portion of the Work is Substantially Complete; (ii) the date of such Substantial Completion; (iii) that from the date of Substantial Completion Oceanside will assume responsibility for the security of, insurance coverage for, maintenance, utilities for, and damage to or destruction of such portion of the Work. Oceanside agrees that approval of a Certificate of Substantial Completion will not be unreasonably withheld, delayed or conditioned.

Section 6.03 Acceptance of Work; Final Completion.

All Work under the Contract shall not be considered finally complete until after ENGIE Services U.S. has completed all Work in the field, submitted copies of the "as-built" plans, and submitted any other final reports and documents, all to the reasonable satisfaction of Oceanside's authorized representative. The "as-built" plans shall show in red, in detail, all construction changes, particularly the location and depth of conduit runs, and crossings, and the locations of standards, pull boxes, and other substructures.

Upon completion of all Work under the Agreement, as defined above, Oceanside's authorized representative shall accept the Work on behalf of Oceanside, sign the Certificate of Final Completion, and request that a Notice of Completion be filed in the offices of the County Recorder.

Any Retention withheld shall be paid to ENGIE Services U.S. thirty-five (35) days after the date of the recording of the Notice of Completion. Oceanside reserves the right to withhold up to five percent (5%) of the Contract Amount as retention to the extent that:

- (a) there is defective work not remedied by ENGIE Services U.S., or,
- (b) there are claims against ENGIE Services U.S. or any of its subcontractors for labor or materials furnished; or,
- (c) ENGIE Services U.S. has not made proper payments to subcontractors, employees, or materialmen; or,
- (d) ENGIE Services U.S. has defaulted on any other term or condition of this Contract.

Payment of the final progress payment shall be contingent upon ENGIE Services U.S. furnishing Oceanside with final, conditional lien releases by ENGIE Services U.S. and its subcontractors and major equipment suppliers. Disputed contract claims in stated amounts may be specifically excluded by ENGIE Services U.S. from the operation of the release.

The acceptance by ENGIE Services U.S. of the final progress payment shall constitute a waiver of all claims by ENGIE Services U.S. except those previously made in writing and still unsettled.

Section 6.04 Transfer of Title; Risk of Loss. Title to all or a portion of the Project equipment, supplies and other components of the Construction Work will pass to Oceanside upon the earlier of (i) the date payment for such Project equipment, supplies or components is made by Oceanside or (ii) the date any such items are incorporated into the Project Location. ENGIE Services U.S. will retain care, custody and control and risk of loss of such Project equipment, supplies and components until the earlier of Beneficial Use or Substantial Completion. Transfer of title to Oceanside will in no way affect Oceanside's and ENGIE Services U.S.'s rights and obligations as set forth in other provisions of this Contract. Except as provided in this Section 6.04, after the date of Substantial Completion, ENGIE Services U.S. will have no further obligations or liabilities to Oceanside arising out of or relating to this Contract, except for the obligation to complete any Punch List items, the obligation to perform any warranty service under ARTICLE 9, and obligations which, pursuant to their terms, survive the termination of this Contract.

ARTICLE 7. SUBCONTRACTORS

Section 7.01 Authority to Subcontract. ENGIE Services U.S. may delegate its duties and performance under this Contract, and has the right to enter into agreements with any subcontractors and other service or material providers as ENGIE Services U.S. may select in its discretion to perform the Work. ENGIE Services U.S. will not be required to enter into any subcontracts with parties whom ENGIE Services U.S. has not selected or subcontractors whom ENGIE Services U.S. has objection to using.

Section 7.02 Prompt Payment of Subcontractors. ENGIE Services U.S. will promptly pay, when due, all amounts payable for labor and materials furnished in the performance of this Contract and will endeavor to prevent any lien or other claim under any provision of Applicable Law from arising against any Oceanside property, against ENGIE Services U.S.'s rights to payments hereunder, or against Oceanside.

Section 7.03 Relationship. Nothing in this Contract constitutes or will be deemed to constitute a contractual relationship between any of ENGIE Services U.S.'s subcontractors and Oceanside, or any obligation on the part of Oceanside to pay any sums to any of ENGIE Services U.S.'s subcontractors.

Section 7.04 Prevailing Wages. To the extent required by California Labor Code §1771 or other Applicable Law, all employees of ENGIE Services U.S. and ENGIE Services U.S.'s subcontractors performing Work at the Project Location will be paid the per diem prevailing wages for the employee's job classification in the locality in which the Work is performed. In accordance with California Labor Code §§1773 and 1773.2, Oceanside will obtain from the Director of Industrial Relations the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work, in the locality in which the Work is to be performed, for each craft, classification or type of worker needed to execute the Work at the Project Location, and will cause copies of such determinations to be kept on file at its principal office and posted at each Project Location. Oceanside will promptly notify ENGIE Services U.S. of any changes to any such prevailing wage determination.

ARTICLE 8. PAYMENTS

Section 8.01 Monthly Progress Payments. Promptly after the Contract Effective Date, ENGIE Services U.S. will invoice Oceanside for a mobilization payment in the amount of twenty percent (20%) of the Contract Amount. This amount must be paid to ENGIE Services U.S. within thirty (30) calendar days after Oceanside's receipt of an invoice for such amount. In addition, as the Work progresses, ENGIE Services U.S. will submit to Oceanside its applications for monthly payments based on the progress made on the Project through the date on which ENGIE Services U.S. submits such Application for Payment. Promptly following the Contract Effective Date, ENGIE Services U.S. will prepare and submit to Oceanside a schedule of values apportioned to the various divisions or phases of the Work ("Schedule of Values"). Each line item contained in the Schedule of Values will be assigned a value such that the total of all items equals the Contract Amount. All Applications for Payment will be in accordance with the Schedule of Values. From the amount of the Application for Payment which is approved by Oceanside, five percent (5%) shall be deducted and retained by Oceanside, and the remainder less the amount of all previous payments, and less the amount of all valid setoffs, shall be paid to ENGIE Services U.S.

Valid setoff shall include:

- (a) The cost to correct defective work which has not been remedied by ENGIE Services U.S.; and
- (b) Claims against ENGIE Services U.S. or any of its subcontractors for labor and materials furnished; and
- (c) Failure of ENGIE Services U.S. to make proper payments to any subcontractors, employees, or suppliers; and
- (d) Costs resulting from default by ENGIE Services U.S. on any other term or condition of this Contract; and
- (e) Liquidated damages.

Section 8.02 Progress payments will be provided within thirty (30) days of the submittal date for which payment was requested and approved as outlined above. Materials Stored Off-Site. In addition to the monthly progress payments specified in Section 8.01, ENGIE Services U.S. may invoice Oceanside for materials purchased in advance and not stored at the Project Location. Each such Application for Payment will be accompanied by proof of off-site material purchases, evidence that the materials have been delivered to a warehouse reasonably acceptable to Oceanside and evidence of appropriate insurance coverage. ENGIE Services U.S. will furnish to Oceanside written consent from the Surety approving the advance payment for materials stored off site. Oceanside will pre-pay one hundred percent (100%) of ENGIE Services U.S.'s Application for Payment for the materials delivered, less Retention as indicated in Section 8.03. ENGIE Services U.S. will protect stored materials from damage. Damaged materials, even though paid for, will not be incorporated into the Work.

Section 8.03 Retention. Oceanside may retain from each progress payment a retention amount ("Retention") of five percent (5%) in accordance with California Public Contract Code §7201, *provided, however*, that there is to be no Retention with respect to the mobilization payment or the early equipment procurement invoices. Oceanside may make progress payments in full without Retention at any time after fifty percent (50%) of the Work has been completed, as permitted pursuant to California Public Contract Code §9203. Oceanside will release Retention pursuant to Section 6.03, above. In lieu of Retention being held by Oceanside, ENGIE Services U.S. may request that securities be substituted or Retention be held in an escrow account pursuant to California Public Contract Code §22300.

Section 8.04 Final Payment. The final Application for Payment may be submitted after Final Completion, as described in Section 6.03. The final payment amount must also include payment to ENGIE Services U.S. for any remaining Retention withheld by Oceanside, except as provided in Section 6.03. Payment of the final progress payment shall be contingent upon ENGIE Services U.S. furnishing Oceanside with final lien waivers, conditional upon final payment by ENGIE Services U.S. and its subcontractors and major equipment suppliers. Disputed contract claims in stated amounts may be specifically excluded by ENGIE Services U.S. from the operation of the lien release. The acceptance by ENGIE Services U.S. of the final progress payment shall constitute a waiver of all claims by ENGIE Services U.S. except those previously made in writing and still unsettled.

Section 8.05 Disputed Invoices/Late Payments. Oceanside may in good faith dispute any Application for Payment, or part thereof, within fifteen (15) calendar days after the date the Application for Payment was received by Oceanside. If Oceanside disputes all or a portion of any Application for Payment, Oceanside will pay the undisputed

portion when due and provide ENGIE Services U.S. a written notice and explanation of the basis for the dispute and the amount of the Application for Payment being withheld related to the dispute. If any amount disputed by Oceanside is finally determined to be due to ENGIE Services U.S., either by agreement between the Parties or as a result of dispute resolution pursuant to ARTICLE 19 below, it will be paid to ENGIE Services U.S. within ten (10) Business Days after such final determination.

Section 8.06 Rebate Programs. ENGIE Services U.S. will assist Oceanside in the preparation and submission to the applicable agencies of applications and documentation necessary for the following energy efficiency rebate, incentive, and/or loan program(s): applicable Self Generation Incentive Program. ENGIE Services U.S. makes no guarantee that Oceanside will receive funding from any energy efficiency rebate, incentive, and/or loan program(s), including the Inflation Reduction Act or those listed above (collectively, "Incentive Funds"), or any portion thereof; ENGIE Services U.S. expressly disclaims any liability for Oceanside's failure to receive any portion of the Incentive Funds, and Oceanside acknowledges and agrees that ENGIE Services U.S. will have no liability for any failure to receive all or any portion of the Incentive Funds. Procurement, or lack thereof, of the Incentive Funds will not alter the Contract Amount of this Contract or the payment timeline associated with payment of the Contract Amount.

ARTICLE 9. CONTRACTOR'S WARRANTY

ENGIE Services U.S. hereby guarantees that the entire work performed and all materials, parts, and equipment furnished on this project by ENGIE Services U.S., all subcontractors, suppliers and vendors shall meet all requirements of this Contract as to the quality of materials, equipment, and workmanship for a period of one (1) year following the date of Substantial Completion ("Warranty Period"). Notwithstanding the preceding sentence, the date the ENGIE Services U.S. Warranty commences with respect to a specific piece or pieces of equipment may be further defined in Attachment C.

If Oceanside's authorized representative determines that any of the work performed, or any of the materials, parts or equipment furnished are defective, or have become defective, during the Warranty Period, Oceanside immediately notify ENGIE Services U.S. to have such replacements or repairs performed by ENGIE Services U.S. For the purposes of this Warranty, the term "defective" shall mean any work performed, or any materials, parts, or equipment furnished which fail to be in a condition as originally intended in accordance with the Construction Documents, due to the negligent or intentional acts, errors or omissions of ENGIE Services U.S.

ENGIE Services U.S. agrees to perform the replacements or repair at no cost to Oceanside within thirty (30) days after the date of the written notice, or such additional time as may be reasonably required.

If ENGIE Services U.S. fails to perform within thirty (30) days after the date of Oceanside's written notice, after further written notice and opportunity to cure, Oceanside shall be entitled to compensation from ENGIE Services U.S. for all costs and expenses reasonably incurred in restoring the work to the condition as originally intended, including the cost of any such equipment or materials replaced, the cost of removing and replacing any other work necessary.

Equipment and material warranties that exceed the ENGIE Services U.S. Warranty Period will be provided directly by the equipment and/or material manufacturers and such warranties will be assigned directly to Oceanside, after the one (1) year period. During the ENGIE Services U.S. Warranty Period, ENGIE Services U.S. will be Oceanside's agent in working with the equipment and material manufacturers in resolving any equipment or material warranty issues. If any material defects are discovered within the ENGIE Services U.S. Warranty period, ENGIE Services U.S., or ENGIE Services U.S.'s subcontractors, will correct its defects, and/or ENGIE Services U.S. will work with the equipment or material manufacturer as Oceanside's agent to facilitate the manufacturer's correction of the equipment or material defect. Such warranty services will be performed in a timely manner and at the reasonable convenience of Oceanside. If a warranty issue arises on any equipment or material installed after the ENGIE Services U.S. Warranty period, and the equipment or material has a warranty period that exceeds one (1) year, Oceanside will contact the manufacturer directly to resolve such warranty issues and Oceanside acknowledges that the manufacturer will have sole responsibility for such issues

The warranties in this ARTICLE 9 expressly exclude any remedy for damage or defect caused by improper or inadequate maintenance of the installed equipment by service providers other than ENGIE Services U.S. or its subcontractors, corrosion, erosion, deterioration, abuse, modifications or repairs not performed by an authorized ENGIE Services U.S. subcontractor, improper use or operation, or normal wear and tear under normal usage. ENGIE Services U.S. shall not be responsible for the cost of correcting a breach of warranty or defect to the extent that the manufacturer of the equipment that is the subject of a warranty hereunder does not honor its equipment warranty as a result of its termination of operations, insolvency, liquidation, bankruptcy or similar occurrence. Unless otherwise specified, all warranties hereunder, including without limitation those for defects, whether latent or patent, in design, engineering, or construction, will terminate one (1) year from the date of Substantial Completion or Beneficial Use; and thereafter, ENGIE Services U.S. will have no liability for breach of any warranty or for any latent or patent defect of any kind pursuant to California Code of Civil Procedure §§337.1 and 337.15.

EXCEPT FOR THE WARRANTIES PROVIDED IN THIS ARTICLE 9, ENGIE SERVICES U.S. MAKES NO WARRANTIES IN CONNECTION WITH THE WORK PROVIDED UNDER THIS CONTRACT, WHETHER EXPRESS OR IMPLIED IN LAW, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY IMPLIED WARRANTIES AGAINST INTELLECTUAL PROPERTY INFRINGEMENT. OCEANSIDE WILL HAVE NO REMEDIES AGAINST EITHER ENGIE SERVICES U.S. OR ANY ENGIE SERVICES U.S. SUBCONTRACTOR OR VENDOR FOR ANY DEFECTIVE MATERIALS OR EQUIPMENT INSTALLED, EXCEPT FOR THE REPAIR OR REPLACEMENT OF SUCH MATERIALS OR EQUIPMENT IN ACCORDANCE WITH THE WARRANTIES INDICATED ABOVE. EXCEPT AS OTHERWISE PROVIDED IN ARTICLE 11 HEREIN, NEITHER ENGIE SERVICES U.S., NOR ENGIE SERVICES U.S.'s SUBCONTRACTORS OR VENDORS, WILL BE LIABLE TO OCEANSIDE FOR LOSS OF PROFITS OR FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY.

ARTICLE 10. OWNERSHIP OF CERTAIN PROPERTY AND EXISTING EQUIPMENT

Section 10.01 Ownership of Certain Proprietary Property Rights.

- (a) Ownership: Except as expressly provided in this Contract, Oceanside will not acquire, by virtue of this Contract, any rights or interest in any formulas, patterns, devices, software, inventions or processes, copyrights, patents, trade secrets, other intellectual property rights, or similar items of property which are or may be used in connection with the Work. ENGIE Services U.S. will own all inventions, improvements, technical data, models, processes, methods, and information and all other work products developed or used in connection with the Work, including all intellectual property rights therein.
- (b) License: Solely in connection with the Facilities, ENGIE Services U.S. grants to Oceanside a limited, perpetual, royalty-free, non-transferrable license for any ENGIE Services U.S. intellectual property rights necessary for Oceanside to operate, maintain, and repair any modifications or additions to Facilities, or equipment delivered, as a part of the Work.
- (c) Ownership and Use of Instruments of Service. All data, reports, proposals, plans, specifications, flow sheets, drawings, and other products of the Work (the "Instruments of Service") furnished directly or indirectly, in writing or otherwise, to Oceanside by ENGIE Services U.S. under this Contract will remain ENGIE Services U.S.'s property and may be used by Oceanside only for the Work. ENGIE Services U.S. will be deemed the author and owner of such Instruments of Service and will retain all common law, statutory and other reserved rights, including copyrights. The Instruments of Service may not be used by Oceanside or any Oceanside Person for future additions or alterations to the Project or for other projects, without the prior written agreement of ENGIE Services U.S. Any unauthorized use of the Instruments of Service will be at Oceanside's sole risk and without liability to ENGIE Services U.S. If Oceanside uses the Instruments of Service for implementation purposes, including additions to or completion of the Project, without the written permission of ENGIE Services U.S., Oceanside agrees to waive and release, and indemnify and hold harmless, ENGIE Services U.S., its subcontractors, and their directors, employees, subcontractors, and agents from any and all Losses associated with or resulting from such use.

Section 10.02 Ownership of any Existing Equipment. Ownership of any equipment and materials presently existing at the Facilities on the Contract Effective Date will remain the property of Oceanside even if such equipment or materials are replaced or their operation made unnecessary by work performed by ENGIE Services U.S. If applicable, ENGIE Services U.S. will advise Oceanside in writing of all equipment and materials that will be replaced at the Facilities and Oceanside will, within five (5) Business Days of ENGIE Services U.S.'s notice, designate in writing to ENGIE Services U.S. which replaced equipment and materials should not be disposed of off-site by ENGIE Services U.S. (the "Retained Items"). Oceanside will be responsible for and designate the location and storage for the Retained Items. ENGIE Services U.S. will be responsible for the disposal of replaced equipment and materials, except for the Retained Items. ENGIE Services U.S. will use commercially reasonable efforts to remove the Retained Items in such a manner as to avoid damage thereto, or if it is unreasonable to avoid damage altogether, to minimize the damage done. ENGIE Services U.S. will not be responsible for the removal and/or disposal of any Hazardous Substances except as required by the Scope of Work.

ARTICLE 11. INDEMNIFICATION / LIMITATION ON LIABILITY

Section 11.01 Indemnification. To the fullest extent permitted by Applicable Laws, ENGIE Services U.S. shall indemnify and hold harmless Oceanside and its officers, agents and employees against all claims for damages to persons or property arising out of the conduct of ENGIE Services U.S. or its employees, agents, subcontractors in connection with the execution of the Work covered by this Agreement, except only for those claims arising from the established sole or active negligence or sole willful misconduct of Oceanside, its officers, agents, or employees. ENGIE Services U.S.'s indemnification shall include all claims for damages arising out of any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the work of any invention, design, process, product, or device not specified in the Construction Documents. ENGIE Services U.S.'s indemnification shall include reasonable costs, expenses, attorneys' fees and liability incurred by Oceanside, its officers,

agents, or employees in enforcing the provisions of this subsection, and in defending against such claims, whether the same proceed to judgment or not. Further, ENGIE Services U.S. at its own expense shall, upon written request by Oceanside, defend any such suit or action brought against Oceanside, its officers, agents, or employees. This indemnification obligation will continue to bind the Parties after the termination of this Contract.

Section 11.02 Indemnification Regarding Project Approvals/Award of Contract. To the greatest extent allowed by Applicable Laws, ENGIE Services U.S. shall defend, indemnify and hold harmless Oceanside and its officers, agents and employees from any claim, action or proceeding against Oceanside, its agents, officers, or employees to attack, set aside, void or annul Oceanside's approval of this Agreement or the Work covered by this Agreement. Oceanside will promptly notify ENGIE Services U.S. of any such claim, action or proceeding against Oceanside and will cooperate fully in the defense. If Oceanside fails to promptly notify ENGIE Services U.S. of any such claim action or proceeding or fails to cooperate fully in the defense, ENGIE Services U.S. shall not, thereafter, be responsible to defend, indemnify or hold Oceanside harmless.

Section 11.03 Waiver of Consequential Damages and Limitation of Liability. The liability of a defaulting Party will be limited to direct, actual damages. Neither Party shall be liable to the other Party for any special, indirect, incidental or consequential damages whatsoever, whether in contract, tort (including negligence) or strict liability, including, but not limited to, operational losses in the performance of business such as lost profits or revenues or any increase in operating expense. Additionally, each Party waives any claims for negligence against the other Party to the fullest extent permitted by Applicable Law. Additionally, Oceanside and ENGIE Services U.S. have discussed the risks and rewards associated with this Project, as well as the Contract Amount to be paid to ENGIE Services U.S. for performance of the Work. Oceanside and ENGIE Services U.S. agree to allocate certain of the risks so that, to the fullest extent permitted by Applicable Law, ENGIE Services U.S.'s total aggregate liability to Oceanside and all third parties is limited to the Contract Amount for any and all injuries, damages, claims, losses, expenses, or claim expenses (including attorney's fees) arising out of this Contract from any cause or causes. Such causes include, but are not limited to, negligence, errors, omissions, strict liability, breach of contract, or breach of warranty

ARTICLE 12. INSURANCE / BONDS

Section 12.01 ENGIE Services U.S. Insurance. ENGIE Services U.S. will maintain, or cause to be maintained, for the duration of this Contract, the insurance coverage outlined in (a) through (f) below, and all such other insurance as required by Applicable Law. Evidence of coverage will be provided to Oceanside via an insurance certificate.

- (a) Workers' Compensation/Employers Liability for states in which ENGIE Services U.S. is not a qualified self-insured. Limits as follows:

- * Workers' Compensation: Statutory
- * Employers Liability: Bodily Injury by accident \$1,000,000 each accident
Bodily Injury by disease \$1,000,000 each employee
Bodily Injury by disease \$1,000,000 policy limit

- (b) Commercial General Liability insurance with limits of:

- * \$5,000,000 each occurrence for Bodily Injury and Property Damage
- * \$10,000,000 General Aggregate - other than Products/Completed Operations
- * \$5,000,000 Products/Completed Operations Aggregate
- * \$5,000,000 Personal and Advertising Injury
- * \$ 100,000 Damage to premises rented to ENGIE Services U.S.

Coverage to be written on an occurrence form. Coverage to be at least as broad as ISO form CG 0001 (04/13) or its equivalent forms, without endorsements that limit the policy terms with respect to:
(1) provisions for severability of interest or (2) explosion, collapse, underground hazard.

- (c) Auto Liability insurance for owned, hired and non-owned vehicles with limits of \$1,000,000 per accident. Insurance Services Office Form Number CA 0001 covering Code 1 (any auto). Coverage to be written on an occurrence form.

- (d) Professional Liability insurance with limits of:

- * \$2,000,000 per occurrence
- * \$2,000,000 aggregate

Coverage to be written on a claims-made form.

- (e) Umbrella/Excess Liability Insurance. Limits as follows:

- * \$2,000,000 each occurrence

- * \$2,000,000 aggregate

Coverage terms and limits to apply excess of the per occurrence and/or aggregate limits provided for Commercial General Liability and Professional Liability written on a claims made form. Coverage terms and limits also to apply in excess of those required for Employers Liability and Auto Liability written on an occurrence form.

(f) Policy Endorsements.

- * The insurance provided for Workers' Compensation and Employers' Liability above will contain waivers of subrogation rights against Oceanside, but only to the extent of the indemnity obligations contained in this Contract.
- * The insurance provided for Commercial General Liability and Auto Liability above will:
 - (i) include Oceanside as an additional insured with respect to Work performed under this Contract, but only to the extent of the indemnity obligations contained in this Contract, and
 - (ii) provide that the insurance is primary coverage with respect to all insureds, but only to the extent of the indemnity obligations contained in this Contract, with coverage as broad as ISO CG 20 01 04 13 as respects Oceanside, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by Oceanside, its officers, officials, employees, agents or volunteers shall be excess of ENGIE Services U.S.'s insurance and shall not contribute with it.
 - (iii) General liability and Auto liability coverage can be provided in the form of an endorsement to ENGIE Services U.S.'s insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37, or CG 20 39 forms if later revisions used).

(g) Self-Insured Retention.

Self-insured retentions must be declared to and approved by Oceanside. At the option of Oceanside, either: ENGIE Services U.S. shall cause the insurer to reduce or eliminate such self-insured retentions as respects Oceanside, its officers, officials, employees, and volunteers; or ENGIE Services U.S. shall provide a financial guarantee satisfactory to Oceanside guaranteeing payment of losses and related investigations, claim administration, and defense expenses. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Oceanside.

(h) Subcontractors.

ENGIE Services U.S. shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and ENGIE Services U.S. shall ensure that Oceanside is an additional insured on insurance required from subcontractors. For CGL coverage subcontractors shall provide coverage with a form at least as broad as CG 20 38 and CG 20 40.

(i) Verification of Coverage.

ENGIE Services U.S. shall furnish Oceanside with original certificates and amendatory endorsements, or copies of the applicable insurance language, effecting coverage required by this contract. All certificates and endorsements are to be received and approved by Oceanside before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive ENGIE Services U.S.'s obligation to provide them. Oceanside reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

Section 12.02 Waivers of Subrogation. The Parties waive all rights against each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this ARTICLE 12 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance. The Parties and their respective property damage insurers also waive all rights of subrogation against the other Party, its directors, officers, agents and employees. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

Section 12.03 Performance and Payment Bonds. Prior to commencing Work under this Contract, ENGIE Services U.S. will furnish a performance bond, in an amount equal to one hundred percent (100%) of the Contract Amount, and a payment bond to guarantee payment of all claims for labor and materials furnished, in an amount equal to one hundred percent (100%) of the Contract Amount (collectively, the "Contract Bonds"). The Contract Bonds are not being furnished to cover the performance of any Professional Services, including any energy guaranty or guaranteed savings under this Contract, nor to cover any equipment and/or material manufacturer's warranty or other third-party

warranty being assigned to Oceanside. Oceanside agrees that upon Final Completion and expiration of the ENGIE Services U.S. Warranty period set forth in ARTICLE 9 herein, the Contract Bonds shall be returned to ENGIE Services U.S., and all obligations arising thereunder are terminated and the surety company that issued the bond is forever discharged from any and all liabilities of whatever nature arising in connection with the Contract Bonds.

ARTICLE 13. [INTENTIONALLY OMITTED]

ARTICLE 14. MUNICIPAL ADVISOR

Section 14.01 THE PARTIES ACKNOWLEDGE AND AGREE THAT ENGIE SERVICES U.S. IS NOT A MUNICIPAL ADVISOR AND CANNOT GIVE ADVICE TO OCEANSIDE WITH RESPECT TO MUNICIPAL SECURITIES OR MUNICIPAL FINANCIAL PRODUCTS ABSENT OCEANSIDE BEING REPRESENTED BY, AND RELYING UPON THE ADVICE OF, AN INDEPENDENT REGISTERED MUNICIPAL ADVISOR. ENGIE SERVICES U.S. IS NOT SUBJECT TO A FIDUCIARY DUTY WITH REGARD TO OCEANSIDE OR THE PROVISION OF INFORMATION TO OCEANSIDE. OCEANSIDE WILL CONSULT WITH AN INDEPENDENT REGISTERED MUNICIPAL ADVISOR ABOUT THE FINANCING OPTION APPROPRIATE FOR OCEANSIDE'S SITUATION.

ARTICLE 15. TRADE SECRETS

If any materials or information provided by ENGIE Services U.S. to Oceanside under this Contract are clearly marked by ENGIE Services U.S. as a "trade secret" or otherwise exempt from disclosure under the Public Records Act (California Government Code §6250 *et seq.*, the "Act") and if a third party makes a request for disclosure of such materials under the Act, as soon as practical (but not later than five (5) calendar days) after receipt of such request, Oceanside will notify ENGIE Services U.S. of such request. Within ten (10) calendar days after a third party's request for disclosure of materials under the Act, ENGIE Services U.S. will (i) authorize Oceanside to release the documents or information sought; or (ii) if ENGIE Services U.S. reasonably believes that the information is exempt from disclosure, advise Oceanside not to release the materials.

ARTICLE 16. EVENTS OF DEFAULT

Section 16.01 Events of Default by ENGIE Services U.S. Each of the following events or conditions will constitute an "Event of Default" by ENGIE Services U.S.:

- (i) any substantial failure by ENGIE Services U.S. to perform or comply with this Contract, including a material breach of any covenant contained herein, and such failure continues for thirty (30) calendar days after notice to ENGIE Services U.S. demanding that such failure to perform be cured; *provided that* (y) such failure to perform will not be deemed a default hereunder if it is excused by a provision of this Contract, and (z) if such cure cannot be effected in thirty (30) calendar days, ENGIE Services U.S. will be deemed to have cured the default upon the commencement of a cure within thirty (30) calendar days and diligent subsequent completion thereof; or
- (ii) any representation or warranty furnished by ENGIE Services U.S. in this Contract which was false or misleading in any material respect when made.

Section 16.02 Events of Default by Oceanside. Each of the following events or conditions will constitute an "Event of Default" by Oceanside:

- (i) any substantial failure by Oceanside to perform or comply with this Contract, including a material breach of any covenant contained herein, and such failure continues for thirty (30) calendar days after notice to Oceanside demanding that such failure to perform be cured; *provided that* (y) such failure to perform will not be deemed a default hereunder if it is excused by a provision of this Contract; and (z) if such cure cannot be effected in thirty (30) calendar days, Oceanside will be deemed to have cured the default upon the commencement of a cure within thirty (30) calendar days and diligent subsequent completion thereof; or
- (ii) any representation or warranty furnished by Oceanside in this Contract which was false or misleading in any material respect when made; or

ARTICLE 17. REMEDIES UPON DEFAULT / TERMINATION

Section 17.01 Termination for Cause. If there is an Event of Default by either Party under this Contract, unless such Event of Default has been cured within the applicable time periods for a cure set forth in ARTICLE 16, the non-defaulting Party may terminate this Contract by providing three (3) Business Days' written notice to the defaulting Party in the case of a monetary default and ten (10) Business Days' written notice to the defaulting Party in the case of a non-monetary default. Upon termination of this Contract, each Party will promptly return to the other all papers, materials,

and property of the other held by such Party in connection with this Contract. Each Party will also assist the other in the orderly termination of this Contract and the transfer of all aspects hereof, tangible and intangible, as may be necessary for the orderly, non-disrupted business continuation of each Party. If this Contract is so terminated, ENGIE Services U.S. will be entitled to payment for Work satisfactorily performed, earned profit and overhead, and costs incurred in accordance with this Contract up to the date of termination.

Section 17.02 Remedies Upon Default by ENGIE Services U.S. If an Event of Default by ENGIE Services U.S. occurs, Oceanside will be entitled to obtain any available legal or equitable remedies including, without limitation, terminating this Contract, or recovering amounts due and unpaid by ENGIE Services U.S. and/or damages, which will include Oceanside's reasonable, actual, direct out-of-pocket losses incurred by reason of such Event of Default and any cost of funding; loss of anticipated payment obligations; and any payment or delivery required to have been made on or before the date of the Event of Default and not made, including interest on any sums due, and losses and costs incurred as a result of terminating this Contract and all costs and expenses reasonably incurred in exercising the foregoing remedies.

Section 17.03 Remedies upon Default by Oceanside. If an Event of Default by Oceanside occurs, ENGIE Services U.S. will be entitled to obtain any available legal or equitable remedies including, without limitation, terminating this Contract or recovering amounts due and unpaid by Oceanside, and/or damages which will include ENGIE Services U.S.'s reasonable, actual, direct out-of-pocket losses incurred by reason of such Event of Default and any cost of funding; loss of anticipated payment obligations; and any payment or delivery required to have been made on or before the date of the Event of Default and not made, including Interest on any sums due, and losses and costs incurred as a result of terminating this Contract and all costs and expenses reasonably incurred in exercising the foregoing remedies.

Section 17.04 Termination for Convenience. Oceanside may terminate the Contract or reduce the scope of work at its own discretion for any reason by providing thirty (30) days' written notice to ENGIE Services U.S. In the event of such a termination, ENGIE Services U.S. shall be entitled to compensation for all Work completed to the date of termination, plus reasonable demobilization and restocking fees.

ARTICLE 18. CONDITIONS BEYOND CONTROL OF THE PARTIES

Section 18.01 Excusable Events. If any Party is delayed in, or prevented from, performing or carrying out its obligations under this Contract by reason of any Excusable Event, such circumstance will not constitute an Event of Default, and such Party will be excused from performance hereunder and will not be liable to the other Party for or on account of any loss, damage, injury or expense resulting from, or arising out of, such delay or prevention.

Section 18.02 Utility Work. Oceanside expressly understands and agrees that Excusable Events may occur due to Interconnection Facilities work that may need to be performed by the local electric utility ("Utility") in order for ENGIE Services U.S. to fully implement the Project. "Interconnection Facilities" means any distribution or transmission lines and other facilities that may be required to connect equipment supplied under this Contract to an electrical distribution/transmission system owned and maintained by the Utility. Any Interconnection Facilities work that may be required will be performed by the Utility under the Interconnection Agreement.

ARTICLE 19. GOVERNING LAW AND RESOLUTION OF DISPUTES

Section 19.01 Governing Law. This Contract is governed by and must be interpreted under the laws of the State where the Work is performed, without regard to the jurisdiction's choice of law rules.

Section 19.02 Claim Resolution Process. A "claim" means a separate demand by ENGIE Services U.S. sent by registered or certified mail with return receipt requested, for (A) a time extension, including, without limitation, for relief from damages or penalties for delay assessed by Oceanside; (B) payment of money or damages arising from work done by, or on behalf of, ENGIE Services U.S. pursuant to the contract for a public work and payment for which is not otherwise expressly provided or to which ENGIE Services U.S. is not otherwise entitled; or (C) payment of an amount that is disputed by Oceanside. Claims shall be evaluated and resolved according to the requirements of California Public Contract Code section 9204, the text of which is set forth in Attachment H.

Section 19.03 Multiparty Proceeding. Either Party may join third parties whose joinder would facilitate complete resolution of the Claim and matters arising from the resolution of the Claim.

Section 19.04 Lien Rights. Nothing in this ARTICLE 19 limits any rights or remedies not expressly waived by ENGIE Services U.S. that ENGIE Services U.S. may have under any lien laws or stop notice laws.

ARTICLE 20. REPRESENTATIONS AND WARRANTIES

Section 20.01 Each Party warrants and represents to the other that:

- (i) it has all requisite power and authority to enter into this Contract, to perform its obligations hereunder and to consummate the transactions contemplated hereby;

- (ii) the execution, delivery, and performance of this Contract have been duly authorized by its governing body, or are in accordance with its organizational documents, and this Contract has been duly executed and delivered for it by the signatories so authorized, and constitutes its legal, valid, and binding obligation;
- (iii) the execution, delivery, and performance of this Contract will not breach or violate, or constitute a default under, its organizational documents or any contract, lease or instrument to which it is a party or by which it or its properties may be bound or affected; and
- (iv) it has not received any notice, nor to the best of its knowledge is there pending or threatened any notice, of any violation of any Applicable Laws, awards or permits which would materially and adversely affect its ability to perform hereunder.

ARTICLE 21. NOTICE

Any notice required or permitted hereunder will be deemed sufficient if given in writing and delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, or delivered to a nationally recognized express mail service, charges prepaid, receipt obtained, to the address shown below or to such other persons or addresses as are specified by similar notice.

TO ENGIE SERVICES U.S.: ENGIE Services U.S. Inc.
35 North Lake Avenue, Suite 900
Pasadena, CA 91101-1892
Attention: Jacob Goering, Project Manager
Tel: (909) 810-0697
Email: jacob.goering@engie.com

With a COPY TO: Legal Department
ENGIE Services U.S. Inc.
35 North Lake Avenue, Suite 900
Pasadena, CA 91101-1892
Tel: 626-377-4948
Attention: Contract Administrator

TO Oceanside: City Manager
City of Oceanside
300 North Coast Highway
Oceanside, CA, 92054
Tel: 760-435-3065

With a COPY TO: City Attorney
City of Oceanside
300 North Coast Highway
Oceanside, CA 92054
Tel: 760-435-3969

ARTICLE 22. CONSTRUCTION OF CONTRACT

This Contract is the result of arms-length negotiations between two sophisticated parties and ambiguities or uncertainties in it will not be construed for or against either Party, but will be construed in a manner that most accurately reflects the intent of the Parties as of the Contract Effective Date. Each of the Parties acknowledges and agrees that neither Party has provided the other with any legal, accounting, regulatory, financial, or tax advice with respect to any of the transactions contemplated hereby, and each Party has consulted its own legal, accounting, regulatory, financial and tax advisors to the extent it has deemed appropriate.

ARTICLE 23. CHOICE OF LAW

THE INTERPRETATION, VALIDITY AND ENFORCEMENT OF THIS CONTRACT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA.

ARTICLE 24. BINDING EFFECT

Except as otherwise provided herein, the terms and provisions of this Contract will apply to, be binding upon, and inure to the benefit of the Parties hereto and their respective heirs, legal representatives, successors, and permitted assigns.

ARTICLE 25. NO WAIVER

The failure of ENGIE Services U.S. or Oceanside to insist upon the strict performance of this Contract will not constitute or be construed as a waiver or relinquishment of either Party's right to thereafter enforce the same in accordance with this Contract in the event of a continuing or subsequent default on the part of ENGIE Services U.S. or Oceanside.

ARTICLE 26. SEVERABILITY

If any clause or provision of this Contract or any part thereof becomes or is declared by a court of competent jurisdiction invalid, illegal, void, or unenforceable, this Contract will continue in full force and effect without said provisions; *provided* that no such severability will be effective if it materially changes the benefits or obligations of either Party hereunder.

ARTICLE 27. HEADINGS

Headings and subtitles used throughout this Contract are for the purpose of convenience only, and no heading or subtitle will modify or be used to interpret the text of any section.

ARTICLE 28. COUNTERPARTS; INTEGRATION

This Contract may be executed in counterparts (and by different Parties hereto in different counterparts), each of which will constitute an original, but all of which when taken together will constitute a single contract. This Contract constitutes the entire contract among the Parties relating to the subject matter hereof and supersedes any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. This Contract cannot be amended, modified, or terminated except by a written instrument, executed by both Parties hereto. Delivery of an executed counterpart of a signature page of this Contract by email will be effective as delivery of a manually executed counterpart of this Contract.

[the Parties' signatures appear on the following page]

IN WITNESS WHEREOF, and intending to be legally bound, the Parties hereto subscribe their names to this Contract by their duly authorized officers as of the Contract Effective Date.

ENGIE SERVICES U.S.:

ENGIE Services U.S. Inc.

OCEANSIDE:

City of Oceanside

By: _____

Name:
Title:

By: _____

Name:
Title:

ATTACHMENT A
FACILITIES

(a) The following Oceanside Facilities are included under the Scope of Work as listed below:

Facility	Address	Square Feet
Chavez Resource Center	605 SAN DIEGO ST, OCEANSIDE, CA 92058	3,400
City Operations Center	4925 OCEANSIDE BLVD, OCEANSIDE, CA 92056	143,000
Civic Center / City Hall	300 N COAST HWY, OCEANSIDE, CA 92054	209,506
El Corazon Senior Center	3306 SENIOR CENTER DR, OCEANSIDE, CA 92056	15,077
Fire Station #1	712 PIER VIEW WAY, OCEANSIDE, CA 92054	9,176
Fire Station #2	1740 S DITMAR ST, OCEANSIDE, CA 92054	4,556
Fire Station #3	3101 OCEANSIDE BLVD, OCEANSIDE, CA 92056	7,270
Fire Station #4	3990 LAKE BLVD, OCEANSIDE, CA 92056	7,248
Fire Station #5	4841 N RIVER RD, OCEANSIDE, CA 92057	4,672
Fire Station #6	895 N SANTA FE AVE, OCEANSIDE, CA 92057	9,149
Fire Station #7	3350 MISSION AVE, OCEANSIDE, CA 92058	18,362
Fire Station #8	1935 AVENIDA DEL ORO, OCEANSIDE, CA 92058	7,000
Fire Training Center	110 JONES RD, OCEANSIDE, CA 92058	22,107
Heritage Village Park	220 PEYRI DR, OCEANSIDE, CA 92057	12,982
IT Storage Building	2797 COLLEGE BLVD, OCEANSIDE, CA 92056	1,950
Joe Balderrama Park	709 SAN DIEGO ST, OCEANSIDE, CA 92058	13,920
John Landes Park	2855 CEDAR RD, OCEANSIDE, CA 92056	11,500
Junior Seau Community Center	300 THE STRAND N., OCEANSIDE, CA 92056	17,000
Libby Lake Park	424 CALLE MONTECITO, OCEANSIDE, CA 92057	-
Melba Bishop Park	5306 N RIVER RD, OCEANSIDE, CA 92057	36,550
Mission Basin Desalting Facility	215 FIRESIDE ST, OCEANSIDE, CA 92058	12,623
Mission Lift Station	3476 MISSION AVE, OCEANSIDE, CA 92056	-
Oceanside Harbor	1500 HARBOR DR N, OCEANSIDE, CA 92056	35,658
Oceanside Housing Division Office	321 N NEVADA ST, OCEANSIDE, CA 92054	7,904
Oceanside Pier	310 N THE STRAND	17,000
Oceanside Senior Center	455 COUNTRY CLUB LN, OCEANSIDE, CA 92054	16,500
Robert Weese Water Filtration Plant	3885 SILVERLEAF LN, VISTA, CA 92084	60,008
Ron Ortega Park	1681 MAXSON ST, OCEANSIDE, CA 92054	4,660
Navigation Center (Housing)	3131 OCEANSIDE BLVD, OCEANSIDE, CA 92056	13,000
San Luis Rey WWTP	3950 N RIVER RD, OCEANSIDE, CA 92058	811,773

ATTACHMENT B

STANDARDS OF OCCUPANCY and CONTROL

The following standards are a guideline used to evaluate the energy conservation measures in this program. It is understood that existing and installed equipment may not allow for exact times and temperatures to be met, but every effort will be made to meet the below standards as closely as the equipment allows.

Facility	Existing HVAC	Existing		Proposed HVAC	Proposed	
	Schedule	Heating Occupied/Unoccupied Temp(F)	Cooling Occupied/Unoccupied Temp(F)	Schedule	Heating Occupied/Unoccupied Temp(F)	Cooling Occupied/Unoccupied Temp(F)
Chavez Resource Center	3 Days a week, 9AM to 4PM	Occupied: 70F UnOccupied: Units Off	Occupied: 72F UnOccupied: Units Off	3 Days a week, 9AM to 4PM	Occupied: 70F UnOccupied: Units Off	Occupied: 74F UnOccupied: Units Off
City Operations Center	5 Days a week, 6AM to 6 PM	Occupied: 70F UnOccupied: Units Off	Occupied: 72F UnOccupied: Units Off	5 Days a week, 6AM to 6 PM	Occupied: 70F UnOccupied: Units Off	Occupied: 74F UnOccupied: Units Off
El Corazon Senior Center	5 Days a week, 6AM to 6 PM	Occupied: 70F UnOccupied: Units Off	Occupied: 72F UnOccupied: Units Off	5 Days a week, 6AM to 6 PM	Occupied: 70F UnOccupied: Units Off	Occupied: 74F UnOccupied: Units Off
Fire Station #4	7 Days a week, 24 hours/day	Occupied: 70F UnOccupied: Units Off	Occupied: 72F UnOccupied: Units Off	7 Days a week, 24 hours/day	Occupied: 70F UnOccupied: Units Off	Occupied: 74F UnOccupied: Units Off
Fire Station #5	7 Days a week, 24 hours/day	Occupied: 70F UnOccupied: Units Off	Occupied: 72F UnOccupied: Units Off	7 Days a week, 24 hours/day	Occupied: 70F UnOccupied: Units Off	Occupied: 74F UnOccupied: Units Off
Fire Station #6	5 Days a week, 6AM to 6 PM	Occupied: 70F UnOccupied: Units Off	Occupied: 72F UnOccupied: Units Off	5 Days a week, 6AM to 6 PM	Occupied: 70F UnOccupied: Units Off	Occupied: 74F UnOccupied: Units Off
Fire Station #7	7 Days a week, 24 hours/day	Occupied: 70F UnOccupied: Units Off	Occupied: 72F UnOccupied: Units Off	7 Days a week, 24 hours/day	Occupied: 70F UnOccupied: Units Off	Occupied: 74F UnOccupied: Units Off

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Fire Station #8	5 Days a week, 6AM to 6 PM	Occupied: 70F UnOccupied: Units Off	Occupied: 72F UnOccupied: Units Off	5 Days a week, 6AM to 6 PM	Occupied: 70F UnOccupied: Units Off	Occupied: 74F UnOccupied: Units Off
Fire Training Center	3 Days a week, 9AM to 4PM	Occupied: 70F UnOccupied: Units Off	Occupied: 72F UnOccupied: Units Off	3 Days a week, 9AM to 4PM	Occupied: 70F UnOccupied: Units Off	Occupied: 74F UnOccupied: Units Off
IT Storage Building	5 Days a week, 6AM to 6 PM	Occupied: 70F UnOccupied: Units Off	Occupied: 72F UnOccupied: Units Off	5 Days a week, 6AM to 6 PM	Occupied: 70F UnOccupied: Units Off	Occupied: 74F UnOccupied: Units Off
Joe Balderrama Park	5 Days a week, 6AM to 6 PM	Occupied: 70F UnOccupied: Units Off	Occupied: 72F UnOccupied: Units Off	5 Days a week, 6AM to 6 PM	Occupied: 70F UnOccupied: Units Off	Occupied: 74F UnOccupied: Units Off
John Landes Park	5 Days a week, 6AM to 6 PM	Occupied: 70F UnOccupied: Units Off	Occupied: 72F UnOccupied: Units Off	5 Days a week, 6AM to 6 PM	Occupied: 70F UnOccupied: Units Off	Occupied: 74F UnOccupied: Units Off
Libby Lake Community Center	5 Days a week, 6AM to 6 PM	Occupied: 70F UnOccupied: Units Off	Occupied: 72F UnOccupied: Units Off	5 Days a week, 6AM to 6 PM	Occupied: 70F UnOccupied: Units Off	Occupied: 74F UnOccupied: Units Off
Melba Bishop Park	5 Days a week, 6AM to 6 PM	Occupied: 70F UnOccupied: Units Off	Occupied: 72F UnOccupied: Units Off	5 Days a week, 6AM to 6 PM	Occupied: 70F UnOccupied: Units Off	Occupied: 74F UnOccupied: Units Off
Oceanside Housing Division Office	5 Days a week, 6AM to 6 PM	Occupied: 70F UnOccupied: Units Off	Occupied: 72F UnOccupied: Units Off	5 Days a week, 6AM to 6 PM	Occupied: 70F UnOccupied: Units Off	Occupied: 74F UnOccupied: Units Off
Oceanside Senior Center	3 Days a week, 9AM to 4PM	Occupied: 70F UnOccupied: Units Off	Occupied: 72F UnOccupied: Units Off	3 Days a week, 9AM to 4PM	Occupied: 70F UnOccupied: Units Off	Occupied: 74F UnOccupied: Units Off

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San Luis Rey WWTP	5 Days a week, 6AM to 6 PM	Occupied: 70F UnOccupied: Units Off	Occupied: 72F UnOccupied: Units Off	5 Days a week, 6AM to 6 PM	Occupied: 70F UnOccupied: Units Off	Occupied: 74F UnOccupied: Units Off
City Hall Central Plant	5 Days a week W : 8AM to 9PM(Nov- March) S: 5AM to 9PM(Apr- Oct)		Occupied: 72F UnOccupied: Units Off	5 Days a week W : 8AM to 9PM(Nov- March) S: 5AM to 9PM(Apr- Oct)		

ATTACHMENT C

SCOPE OF WORK

California State Contractor's License Number 995037
California Public Works Contractor Registration Number 1000001498

Energy Conservation Measures to Be Implemented

ECM #	Description
1	Interior/Exterior LED Lighting
2	HVAC Unit Replacements
3	Smart Thermostat Retrofits
4	Civic Center Mechanical Upgrades
5	HVAC Refurbishments
6	Generator Heat Pump Installations
7	Transformer Replacements
8	Solar Photovoltaics
9	Battery Energy Storage System
10	Utility Bill Rate Change Analysis

1. Interior and Exterior Building LED Lighting:

1.1. Scope of Work:

1.1.1. Below lists the sites for interior and exterior LED lighting upgrades measure:

- 1.1.1.1. Chavez Resource Center
- 1.1.1.2. Civic Center / City Hall
- 1.1.1.3. Fire Station #4
- 1.1.1.4. Fire Station #7
- 1.1.1.5. Fire Station Training Center
- 1.1.1.6. Heritage Village Park
- 1.1.1.7. IT Storage Bldg
- 1.1.1.8. Joe Balderrama Park
- 1.1.1.9. John Landes Park
- 1.1.1.10. Junio Seau Community Center
- 1.1.1.11. Melba Bishop Park
- 1.1.1.12. Mission Basin Desalting Facility
- 1.1.1.13. Oceanside Pier
- 1.1.1.14. Oceanside Senior Center
- 1.1.1.15. Robert Weese Water Filtration Plant
- 1.1.1.16. Rob Ortega Recreation Park
- 1.1.1.17. San Luis Rey WWTP
- 1.1.1.18. El Corazon Senior Center

1.1.2. Prepare and submit final revisions to "Attachment H – LED Lighting Line by Line" to City. Provide submittals to City for review and approval.

1.1.3. Lighting scope to comply with Title 24, 2019.

1.1.4. No permit approval or AHJ formal review has been included for this scope of work.

1.1.5. Provide tools, equipment, lifts, storage, on-site supervision, labor, materials, and transportation necessary to complete the installation.

1.1.6. Old fixtures, lamps, and ballasts will be properly disposed of per EPA, or other state and local regulations. City will be provided documentation (manifest, etc.) of proper disposal upon request. City to provide EPA number for ENGIE Services U.S. to dispose against.

1.2. Interior Lighting Retrofits:

1.2.1. Fluorescent troffers (2x4, 1x4 and 2x2) in grid ceilings will be retrofitted by either LED troffer kits or LED lamps and drivers per Attachment H.

1.2.2. Surface mounted fixtures and recessed fixtures in hard lid ceilings will be retrofitted with LED lamps and drivers.

1.2.3. Downlights (Can lights) if CFL will either be retrofitted with LED downlight retrofit kits, LED bypass lamps, or LED lamps and ballasts per Attachment H.

1.2.4. Miscellaneous incandescent, halogen, and fluorescent lamps will be replaced with LED lamps per Appendix A.

- 1.2.5. Twenty-four (24) emergency ballast fixtures were identified and included as part of this scope of work and will be replaced with one (1) Title 20 compliant emergency ballast. If any additional emergency fixtures are found during the installation, ENGIE Services US would present a change order to the City for the added work.
- 1.2.6. Controls will be installed to meet 2019 Title 24 requirements.
- 1.2.7. Controls will be commissioned per manufacturers requirements.
- 1.2.8. All fixture lenses and housings will be wiped down and cleaned of dust. Any staining or deeper soiling will not be removed.

1.3. Exterior Lighting Retrofits:

- 1.3.1. Where indicated, replace high pressure sodium, metal halide, compact fluorescent, incandescent or halogen fixtures with new LED fixtures per Attachment H.
- 1.3.2. Exterior fixtures that are in good condition and/or are historical or decorative may be retrofitted with LED bypass lamps or LED lamps and ballasts.
- 1.3.3. Exterior lighting controls will be provided in compliance with Title 24 per Attachment H.

1.4. Lighting Scope Exclusions and Clarifications:

- 1.4.1. Development of any design drawings are excluded.
- 1.4.2. Any hazardous abatement, including asbestos or lead abatement of any kind, are excluded. If any of these hazards are found, it will cause the lighting retrofit or new lighting fixture installation in that location to be cancelled until abatement is completed.
- 1.4.3. New seismic supports are excluded.
- 1.4.4. Any troubleshooting, repair, or upgrade to emergency lighting or egress systems is excluded. Any required emergency lighting work will be an additional cost.
- 1.4.5. Repair or replacement of any existing damaged wire is excluded.
- 1.4.6. Installation of new grounding wires is excluded.
- 1.4.7. Standard manufacturers' warranty applies to all specified product.
- 1.4.8. Design services, including CAD drawings/reflective ceilings plans, are not included.
- 1.4.9. Replacement of lenses is not included for retrofit scopes.
- 1.4.10. Scope assumes one-for-one replacement only; any change in layout or unforeseen electrical issues are not included in the scope.
- 1.4.11. ENGIE Services U.S. scope is limited to replacing the fixtures identified in Attachment H or working inside the fixtures identified therein. Correction of any pre-existing defects or non-conformities with the applicable codes in the electrical wiring to the fixture is not included
- 1.4.12. Entire scope was priced as universal voltage (120/277V); 480V fixtures/drivers are not included in the scope.
- 1.4.13. Replacement of existing LED fixtures, occupancy or dimming sensors, unless specifically included in Attachment H.
- 1.4.14. Replacement of any existing or installation of any new time clocks unless noted in Attachment H.
- 1.4.15. Any troubleshooting, repair or upgrade to emergency lighting or egress systems, unless specified.
- 1.4.16. Replacement or repair of ceiling tiles, ceiling track system, or other ceiling surfaces, except where damage was directly caused by ENGIE Services U.S..
- 1.4.17. The scope of work assumes that existing poles are structurally sound, that no internal wiring or fuse issues are present, that any pole arms are in working condition, and that adequate power is provided to all fixtures. No allowances have been made to bring existing poles, pole arms, wiring or fuses to proper working condition.
- 1.4.18. Emergency drivers are excluded except as identified above.
- 1.4.19. Any patching or painting is excluded.
- 1.4.20. Any existing or new sub-surface or well type fixtures are excluded from the scope of work.

2. HVAC Unit Replacements:

2.1. Scope Summary:

2.1.1. ENGIE is proposing the replacement of ninety-two (92) existing packaged rooftop units (RTUs) and split system units with new high efficiency units.

Site Name	Units	Tons
Chavez Resource Center	2	10
City Operations Center	9	53
El Corazon Senior Center	12	57
Fire Station #4	2	6
Fire Station #5	1	3
Fire Station #6	2	9
Fire Station #7	2	11
Fire Station Training Facility	6	18
IT Storage Bldg.	2	7
Joe Balderrama Park	5	19.5
John Landes Park	3	13
Libby Lake Community Center	3	31.5
Melba Bishop Park	4	12
Oceanside Housing Division Office	3	11
Oceanside Senior Center	15	59
San Luis Rey WWTP	21	140
Total	92	460

2.1.2. Prepare and submit to City final HVAC units specification similar in capacity and configuration to existing units listed in "Attachment I – Mechanical Equipment Schedule and Specifications."

2.1.3. No permit approval or AHJ formal review has been included for this scope of work.

2.1.4. Disconnect existing ductwork, electrical, condensate drain piping and/or gas piping and prepare for future connection.

2.1.5. Provide units with the following features and accessories:

2.1.5.1. 100% dry bulb economizer, new outside air intakes, economizers, and power exhausts to match existing configurations and meet Title 24 requirements (if required by code).

2.1.5.2. New electrical disconnects with new seal tight flexible conduits and new wire for line and load side of disconnects. New seal tight conduit for existing convenience receptacles and new seal tight conduit to existing controls enclosures.

2.1.5.3. Provide a corrosion resistant protective coating on the condenser and evaporator coils applied electrically or through immersion.

2.1.5.4. Units proposed are like for like replacements to match existing unit type (split system, RTU, gas heating, heat pump, etc.) and tonnage.

2.1.6. Permanently identify unit number with weather resistant label, sticker or engraved plastic nameplate with post installation unit and nameplate photos.

2.1.7. Existing duct smoke detectors will be left in place and reused, where applicable.

2.1.8. Provide new roof curbs or equipment platform for units that have none. Reuse existing curbs on the roof; provide and install curb adapter, if required, for new unit configuration.

2.1.9. Provide new or reuse existing concrete pad, if required, for new unit configuration.

2.1.10. Modify existing roof opening, as necessary.

2.1.11. Connect new unit to existing supply air (SA) and return air (RA) via flexible duct connectors.

2.1.12. Provide duct liner insulation for all newly installed exposed ductwork, if not already present. ENGIE Services U.S. is not required to replace existing torn or damaged duct liner insulation.

2.1.13. Reconnect existing electrical, gas and condensate piping to new units. Modify existing electrical and plumbing, as necessary.

2.1.14. Condensate drain to be connected to a code approved receptacle or drywell. Code approved receptacle to be located within 25 feet of existing units.

2.1.15. Reuse existing code approved condensate drain, where possible.

2.1.16. Reuse existing refrigerant lines for each unit.

2.1.17. Provide new flexible gas connector.

2.1.18. Provide new flexible conduits for all existing conduit runs from roof penetration to unit disconnect.

2.1.19. Provide pre-construction supply air (SA) airflow readings as a reference for post-installation supply air (SA) airflow readings.

2.1.20. For Split System Units Only:

2.1.20.1. Provide a new filter drier and sig glass with the installation of each new unit.

2.1.20.2. Secure each unit with proper mounting hardware to meet seismic codes. Provide flashings as

necessary to outdoor units that are being mounted to the buildings.

2.2. Site specific scope of work:

2.2.1. Oceanside Senior Center:

- 2.2.1.1. Where applicable, replace existing side discharge units with new downward discharge units. Use existing curb if able, otherwise provide new adapter curbs.
- 2.2.1.2. Remove and replace three (3) evaporative coolers and associated ductwork with new of like size and configuration.
- 2.2.1.3. Demo and dispose of existing abandoned heating only unit of roof.

2.2.2. City Operations Center:

- 2.2.2.1. Furnish and install new curbs for existing units mounted on wood sleepers, a total of seven (7) new curbs have been included.
- 2.2.2.2. Where applicable, replace existing side discharge units with new downward discharge units. Use existing curb if able, otherwise provide new adapter curbs.
- 2.2.2.3. Furnish and install fifty (50) feet of new internally lined rigid ductwork for split system fan coil unit in warehouse.

2.2.3. San Luis Rey WWTP:

- 2.2.3.1. Furnish and install one (1) new 16-foot Big Ass Fan unit in warehouse.
- 2.2.3.2. New units on Admin Building to come equipped with Needlepoint Bi-Polar Ionization System designed to handle up to 4,800 CFM. City to provide final specifications for equipment selection, if any change in the included system above is required and results in a higher installation cost, a change order will be presented to the City.

2.3. Exclusions:

- 2.3.1. New fire alarm design, systems, components, or connections except for connections to new carbon monoxide systems. Excludes connection to fire alarm control panels or replacement of any smoke detectors.
- 2.3.2. Certified air testing and balancing of any existing HVAC equipment.
- 2.3.3. Hazardous material testing and removal.
- 2.3.4. Any electrical, structural, or architectural and roofing upgrades beyond those specifically noted in this Scope of Work.
- 2.3.5. Duct cleaning.
- 2.3.6. Exhaust fans or interconnections to exhaust fans unless currently interconnected with existing HVAC equipment in scope.
- 2.3.7. Additional condensate lines beyond included 25 feet for each unit.
- 2.3.8. Commissioning, except for factory start-up and air balance.
- 2.3.9. Repair, redesign or replacement of existing ductwork except what is required for the new HVAC equipment replacements at the HVAC equipment location.

3. Smart Thermostat Retrofits:

3.1. Scope Summary:

- 3.1.1. ENGIE is proposing the replacement of one hundred and sixty (160) thermostats per the table below.

Site Name	Equipment Type	Units	Tons
Chavez Resource Center	Package Unit	3	14
City Hall Library	Package Unit	2	6
City Operations Center	Package Unit	15	98.5
City Operations Center	Split System	4	11
El Corazon Senior Center	Package Unit	11	61.5
El Corazon Senior Center	Split System	3	6
Fire Station #1	Package Unit	2	8
Fire Station #2	Split System	2	6
Fire Station #3	Split System	2	7.5
Fire Station #4	Package Unit	3	8
Fire Station #5	Split System	2	5
Fire Station #6	Split System	4	19
Fire Station #7	Package Unit	2	17
Fire Station #7	Split System	2	5
Fire Station #8	Package Unit	4	15
Fire Station Training Facility	Wall Mount Package Unit	6	18

Heritage Village Park	Package Unit	1	3
IT Storage Bldg.	Split System	2	7
Joe Balderrama Park	Package Unit	1	2.5
Joe Balderrama Park	Split System	5	22
John Landes Park	Package Unit	7	31
Libby Lake Community Center	Package Unit	5	45.8
Libby Lake Community Center	Split System	2	6
Melba Bishop Park	Package Unit	5	14.5
Melba Bishop Park	Split System	1	2.5
Mission Basin Desalting Facility	Package Unit	9	26.5
Mission Basin Desalting Facility	Split System	4	8
Oceanside Housing Division Office	Package Unit	6	21.5
Oceanside Senior Center	Package Unit	15	59
Robert Weese Water Filtration Plant	Package Unit	3	13
San Luis Rey WWTP	Package Unit	25	155
San Luis Rey WWTP	Wall Mount Package Unit	2	10
Total		160	732.8

- 3.1.2. No permit approval or AHJ formal review has been included for this scope of work.
- 3.1.3. Dispose or recycle any existing equipment that is discarded.
- 3.1.4. Furnish and install new Pelican Wireless thermostats and associated components for a fully functioning Pelican system.
- 3.1.5. Connect new thermostats to existing unit thermostat wiring at the same locations. New thermostats require a minimum of 3 existing wires at the existing thermostats.
- 3.1.6. Program new system with City provided setpoints and schedules.
- 3.1.7. Provide startup and testing of new thermostats to ensure that communication over wireless access points is operating as intended.
- 3.1.8. Provide onsite City training of new system and verify the system is working per Pelican requirements.

3.2. Exclusions:

- 3.2.1. New fire alarm design, systems, components, or connections except for connections to new carbon monoxide systems. Excludes connection to fire alarm control panels.
- 3.2.2. Pulling new wire to unit locations is excluded.
- 3.2.3. Certified air testing and balancing of any existing HVAC equipment.
- 3.2.4. Hazardous material testing and removal.
- 3.2.5. Any electrical, structural, or architectural and roofing upgrades beyond those specifically noted in this Scope of Work.

4. Civic Center Mechanical Upgrades:

4.1. Scope Summary Water Side Upgrades:

- 4.1.1. ENGIE is proposing the replacement of the existing water-cooled chiller and associated pumps with a new primary variable flow system and chiller at the Civic Center Complex.
- 4.1.2. Prepare and submit design drawings to Authority Having Jurisdiction (AHJ) for approval.
- 4.1.3. Prepare and submit to City final mechanical equipment specifications similar in capacity and configuration to existing equipment listed in "Attachment I – Mechanical Equipment Schedule and Specifications."
- 4.1.4. Safe off, isolate, and drain chiller and associated pumps.
- 4.1.5. Drain and dispose existing chilled water/glycol solution and provide new chilled water with proper treatment after equipment installation. Maximum of 4,000 gallons of existing chilled water solution has been included in disposal.
- 4.1.6. Demo existing equipment that will be replaced and dispose or recycle units/material including refrigerant contained therein appropriately. Equipment to demo consists of one (1) 260-ton chiller, one (1) secondary chilled water pump, two (2) primary chilled water pumps, and one (1) antiquated refrigerant monitoring system.
- 4.1.7. Associated piping shall be reused where applicable and modified as necessary to accommodate

- new central plant design.
- 4.1.8. Cap off piping connections from central plant to abandoned ice storage tanks.
- 4.1.9. Furnish and install one (1) new 260-ton water cooled chiller.
- 4.1.10. Furnish and install two (2) new 40HP primary chilled pumps w/VFDs.
- 4.1.11. Furnish and install one (1) new 15HP condenser water pump for redundancy.
- 4.1.12. Furnish and install new electrical conduit and wiring for new pumps. Upsize existing breaker in MCC panel as needed to accommodate new pump sizes.
- 4.1.13. Furnish and install new refrigerant monitoring system and connect to existing exhaust fan ductwork. Exhaust fan ductwork to be modified within 18" of the central plant floor for proper operation of the monitoring system.
- 4.1.14. Install new by-pass line to maintain chiller minimum flow.
- 4.1.15. Install new fused disconnect switches for each piece of equipment and reconnect to existing electrical circuit.
- 4.1.16. Modify existing concrete pads as necessary to accommodate installation of new pumps and chillers.
- 4.1.17. All new piping and equipment will require proper flushing and treatment prior to startup of equipment.
- 4.1.18. Provide new piping insulation for chilled water lines in the plant.
- 4.1.19. Cutover of new chiller to occur over the weekend with coordination from Civic Center maintenance staff.
- 4.1.20. Startup and commissioning of new equipment.
- 4.2. Scope Summary Air Side Upgrades:
 - 4.2.1. ENGIE is proposing the replacement of eighty five (85) exhaust and supply fans on the roof of the Civic Center Complex.
 - 4.2.2. Safe off and demo existing equipment that will be replaced and dispose or recycle units/material.
 - 4.2.3. Equipment to demo consists of 51 exhaust fans ranging from 1/6HP to 1.5HP, and 34 supply fans ranging from 0.5HP to 1.5HP.
 - 4.2.4. A detailed list of all existing supply and exhaust fans has been included in "Attachment I – Mechanical Equipment Schedule and Specifications."
 - 4.2.5. Furnish and install 51 new exhaust fans on roof to match existing HPs.
 - 4.2.6. Furnish and install 34 new supply fans on roof to match existing HPs.
 - 4.2.7. Replace 115 OA and RA dampers with linkages at each fan coil unit.
 - 4.2.8. Install new fused disconnect switches for each piece of equipment and reconnect electrical.
 - 4.2.9. Provide Adjusting and Balancing (TAB) for all units replaced.
 - 4.2.10. Twenty (20) fan coil unit actuators have been included to be replaced. If more than twenty (20) broken actuators are identified, ENGIE will provide additional costs to replace.
- 4.3. Scope Summary Control Upgrades
 - 4.3.1. ENGIE is proposing replacing the existing Johnson Control front end building management system with a new Industry-Standard Tridium N4 Enterprise Supervisor Software.
 - 4.3.2. New front end as described above to be installed onto an existing City provided server machine.
 - 4.3.3. Furnish and install one (1) new Global Based Controller and Panel. Existing 120v power circuit and IP network drop will be used.
 - 4.3.4. Furnish and install new chiller BACnet integration into existing Chiller factory controller.
 - 4.3.5. Furnish and install required temperature sensors, pressure differential transmitters, and humidity sensors.
 - 4.3.6. Provide control over equipment below:
 - 4.3.6.1. Chiller, pumps, cooling tower and three (3) existing JCI NAE controllers.
 - 4.3.7. Integration into existing JCI NAE controllers for building equipment control. New web based graphics, trending and alarming will be setup for the JCI integration points in the new Tridium frontend.
 - 4.3.8. Provide new required low-voltage wiring.
 - 4.3.9. Provide start-up testing and point-to-point verification for new control points.
 - 4.3.10. Provide 1 week of onsite system training.
- 4.4. Exclusions:
 - 4.4.1. New fire alarm design, systems, components, or connections except for connections to new carbon monoxide systems. Excludes connection to fire alarm control panels.
 - 4.4.2. Certified air testing and balancing of any existing HVAC equipment.
 - 4.4.3. Hazardous material testing and removal.
 - 4.4.4. Any electrical, structural, or architectural and roofing upgrades beyond those specifically noted in this Scope of Work.
 - 4.4.5. Duct cleaning.

- 4.4.6. Exhaust fans or interconnections to exhaust fans unless currently interconnected with existing HVAC equipment in scope.
- 4.4.7. Additional condensate lines beyond included 25 feet for each unit.
- 4.4.8. Any new frontend workstation computer, laptop or server machine.
- 4.4.9. Replacement or repair of existing JCI controllers or end devices throughout the building.
- 4.4.10. Patching or painting is excluded.
- 4.4.11. Commissioning, except for factory start-up and air balance.
- 4.4.12. Repair, redesign or replacement of existing ductwork except what is required for the new HVAC equipment replacements at the HVAC equipment location.
- 4.4.13. Moving of stored materials in the central plant.
- 4.4.14. Any modifications, additions, or replacement of water treatment equipment, chemicals, or devices.
- 4.4.15. Removal of hard lid ceiling.

5. HVAC Unit Refurbishments:

5.1. Scope Summary:

- 5.1.1. ENGIE is proposing to treat fifty-nine (59) package and split system units with a rejuvenation coating and general cleanup of the unit. The list of units included is below:

Site Name	Units	Tons
Chavez Resource Center	1	4
City Hall Library	2	6
City Operations Center	10	56.5
El Corazon Senior Center	1	7.5
Fire Station #1	2	8
Fire Station #2	2	6
Fire Station #3	2	7.5
Fire Station #4	1	2
Fire Station #5	1	2
Fire Station #6	2	10
Fire Station #7	2	11
Heritage Village Park	1	3
Joe Balderrama Park	1	5
John Landes Park	4	18
Libby Lake Community Center	4	20.3
Melba Bishop Park	2	5
Mission Basin Desalting Facility	9	26.5
Oceanside Housing Division Office	3	10.5
Robert Weese Water Filtration Plant	3	13
San Luis Rey WWTP	6	25
Total	59	246.8

- 5.1.2. General cleanup of overall unit and wash-down of coils.
- 5.1.3. Disassemble equipment to perform deep clean of condenser coils to removing final materials in coils and any corrosion.
- 5.1.4. Straighten aluminum fins on condenser coils.
- 5.1.5. Spray each condenser coil with restorative protective coating from both outside-in and inside-out applying even coverage.
- 5.1.6. Reassemble the unit and ensure equipment is operating.

5.2. Exclusions:

- 5.2.1. New fire alarm design, systems, components, or connections except for connections to new carbon monoxide systems. Excludes connection to fire alarm control panels.
- 5.2.2. Certified air testing and balancing of any existing HVAC equipment.
- 5.2.3. Hazardous material testing and removal.
- 5.2.4. Any electrical, structural, or architectural and roofing upgrades beyond those specifically noted in this Scope of Work.
- 5.2.5. Duct cleaning.
- 5.2.6. Exhaust fans or interconnections to exhaust fans unless currently interconnected with existing HVAC equipment in scope.
- 5.2.7. Additional condensate lines beyond included 25 feet for each unit.

- 5.2.8. Commissioning, except for factory start-up and air balance.
- 5.2.9. Repair, redesign or replacement of existing ductwork except what is required for the new HVAC equipment replacements at the HVAC equipment location.

6. Generator Heat Pump Installations:

6.1. Scope Summary:

- 6.1.1. ENGIE is proposing to install six (6) generator heat pump units to provide more efficient heating of the generator engine blocks. The table below shows the sites and existing generators identified for this installation.

Site Name	Generator Manufacturer	Generator Size (kW)
Mission Basin Desalting Facility	Kohler	1,500
Mission Basin Desalting Facility	Kohler	795
Robert Weese Water Filtration Plant	Kohler	205
San Luis Rey WWTP	CAT	1,500
San Luis Rey WWTP	CAT	1,500
San Luis Rey WWTP	Kohler	300

- 6.1.2. Furnish and install generator heat pump system on the emergency generators to replace the existing block heaters as the source of heat.
- 6.1.3. Furnish and install conduit and wiring from nearest electric panel to heat pump.
- 6.1.4. Furnish and install fusible disconnect with circuit breakers and relays as necessary.
- 6.1.5. Furnish and install step-down transformer for 208V Heat Pump as necessary.
- 6.1.6. Provide startup, commissioning and training.

6.2. Exclusions:

- 6.2.1. Repair or replacement of existing generator block heaters.
- 6.2.2. Any electrical upgrades on existing equipment.

7. Transformer Replacements

7.1. Scope Summary:

- 7.1.1. ENGIE is proposing to replace twenty five (25) distribution transformers across four sites. The list of transformers being replaced is in the table below:

Site Name	Quantity	kVa Rating
Civic Center	3	30
	2	45
	2	112.5
	1	150
	1	300
Mission Basin Desalting Facility	1	45
	1	75
San Luis Rey WWTP	1	15
	1	25
	3	30
	1	37.5
	3	45
	1	50
	1	75
	1	30
Robert Weese Water Filtration Plant	2	45
	2	45
Total	25	1,522.5

- 7.1.2. Safe off and disconnect existing transformer feeders.
- 7.1.3. ENGIE to coordinate shut down times with City to avoid significant site disruptions.
- 7.1.4. Remove and dispose existing transformers.
- 7.1.5. Furnish and install new transformers to match existing kVa ratings.
- 7.1.6. Reconnect and modify existing transformer connections as necessary.

- 7.1.7. Modify existing housekeeping pads as necessary to mount new transformers.
- 7.1.8. Provide new anchorage for mounting new transformers.
- 7.1.9. Perform start-up and commissioning.

7.2. Exclusions:

- 7.2.1. Pulling new feeders to transformers.
- 7.2.2. Any electrical upgrades on existing equipment.
- 7.2.3. Modifications to existing grounding systems are excluded. Transformer grounding is assumed to be code compliant.

8. Solar Photovoltaics:

8.1. Scope Summary:

- 8.1.1. The table below lists the location, estimated system sizing, and structure type for the PV systems as part of this scope.

Solar Generating Facilities to be Installed

Facility	Address	Structure Type	Est. kWdc
Robert Weese Water Filtration Plant	3885 Silverleaf Ln, Vista, CA 92084	Solar Canopy	223.56
Civic Center / City Hall	300 N Coast Hwy, Oceanside, CA 92054	Rooftop	239.76
Navigation Center (Housing)	3131 Oceanside Blvd, Oceanside, CA 92056	Solar Canopy	100.44
El Corazon Senior Center	3306 Senior Center Dr, Oceanside, CA 92056	Solar Canopy	427.68
Oceanside Harbor	1500 Harbor Dr N, Oceanside, CA 92056	Solar Canopy	641.52
Total			1,632.96

8.2. Scope of Work for Solar Canopy Systems:

- 8.2.1. Prepare and submit design drawings to Authority Having Jurisdiction (AHJ) for approval and to local Utility for interconnection permits.
- 8.2.2. Provide geotechnical evaluations necessary for design requirements.
- 8.2.3. Procure materials and equipment necessary for construction.
- 8.2.4. Provide lighting fixture and bollard removal, as required.
- 8.2.5. Provide project management and construction management necessary for a full and complete installation.
- 8.2.6. Provide and install solar canopy structures. The canopy structure design will include a galvanized steel canopy structure with 10' minimum clearance.
- 8.2.7. Provide drilled pier foundations at 12' deep.
- 8.2.8. Shade structures to be attached with a bolted connection to each pier with a 30" concrete bollard above grade as part of the foundation.
- 8.2.9. Provide labor, supervision, and coordination with City for the installation of photovoltaic modules and supporting structures, electrical distribution, and balance of system components of the work.
- 8.2.10. Provide and install solar PV modules and necessary mounting hardware for each system.
- 8.2.11. Provide and install Chint Power Systems, or similar, string inverters and necessary electrical equipment and conduits to connect system to the electrical switchgear or meter.
- 8.2.12. Provide and install new utility approved AC disconnect switch for each solar installation.
- 8.2.13. DC and AC wiring within the solar canopies shall be copper wire. Aluminum wire shall be used from each system's AC combiner to the main point of connection at the site's electrical switchgear.
- 8.2.14. Provide and install new LED lighting fixtures (RAB PRT42N or equivalent) on a site by site basis as described in Section 8.3 below.
- 8.2.15. Provide and install one new spare 2" conduit for future EV Charging. New conduit to be located in closest array foundation.
- 8.2.16. Provide and install new data acquisition system (DAS) including all necessary communication conduit and wiring.
- 8.2.17. Provide and coordinate installation of the net generation output meter (NGOM) and net energy meter (NEM) metering to monitor PV production and facility usage.
- 8.2.18. The canopy structures will be built in one mobilization for each site. Detailed schedule of activities will be provided after final drawings are completed.
- 8.2.19. The PV shade structures are not weather tight and will not provide shelter from rain.
- 8.2.20. Start-up, test, and commission the PV systems in accordance with design plan and applicable industry standards.

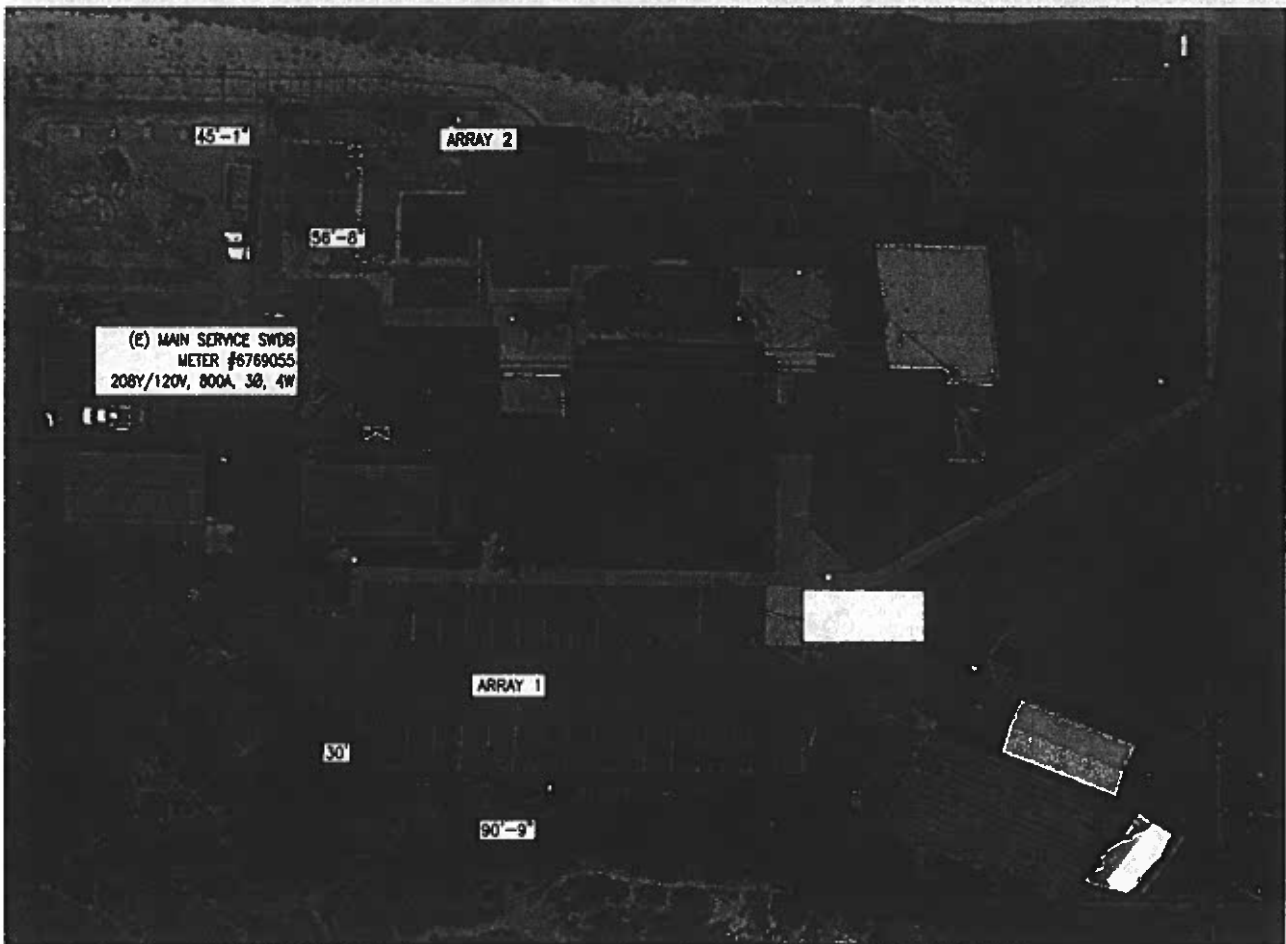
- 8.2.21. Site specific scope and preliminary layouts are shown below in Section 8.3. The layouts are schematic engineering layouts and are subject to change due to field conditions and upon completion of final engineering.

8.3. Solar Canopy Site Specific Scope:
8.3.1. Robert Weese Water Filtration Plant



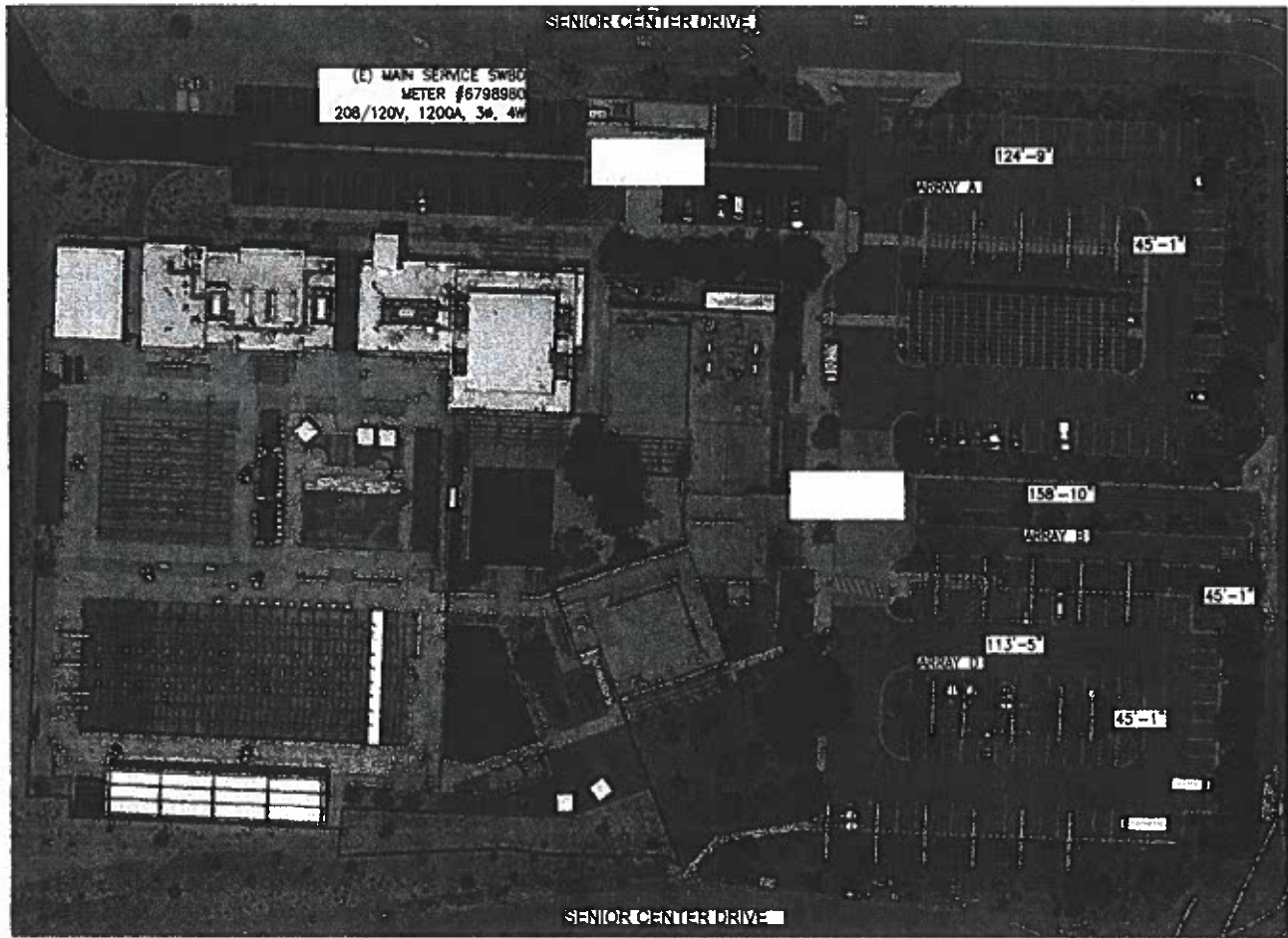
- 8.3.1.1. Install 223.56 kWdc of shaded canopy PV structures.
- 8.3.1.2. Under canopy lighting to be installed and connected to existing parking lot lighting circuits for Array C only. A total of two (2) light fixtures have been included.
- 8.3.1.3. Demo and remove one (1) existing parking lot light and bollard.
- 8.3.1.4. ENGIE Services US to coordinate with City on final design of shade structures to confirm the arrays do not interfere with existing access to or operation of the underground water lines at the site. Any changes to the proposed location, orientation, or size of the structures due to design changes will result in a review of the included costs to confirm if any change order is needed.

8.3.2. Navigation Center (Housing)



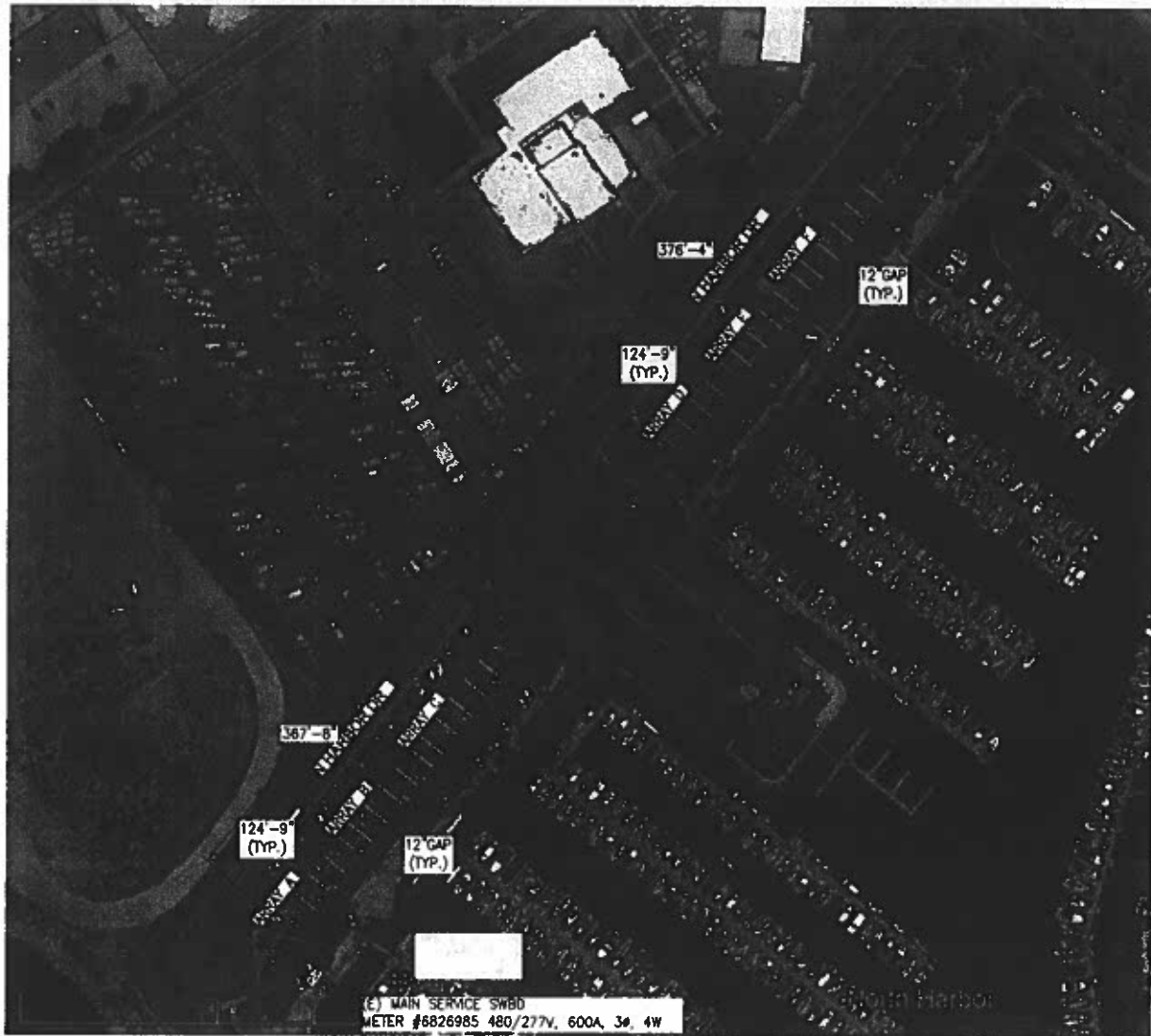
- 8.3.2.1. Install 100.44 kWdc of shaded canopy PV structures.
- 8.3.2.2. Under canopy lighting to be installed and connected to existing parking lot lighting circuits. A total of ten (10) light fixtures have been included.
- 8.3.2.3. Demo and remove two (2) existing parking lot lights and bollards.

8.3.3. El Corazon Senior Center



- 8.3.3.1. Install 427.68kWdc of shaded canopy PV structures.
- 8.3.3.2. Under canopy lighting to be installed and connected to existing parking lot lighting circuits. A total of twenty (20) light fixtures has been included.
- 8.3.3.3. Demo and remove twelve (12) existing parking lot lights and bollards.
- 8.3.3.4. Proposed arrays will be combined with existing solar system and reconnected to existing switchgear.
- 8.3.3.5. Provide and install new SDGE NGOM Meter Panel and disconnect switch for each solar system (existing and proposed).

8.3.4. Oceanside Harbor



- 8.3.4.1. Install 641.52kWdc of shaded canopy PV structures.
- 8.3.4.2. Foundation depths up to 17 feet have been included.
- 8.3.4.3. Under canopy lighting to be installed and connected to existing parking lot lighting circuits. A total of twenty-four (24) light fixtures has been included.
- 8.3.4.4. Demo and remove five (5) existing parking lot lights and bollards.
- 8.3.4.5. Furnish and install new 1,000A main utility switchboard. New switchboard to be located in first parking space across from existing 600A main switchboard.
- 8.3.4.6. Furnish and install new sub feeders from new 1,000A switchboard to existing 600A switchboard. Existing 600A switchboard to remain in place and serve existing load as currently designed.
- 8.3.4.7. Utility to disconnect and remove main site feeders from existing 150kVa Utility transformer to existing 600A main switchboard.
- 8.3.4.8. Utility to remove and replace existing 150kVa utility transformer with new larger transformer. Scope included below is sized to accommodate up to a 500kVa transformer. If larger transformer is required per the Utility, the scope will be reviewed and a change order may be presented to the City for additional costs due to infrastructure for larger transformer size.
 - 8.3.4.8.1. Furnish and install new transformer vault and conduits for new equipment to be installed.
 - 8.3.4.8.2. Utility to furnish and install new cabling into new switchboard.

8.4. Scope of Work for Solar Rooftop System at Civic Center:

- 8.4.1. Installation of a 239.76kWdc mechanically fastened rooftop solar system at the Civic Center. Below is a preliminary layout of the solar system which is a schematic engineering layout and is subject to change due to field conditions and upon completion of the final engineering.

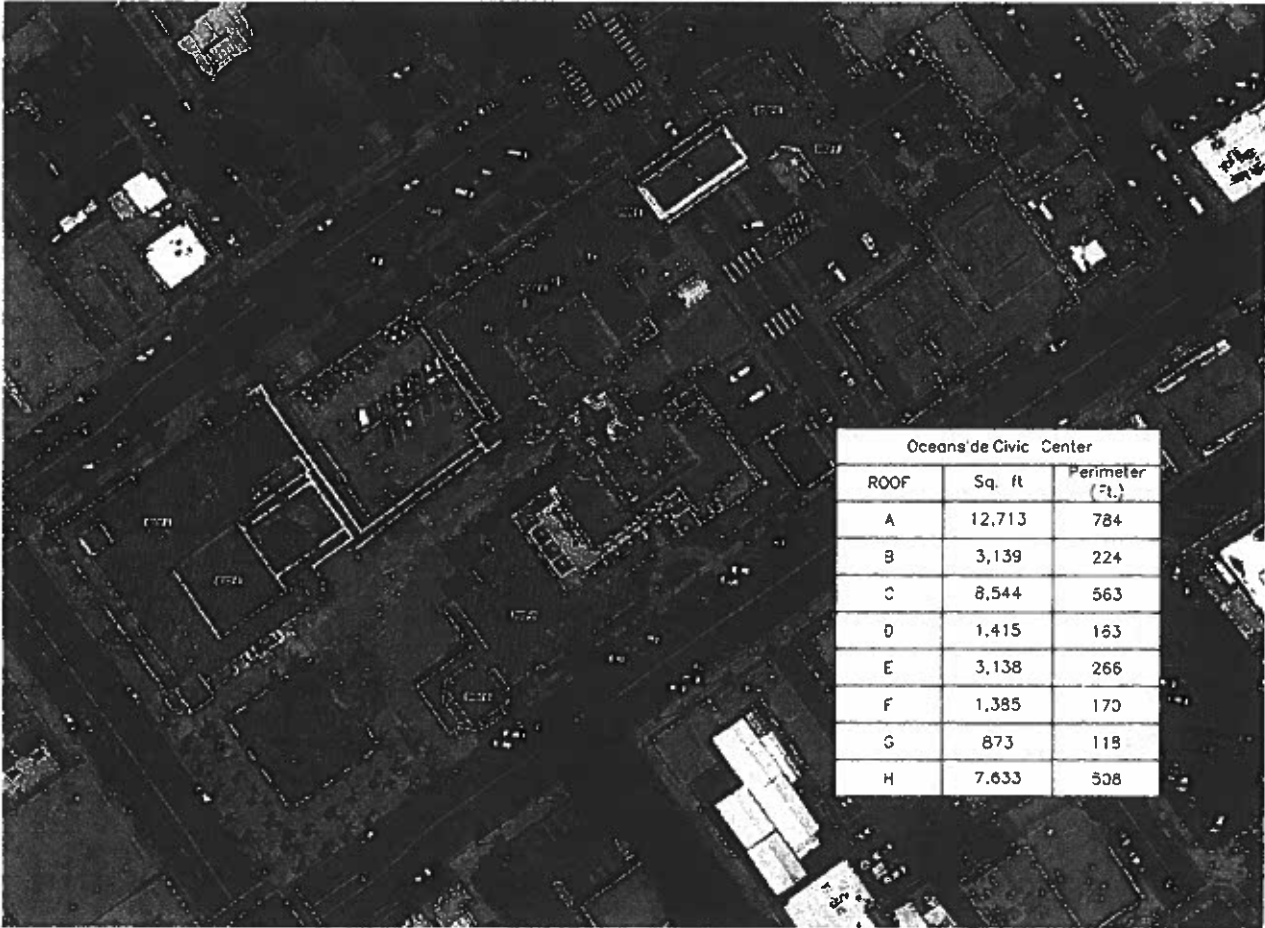


- 8.4.2. Prepare and submit design drawings to Authority Having Jurisdiction (AHJ) for approval and to local Utility for interconnection permits.
- 8.4.3. Procure materials and equipment necessary for construction.
- 8.4.4. Provide project management and construction management necessary for a full and complete installation.
- 8.4.5. Provide structural and mechanical assembly of the roof mounted racking system at a 10-degree tilt.
- 8.4.6. Provide any required roof repairs at the points of penetration with the existing roof.
- 8.4.7. Provide rigging as necessary for all equipment onto the roof.
- 8.4.8. Provide access to roof areas via exterior scaffolding or equivalent. ENGIE to coordinate with City on locations of access points and necessary safety setbacks at each location.
- 8.4.9. Design and install roof racking flashing to maintain watertight integrity of the roof system in accordance with National Roofing Contractors specifications and good roofing practice utilizing commodity roofing materials.
- 8.4.10. Provide labor, supervision, and coordination with City for the installation of photovoltaic modules and supporting structures, electrical distribution, and balance of system components of the work.
- 8.4.11. Conduit routing to be done via exterior mounted routes throughout the Civic Center complex back to the main switchgear. Exposed conduits on the walls of the building, visible from the street will be covered and painted to match existing building color. City to provide color selection of matching paint to be used.
- 8.4.12. Provide and install solar PV modules and necessary mounting hardware for each system.
- 8.4.13. Provide and install Solar Edge, or similar, string inverters and necessary electrical equipment and conduits to connect system to the electrical switchgear or meter.
- 8.4.14. Provide and install new Solar Edge Rapid Shutdown optimizers utilizing one optimizer per module.
- 8.4.15. Provide and install new utility approved AC disconnect switch solar installation.

- 8.4.16. DC and AC wiring within the solar arrays shall be copper wire. Aluminum wire shall be used from the system's AC combiner panel to the main point of connection at the site's electrical switchgear.
- 8.4.17. Provide and install new data acquisition system (DAS) including all necessary communication conduit and wiring.
- 8.4.18. Provide and coordinate installation of the net generation output meter (NGOM) and net energy meter (NEM) metering to monitor PV production and facility usage.
- 8.4.19. The system will be built in phases in the different roof areas. Detailed schedule of activities will be provided after final drawings are completed.
- 8.4.20. Start-up, test, and commission the PV system in accordance with design plan and applicable industry standards.

8.5. Scope of work for re-roof of Civic Center:

- 8.5.1. In the highlighted areas shown below, furnish and install new overlay, mechanically fastened, Thermal Plastic Polyolefin (TPO) Roof System.



- 8.5.2. Remove all foliage, and debris from the rooftop; prepare existing surface for new roofing. Clean roof as necessary to properly prepare surface for overlay.
- 8.5.3. Furnish and install new ½" recovery board onto existing roof system.
- 8.5.4. Furnish and mechanically fasten 115 mil White TPO fleece back membrane.
- 8.5.5. Adhere new TPO Membrane at vertical walls and curbs. Walls to be roofed "up and over", and terminated with a new, TPO Clad metal gravel stop.
- 8.5.6. Terminate all vertical flashings with termination bar (fastened @ 12" o.c.).
- 8.5.7. Furnish and install roof flashings at all pipe penetrations and vents.
- 8.5.8. Furnish and install roof base-flashings at existing mechanical unit curbs and existing skylights.
- 8.5.9. Furnish and install roofing at all drains and overflows.
- 8.5.10. Furnish and install corner reinforcement at all perimeter wall and curb corners.
- 8.5.11. Provide new 20-year roof manufacturer's NDL warranty.

8.6. Exclusions:

- 8.6.1. Cameras or other security measures.
- 8.6.2. Foundations depths assumed to be 12 feet unless otherwise noted in site specific scope above. Any additional required footing depth will result in a Change Order for increased cost.
- 8.6.3. Unsuitable soil conditions including but not limited to water intrusion, liquefaction, caving, sandy/rocky soils etc.
- 8.6.4. Permanent fencing.
- 8.6.5. Bolt covers are excluded.
- 8.6.6. No panic hardware has been included on any gates or fencing.
- 8.6.7. Electrical upgrades on the City or Utility side of the electrical gear. If utility upgrades are required, a Change Order will be required for additional costs incurred. This includes costs associated with extended Utility review times or delays.
- 8.6.8. Corrections or upgrades to existing equipment, systems, or other improvements not associated with the specific scope of work above.
- 8.6.9. Temporary power during facility shutdowns.
- 8.6.10. Temporary parking during parking lot work.
- 8.6.11. Haul off or removal of contaminated soils. If contaminated soils are found during final engineering and haul off is required, ENGIE Services U.S. will notify the City.
- 8.6.12. Replacing and replanting of removed trees.

9. Battery Energy Storage:

9.1. Scope Summary:

- 9.1.1. The table below lists the location and system sizing included as part of this scope.

Battery Energy Storage System (BESS) Facilities to be Installed

Facility	Address	System Size (kW/kWh)
Mission Lift Station	3476 MISSION AVE, OCEANSIDE, CA 92056	250/514

- 9.1.2. Prepare and submit design drawings to Authority Having Jurisdiction (AHJ) for approval and to local Utility for interconnection permits.
- 9.1.3. Furnish and install BESS outdoors on a new concrete pad, with required clearances.
- 9.1.4. Perform horizontal boring and/or trenching of existing concrete, hardscape or asphalt areas as required to route conduits from BESS to new electrical switchgear. Repair any damaged concrete, hardscape or asphalt as required.
- 9.1.5. Coordinate with SDG&E and prepare for utility interconnection.
- 9.1.6. Provide lockable panels to secure battery components.
- 9.1.7. Provide protective bollards as required by code.
- 9.1.8. Properly start-up and commission BESS.

10. Utility Rate Change:

10.1. Scope Summary:

- 10.1.1. The table below lists the Sites that will receive a utility rate change:

Facility	Meter No	Existing Rate Schedule	New Rate Schedule
City Operations Center	0006692936	ALTOUGF	DGR
Melba Bishop Park	0006700663	ALTOUGF	DGR
Fire Station 7 Lift Station	0006579627	ALTOUGF	DGR

- 10.1.2. Complete utility data analysis for all the meters specified in the above table.
- 10.1.3. Research the available SDGE rate schedule to identify the optimal rate schedule for each meter based on the peak load and the existing solar production.
- 10.1.4. Coordinate with SDGE and assist City to submit the rate change application with the new identified SDGE rate.

11. General Project Clarifications Applicable to All Scopes

- 11.1. The City will be responsible for hiring and paying all inspectors, including any special inspectors.
- 11.2. City plan check fees are included.
- 11.3. ADA upgrades or changes to existing parking lots as may be required for AHJ approval for work directly under the canopy shade structures and in the connection of any new accessible parking stalls to the nearest existing path of travel has been included. Any additional ADA-required upgrades outside of the areas directly underneath the perimeter of the arrays has been excluded.
- 11.4. Engineering and work shall comply with the latest applicable Codes and per AHJ.
- 11.5. ENGIE Services U.S. has included one mobilization per site per ECM, which includes free access to the entire mobilized portion of the construction area for the full scope of work.
- 11.6. All work will be scheduled Monday through Friday, 7am to 5pm unless otherwise noted in the scope of work above.
- 11.7. ENGIE Services U.S. will perform underground utility survey to locate any existing utilities that are in the path of horizontal boring, vertical boring or trenching.
- 11.8. Perform horizontal boring and/or trenching of existing concrete, hardscape or asphalt areas as required to route conduits.
- 11.9. Repair any concrete, hardscape, landscape or asphalt damaged by subcontractor to extent required.
- 11.10. Electrical equipment shall be new, UL listed material and equipment that carry the manufacturers' original warranties.
- 11.11. Shutdowns will be coordinated with Utility and City to minimize impact on facility.
- 11.12. City to allow construction to proceed smoothly and in a continuous flow. No allowance has been made to demobilize and remobilize resources due to schedule interruptions.
- 11.13. Temporary utilities are to be provided by the City at no cost to ENGIE Services U.S. (including, without limitation, trailer power, phone lines, water and construction power).
- 11.14. ENGIE Services U.S. will require the assistance of City personnel to secure the project locations and to provide traffic redirection during rigging operations, and during the move-in and move-out of large equipment.
- 11.15. ENGIE Services U.S. standard construction means and methods will be used.
- 11.16. Provide as-built drawings and Operations & Maintenance manuals upon project completion.
- 11.17. The City will provide access to the Facilities, laydown areas at the work sites, and a reasonable number of parking spaces for ENGIE Services U.S. and ENGIE Services U.S.'s subcontractor vehicles in parking lots at the Facility.

12. General Exclusions Applicable to All Scopes:

- 12.1. Bringing existing systems up to code.
- 12.2. Any ongoing landscaping maintenance.
- 12.3. Removal and disposal of hazardous substances, including asbestos containing materials. If ENGIE Services U.S. encounters material suspected to be hazardous, ENGIE Services U.S. will notify the City representative and stop further work in the area until the material is removed.
- 12.4. Contaminated soils handling or disposal.
- 12.5. Additional costs related to underground obstructions or unsuitable soil conditions encountered during trenching or other excavation.
- 12.6. Structural upgrades to existing structures.
- 12.7. Screening of new or existing equipment.
- 12.8. Temporary heating, cooling or pumping services.
- 12.9. Repair or replacement of damaged or inoperable existing equipment that is not specifically being replaced under the Scope of Work. When such items are discovered, ENGIE Services U.S. will immediately notify a City representative.
- 12.10. Smoke detectors, fire alarm system work, or fire life safety work.
- 12.11. Repair or replacement of existing housekeeping pads, concrete pads, or base repair of existing walkway lighting are excluded.
- 12.12. Painting, unless specified in Scope of Work, is excluded, including any patch painting, where a new fixture's footprint does not match footprint of existing fixture and wall color differences show.
- 12.13. With respect to Projects with new equipment connecting to the building's existing electrical distribution system, ENGIE Services U.S. will not be responsible for the electrical integrity of the existing electrical system, e.g., the condition and proper termination of current-carrying, grounded, and grounding conductors, bus taps, protective elements, the proper protection of existing wire through knockouts, or missing components. The City is responsible for providing and maintaining the building's electrical distribution system that meets the latest NEC and guidelines adopted by the authority having jurisdiction.
- 12.14. Americans with Disabilities Act (ADA) regulation requirements, except as stated in the scope of work above.

13. General Beneficial Use and Warranty Criteria for Specific Pieces of Equipment:

- 13.1. SOLAR CANOPY SYSTEMS - The ENGIE Services U.S. Warranty commences immediately when the Generating Facility is capable of generating expected energy and the Utility is ready to issue the permission-to-operate letter.
- 13.2. HVAC REPLACEMENTS –The ENGIE Services U.S. Warranty commences immediately upon the occurrence of two weeks of uninterrupted operation within 10% of design conditions. "Uninterrupted operation" is defined as: no involuntary shutdowns due to mechanical difficulties. Flows will be established by a test and balance report created by ENGIE Services U.S. With respect to the HVAC units, ENGIE Services U.S. will provide written notice to City of the date the ENGIE Services U.S. Warranty commences.
- 13.3. CHILLER –The ENGIE Services U.S. Warranty commences immediately upon the occurrence of two weeks of uninterrupted supply of GPM flows within 10% of design values at a supply temperature of 45°F or lower. "Uninterrupted operation" is defined as: no involuntary shutdowns due to mechanical difficulties. Flows will be established by a test and balance report created by ENGIE Services U.S. Temperature performance will be established by EMS trend logs or by manual spot checks of a temperature gauge by a ENGIE Services U.S. employee. With respect to the Chiller, ENGIE Services U.S. will provide written notice to City of the date the ENGIE Services U.S. Warranty commences.
- 13.4. SMART THERMOSTATS - The ENGIE Services U.S. Warranty commences immediately upon the occurrence of two weeks of uninterrupted operation of controlled equipment while providing reasonable comfort. "Uninterrupted operation" is defined as: no involuntary shutdowns due to control problems. "Reasonable comfort" is defined as: maintaining occupied spaces controlled by the system within +/- 4 degrees of setpoint. Comfort performance will be established by EMS trend logs or by manual spot checks of temperatures by a ENGIE Services U.S. employee. With respect to the Smart Thermostats, ENGIE Services U.S. will provide written notice to City of the date the ENGIE Services U.S. Warranty commences.
- 13.5. BATTERY ENERGY STORAGE SYSTEMS - The ENGIE Services U.S. Warranty commences immediately when the battery system is capable of charging and discharging expected energy and the Utility is ready to issue the permission-to-operate letter.

14. Tentative Work Scopes to Receive Substantial and Final Completion:

14.1. See table below for number of substantial and final completion certificates that will be provided.

Scope of Work	Location	Total Qnty of SC	Total Qnty of FC
Interior/Exterior LED Lighting	18 sites	18; one per site	18; one per site
HVAC Unit Replacements	16 sites	16; one per site	16; one per site
Smart Thermostat Retrofits	24 sites	24; one per site	24; one per site
Civic Center Mechanical Upgrades	1 sites	1; one per site	1; for entire ECM
HVAC Refurbishments	20 sites	20; one per site	20; one per site
Generator Heat Pump Installations	3 sites	3; one per site	3; one per site
Transformer Replacements	4 sites	4; one per site	4; one per site
Solar Photovoltaics	5 sites	5; one per site	5; one per site
Battery Energy Storage System	1 site	1; for entire ECM	1; for entire ECM
Utility Bill Rate Change Analysis	3 sites	1; for entire ECM	1; for entire ECM

ATTACHMENT D
MONITORING INSTALLATION SCOPE OF WORK

Overview of DAS Network Installation and Equipment Requirements

ENGIE Services U.S. will provide a revenue-grade billing, data acquisition system (DAS). This will provide readily available access to various internal and external information collected on the distributive generation (i.e., solar PV) plant.

ENGIE Services U.S. DAS Monitoring Installation:

- Supply and install hardware specific to the DAS system.
- Supply and install, terminate, label, and test all Data Point of Connection (DPOC) communication cabling from each DAS node to the predetermined and respective DPOC(s); in accordance with Oceanside's specifications.
- Test and verify Oceanside/Facility network connectivity.
 - a. TCP/IP internal addressing and verification
- Supply, install, and configure a Modbus based digital Net Energy Meter (NEM).
- Connect the data portion of digital NEM(s) to their respective DPOC(s).
- Supply, install, and configure a Modbus based digital Net Generation Output Meter (NGOM).
- Perform the physical installation, labeling, testing and certification testing of each data circuit from the digital NEM(s) to their respective DPOC(s).
- Provide basic system training to designated Oceanside/Facility maintenance staff.

ATTACHMENT E
M&V SERVICES

EQUIPMENT AND FACILITIES COVERED

ENGIE Services U.S. will perform measurement and verification services ("M&V Services") as set forth in this Attachment E with respect to Oceanside's property at the Project Locations as shown in Attachment A.

I. Definitions:

Capitalized terms used in this Attachment E and not defined in the Contract, have the meanings set forth below:

"Actual Energy Rate" means, for any Measurement Period, utility rates calculated by ENGIE Services U.S. using actual utility billing information supplied by Oceanside for that Measurement Period.

"Annual M&V Fee" means a fee payable annually in advance by Oceanside to ENGIE Services U.S., in consideration of the provision of up to five (5) years of M&V Services. The Annual M&V Fee for the first Measurement Period will be Twenty-Two Thousand Four Hundred Twenty-Seven Dollars (\$22,427). The Annual M&V Fee will be increased annually thereafter at the rate of three percent (3%) per annum, each increase to be effective on the first day of the corresponding Measurement Period.

"Assessment Work" means work required to assess the effect on EC Savings for any significant changes to the Facilities (including, but not limited to, building additions, new buildings, and new or changed HVAC equipment).

"Average Energy Unit Savings" means, with respect to any number of consecutive Measurement Periods, the arithmetic mean of the Energy Unit Savings for such number of Measurement Periods.

"Base Energy Rate" means the dollars per energy unit for each building and/or each ECM, set forth in this Attachment E, Section (III), and used by ENGIE Services U.S. to calculate the EC Savings.

"Baseline" means the energy use established by ENGIE Services U.S. from time to time for each building in the Facilities, taking into consideration Energy Use Factors for such buildings.

"EC Savings" means the savings in units of dollars (\$) calculated by ENGIE Services U.S. in the manner set forth in this Attachment E, Section (III), achieved through the reduction in consumption or demand through implementation of the Work.

"Energy Rate Factors" means factors identified by ENGIE Services U.S. which may affect utility rates from the local utility companies.

"Energy Savings Report" is defined in this Attachment E, Section (II)(D).

"Energy Savings Term" means the period beginning on the first day of the Construction Period and ending on the earlier of: (i) the day immediately preceding the seventeenth (20th) anniversary of the M&V Commencement Date; (ii) the termination of the Contract; (iii) the termination by Oceanside of the M&V Services in accordance with this Attachment E, Section (II)(G).

"Energy Unit Savings" means the savings in units of energy, power, water, etc., calculated by ENGIE Services U.S. in the manner set forth in this Attachment E, Section (III), achieved through the reduction in consumption or demand through implementation of the Work.

"Energy Use Factors" means factors identified by ENGIE Services U.S. which may affect the Baselines or energy use for the Facilities, including but not limited to: hours and levels of occupancy; adjustments in labor force; building use and operational procedures; temperature, humidification, and ventilation levels; installed lighting and scheduled use; building construction and size; general level of repair and efficiency of heating and air conditioning equipment and other energy-using equipment; and amount of heating and air conditioning and other energy-using equipment.

"Energy Use Savings" means, for any Measurement Period, those savings, having units of dollars (\$), achieved for such Measurement Period through reductions in energy use, energy demand, water use, and the use of other commodities.

"Excess Savings" means the excess of EC Savings over Guaranteed Savings, calculated in the manner set forth in this Attachment E, Section (II)(I)(iv).

"Guarantee Payment" means, for any Measurement Period, either: (i) a cash payment by ENGIE Services U.S. to Oceanside in an amount equal to the Guarantee Shortfall for that Measurement Period pursuant to this Attachment E, Section (II)(A)(ii); or (ii) additional energy services or energy saving retrofits requested by Oceanside with an agreed value equal to the Guarantee Shortfall for that Measurement Period pursuant to this

Attachment E, Section (II)(A)(iii).

"Guarantee Shortfall" means an amount calculated in accordance with this Attachment E, Section (II)(I)(v).

"Guaranteed Savings" means, for any Measurement Period, the dollar amount set forth below for such Measurement Period, as the same may be adjusted from time to time by ENGIE Services U.S. for changes in Energy Rate Factors, Energy Use Factors and consequential revisions to the relevant Baseline:

Measurement Period	Guaranteed Savings
1	\$1,151,865
2	\$1,194,195
3	\$1,238,088
4	\$1,283,602
5	\$1,330,798
6	\$1,379,737
7	\$1,430,484
8	\$1,483,107
9	\$1,537,674
10	\$1,594,258
11	\$1,652,934
12	\$1,713,781
13	\$1,776,879
14	\$1,842,310
15	\$1,910,160
16	\$1,980,522
17	\$2,053,488
18	\$2,129,157
19	\$2,207,625
20	\$2,288,999

"IPMVP" means the International Performance Measurement and Verification Protocol prepared by Efficiency Valuation Organization.

"Projected Energy Savings" means those Energy Unit Savings, which ENGIE Services U.S. anticipates will be realized from the installation and continued operation of the Work, as set forth in this Attachment E, Section (III).

"Savings Guarantee" is defined in this Attachment E, Section (II)(A)(i).

"Stipulated Non-Energy Savings" means, for any Measurement Period, those savings, having units of dollars (\$), achieved for such Measurement Period through reductions in non-energy costs due to the implementation of the Work. Stipulated Non-Energy Savings will be stipulated by the Parties and set forth in this Attachment E, Section (III).

II. Terms and Conditions

A. Guaranteed Savings.

- i. Savings Guarantee. ENGIE Services U.S. warrants that Oceanside will realize total EC Savings during the Energy Savings Term of not less than the total Guaranteed Savings (the "Savings Guarantee"), as the same may be adjusted from time to time for changes in Energy Rate Factors, Energy Use Factors and consequential revisions to the relevant Baseline.

- ii. Guarantee Payment. For any Measurement Period in which there is a Guarantee Shortfall, ENGIE Services U.S. will pay to Oceanside, within thirty (30) calendar days after the acceptance by Oceanside of the Energy Savings Report for such Measurement Period, the Guarantee Payment for that Measurement Period.
- iii. Services or Retrofits in Lieu of Guarantee Payment. If in the judgment of Oceanside, Oceanside would benefit from additional energy services or energy saving retrofits, Oceanside and ENGIE Services U.S. may mutually agree that ENGIE Services U.S. will provide such services or retrofits in lieu of the Guarantee Payment for such Measurement Period. For the purposes of this Contract, such services or retrofits will have a deemed value equal to the Guarantee Shortfall for that Measurement Period.
- iv. Excess Savings. For any Measurement Period in which there are Excess Savings, Oceanside will repay to ENGIE Services U.S., to the extent of such Excess Savings, any Guarantee Payments previously paid by ENGIE Services U.S. to Oceanside and not previously repaid to ENGIE Services U.S. by Oceanside, and the Excess Savings for such Measurement Period will be reduced by the amount of such repayment. If ENGIE Services U.S. has provided services or retrofits in lieu of the Guarantee Payment for a prior Measurement Period, such that the Guarantee Payment for such Measurement Period cannot be repaid by Oceanside, then in lieu of such repayment Excess Savings will be increased by the deemed value of such services or retrofits.
- v. Excusable Events. If ENGIE Services U.S. is delayed in, or prevented from, accurately calculating the actual EC Savings for any day of any Measurement Period by reason of any Excusable Event, such circumstance will not constitute a default, and ENGIE Services U.S. will be excused from performing the M&V Services while such event is continuing. During such event, Projected Energy Savings for the month(s) in which such event is continuing will be used in lieu of actual data; *provided* that if three (3) or more years of post M&V Commencement Date data are available for such month(s), the historical average of such data for such month(s) will be used in lieu of Projected Energy Savings.
- vi. Average Energy Unit Savings. For any Measurement Period beginning with the fifth (5th), upon completion of that Measurement Period's Energy Savings Report, ENGIE Services U.S. has the right to calculate the Average Energy Unit Savings which have occurred over all previous Measurement Periods. The Average Energy Unit Savings will be applied to all subsequent Measurement Periods to determine the Energy Unit Savings for each remaining Measurement Period. After applying such Average Energy Unit Savings for each subsequent Measurement Period and calculating the resulting EC Savings, if the *sum* of (i) such calculated EC Savings for any future Measurement Period *plus* (ii) the Annual M&V Fee for such Measurement Period is greater than the Guaranteed Savings for that Measurement Period, then such excess will be Excess Savings and the Savings Guarantee will have been met for that Measurement Period. If such *sum* of (i) calculated EC Savings for any future Measurement Period *plus* (ii) the Annual M&V Fee for such Measurement Period is less than the Guaranteed Savings for that Measurement Period, then ENGIE Services U.S. will apply Accumulated Savings then outstanding to determine whether there is a Guarantee Shortfall for that Measurement Period. If a Guarantee Shortfall is calculated to exist for a future Measurement Period, ENGIE Services U.S. may, in its sole discretion, pay to Oceanside, not later than the ninetieth (90th) day of such future Measurement Period, the net present value of the Guarantee Shortfall for any or all of such future Measurement Period(s). Net present value will be determined using a discount rate of ten percent (10%).

B. Changes in Energy Use Factors.

- i. Adjustments to Baselines. ENGIE Services U.S. shall provide Oceanside with the specific Energy Use Factors for each facility that were used to establish the Baseline for that facility. Oceanside will notify ENGIE Services U.S. in writing within ten (10) Business Days of any change exceeding five percent (5%) in any Energy Use Factor. In addition, data collected by ENGIE Services U.S. during or before the Energy Savings Term may indicate a change in the energy use pattern at the Facilities or any portion thereof and require a change to one or more Baselines. ENGIE Services U.S. will determine the effect that any such change will have on EC Savings and present to Oceanside a written analysis of the effects of such changes. Subject to Oceanside's review and approval, ENGIE Services U.S. will also make corresponding revisions to the Baselines and/or EC Savings that it deems appropriate in its reasonable discretion.
- ii. Adjustments to Guaranteed Savings. If a change in any Energy Rate Factor or Energy Use Factor results in a reduction of EC Savings, then the Guaranteed Savings for the corresponding Measurement Period(s) will be decreased by the same amount. ENGIE Services U.S. will notify Oceanside, in writing, of all such changes.
- iii. Changes to Facilities. Oceanside or ENGIE Services U.S. may from time to time propose to make changes to the Facilities for the express purpose of increasing EC Savings or addressing events beyond its control. It is agreed that these changes will only be made with the written consent of both Parties, which will not be unreasonably withheld. The Baseline will not be adjusted to reflect any changes agreed to under this Attachment E, Section (II)(B)(iii).
- iv. Intentionally Deleted.

- v. Projected Energy Savings. During the Energy Savings Term, when the ultimate effect of the Work on EC Savings cannot be accurately determined due to pending construction or changes to the Scope of Work, Projected Energy Savings for the Facilities will be used until the effect of the changes can be determined by ENGIE Services U.S.
- vi. Assessment Work. ENGIE Services U.S. has the right to charge Oceanside for Assessment Work, which will be billed at current ENGIE Services U.S. engineering rates and will be paid by Oceanside within thirty (30) calendar days after receiving ENGIE Services U.S.'s invoice. Before initiating Assessment Work, ENGIE Services U.S. will notify Oceanside in writing of the intent and estimated cost associated with the Assessment Work. Oceanside will, within forty-five (45) calendar days, give ENGIE Services U.S. written permission to proceed or, alternatively at no charge to ENGIE Services U.S., to stipulate that the Projected Energy Savings for the portion of the Facility in question be used for the purpose of meeting the Savings Guarantee for such Measurement Period and thereafter. If ENGIE Services U.S. does not receive written notice within forty-five (45) calendar days, the Projected Energy Savings for the portion of the Facility in question will be used until such time as Oceanside approves the Assessment Work.
- vii. Changes in Energy Use Factors. ENGIE Services U.S. shall provide Oceanside with the specific Energy Use Factors for each facility that were used to establish the Baseline for that facility. If Oceanside fails to notify ENGIE Services U.S. of changes exceeding five percent (5%) in such Energy Use Factors or fails to supply ENGIE Services U.S. in a timely manner with information that is requested by ENGIE Services U.S. for the calculation of EC Savings, the Energy Unit Savings for the relevant Measurement Period will be deemed equal to the corresponding Projected Energy Savings for such period. If information for the relevant Measurement Period is supplied at a later date, the Energy Unit Savings will be modified only if and to the extent that the calculated savings for such period exceed the Projected Energy Savings for such period.
- viii. Change Order – Savings Effect. ENGIE Services U.S. will calculate the energy impact of any Change Orders.
- ix. Changes in Savings Calculations. Any changes made by ENGIE Services U.S. to the savings calculations will be presented to Oceanside in advance. Oceanside will have thirty (30) calendar days to challenge or question the changes in writing.
- x. Inspection of Facilities. Oceanside agrees that ENGIE Services U.S. will have the right, with at least fourteen (14) days' prior written notice, to inspect the Facilities to determine if Oceanside has consistently complied with its obligations as set forth above. If any inspection discloses that Oceanside has failed, on or prior to the date of such inspection, to be in compliance with any of its obligations, then the Guaranteed Savings will be assumed to have been achieved for the portion of the Energy Savings Term during which such failure will have existed.
- xi. Interference. Oceanside may not cause and will take all commercially reasonable steps to prevent any third party from causing, any overshadowing, shading or other interference with the solar insolation that falls on the Generating Facility. Upon discovering, or otherwise becoming aware of, any actual or potential overshadowing, shading or other interference with insolation, Oceanside will promptly notify ENGIE Services U.S. If an unforeseeable overshadowing or shading condition not caused by ENGIE Services U.S. or its sub exists and continues for five (5) Business Days or more, Oceanside agrees that the Guaranteed Savings for such Generating Facility will be reduced based upon such shading condition, and ENGIE Services U.S. may present Oceanside with a proposed reduction to the Guaranteed Savings reflecting such overshadowing, shading or other interference.

C. Oceanside Maintenance. Beginning at Beneficial Use or Substantial Completion for any portion of the Work, Oceanside will maintain such portion of the Work and upon Final Completion will maintain the Project, in accordance with the maintenance schedules and procedures recommended by ENGIE Services U.S. and by the manufacturers of the relevant equipment, such maintenance to include maintaining all landscaping (including tree trimming) in and around the Generating Facilities.

D. Energy Savings Report. Annually during the first five (5) Measurement Periods of the Energy Savings Term, ENGIE Services U.S. will submit to Oceanside an energy savings report containing a precise calculation of the EC Savings during the applicable Measurement Period (an "Energy Savings Report"). ENGIE Services U.S. will use its best efforts to submit such Energy Savings Report within ninety (90) calendar days after receipt of all needed information for a Measurement Period, unless additional information is needed to accurately calculate the EC Savings, in which case Oceanside will be notified of such a situation within the ninety (90) calendar-day period.

E. On-Site Measurements. Oceanside irrevocably grants to ENGIE Services U.S. the right, during the Energy Savings Term, to monitor EC Savings and energy management performance by conducting on-site measurements, including, but not limited to, reading meters and installing and observing on-site monitoring equipment. ENGIE Services U.S. will not exercise such right in a manner that unreasonably interferes with the business of Oceanside as conducted at the Facilities as of the date hereof. Oceanside will cooperate fully with the exercise of such right by ENGIE Services U.S. pursuant to this Attachment E, Section (II)(E). Oceanside will further cooperate with ENGIE Services U.S.'s performance

of the M&V Services by providing utility information, changes in Energy Use Factors, and/or additional information as reasonably requested by ENGIE Services U.S.

F. Not Used.

G. Termination of Guaranteed Savings. If (i) Oceanside notifies ENGIE Services U.S. in writing of its intent to terminate the M&V Services, (ii) the Contract is terminated by ENGIE Services U.S. for default by Oceanside or by Oceanside for any reason permitted by the Contract, (iii) ENGIE Services U.S. is no longer the provider of the Maintenance Services set forth in Exhibit F, or (iv) Oceanside fails to maintain the Project in accordance with this Attachment E, Section (II)(C), or is in default of any of its other obligations under this Attachment E, the obligation of ENGIE Services U.S. to prepare and deliver the Energy Savings Report and to make a Guarantee Payment will also be terminated. If such termination occurs on a date other than the last day of a Measurement Period, ENGIE Services U.S. will have no obligation to make a Guarantee Payment or prepare and deliver an Energy Savings Report for such Measurement Period.

H. Annual M&V Fee.

- i. **Invoicing and Payment.** The Annual M&V Fee for the first Measurement Period will be invoiced by ENGIE Services U.S. to Oceanside in a lump sum on the M&V Commencement Date. All subsequent Annual M&V Fees will be invoiced by ENGIE Services U.S. on the first day of the corresponding Measurement Period. Oceanside, or its designee, will pay ENGIE Services U.S. such Annual M&V Fee, without any retention amount withheld, within thirty (30) calendar days after its receipt of the corresponding invoice. Unless Oceanside gives ENGIE Services U.S. prior written notice of its intent to terminate the M&V Services, any failure to timely pay the Annual M&V Fee in accordance with this Attachment E, Section (II)(H) will be a material default by Oceanside under the Contract, and ENGIE Services U.S., in addition to any other legal, contractual and equitable remedies available to it, will have no obligation thereafter to perform M&V Services or to make Guarantee Payments.
- ii. Any amount not paid when due will, from and after the due date, bear Interest. Accrued and unpaid Interest on past due amounts (including Interest on past due Interest) will be due and payable upon demand.
- iii. **Not Refundable.** The Annual M&V Fee is not refundable for any reason.

I. Calculations.

- i. **Calculation of Accumulated Savings.** Accumulated Savings will be increased, for any Measurement Period, by the amount of Excess Savings during such Measurement Period, and will be decreased, for any Measurement Period, by the *difference*, to the extent positive, between (i) the Guaranteed Savings for such Measurement Period *minus* (ii) the EC Savings for such Measurement Period. For the avoidance of doubt, Accumulated Savings will not be reduced below zero.
- ii. **Calculation of EC Savings.** EC Savings for any Measurement Period will be equal to, for such Measurement Period, the Energy Use Savings, in each case as adjusted for changes in Energy Use Factors during such Measurement Period. EC Savings achieved during the Construction Period will be included in the EC Savings for the first Measurement Period.
- iii. **Calculation of Energy Use Savings.** Energy Use Savings will be calculated by ENGIE Services U.S. as the *product* of (i) the Energy Unit Savings *multiplied by* (ii) the greater of (a) the applicable Base Energy Rate or (b) the applicable Actual Energy Rate.
- iv. **Calculation of Excess Savings.** From and after the M&V Commencement Date, Excess Savings will be calculated by ENGIE Services U.S. as the *difference*, to the extent positive, between (i) the EC Savings for the relevant Measurement Period *minus* (ii) the Guaranteed Savings for such Measurement Period. During the Construction Period, Excess Savings will be calculated by ENGIE Services U.S. in the manner set forth in this Attachment E, Section (III). For the avoidance of doubt, Excess Savings will not be reduced below zero.
- v. **Calculation of Guarantee Shortfall.** The Guarantee Shortfall, for any Measurement Period, will be calculated by ENGIE Services U.S. as the *difference*, to the extent positive, between (i) the Guaranteed Savings for such Measurement Period *minus* (ii) the sum of (a) EC Savings for such Measurement Period plus (b) Accumulated Savings then outstanding.

III. Methodologies and Calculations

The following details the methodologies and calculations to be used in determining the Energy Unit Savings under this Contract.

Table E-1: Measurement and Verification Methods

ECM	ECM Description	M&V Method	
		Electric Usage	Electric Demand
1	Interior/Exterior LED Lighting	Option A	N/A
2	HVAC Unit Replacements	Stipulated	N/A
3	Smart Thermostats Retrofits	Stipulated	N/A
4	Civic Center Mech Upgrades	Stipulated	N/A
5	HVAC Refurbishments	Stipulated	N/A
6	Generator Heat Pump Installations	Stipulated	N/A
7	Transformer Replacements	Option A	N/A
8	Solar Photovoltaics	Option B	N/A
9	Battery Energy Storage System (BESS)	Option B	Option B
10	Utility Bill Rate Change Analysis	Stipulated	Stipulated

1. M&V Option A: This option allows for the energy savings to be predicted, measured, and agreed upon between Oceanside and ENGIE Services U.S. One-time measurements and stipulated parameters are used to quantify savings that are stipulated for the term of the Contract.
 - a. ENGIE Services U.S. will supply a one-time report to Oceanside detailing the measurements and calculation of savings. If the calculated savings fall short of those expected, ENGIE Services U.S. will have the opportunity to remedy the short fall and re-measure and calculate the results. Such work will be done at ENGIE Services U.S.'s expense and will not be unreasonably denied by Oceanside, as long as such work does not interfere with Oceanside's use of the Facilities. These calculated savings will be defined as Energy Unit Savings and will be agreed to occur each Measurement Period. During the Construction Period, the Energy Unit Savings will be calculated by adding the savings measured for the whole months between Substantial Completion or Beneficial Use of the ECM and the M&V Commencement Date.
 - b. Scope of Work:

ECM – 1: Interior/Exterior Lighting Upgrades

- i. The reduction in units of electric demand (kW) from the installation of the lighting ECMs is to be measured directly using a calibrated true-RMS watt meter or stipulated based on the following parameters. Existing and to-be-installed fixture types will be grouped project-wide, based on the type of fixture (i.e., type of lamp, number of lamps and ballast type) and the assumed wattage. All lamps without ballasts (incandescent), along with exit signs and exterior fixtures, will be stipulated at their manufacturer's rated wattage. Groups of fixtures with ballasts will be measured in the following manner.
 - a. For groups with 1,000 or more fixtures, ten (10) or more instantaneous measurements of single fixtures or circuits containing only one type of fixture will be taken. The average wattage per fixture will be calculated and be the measured wattage for that fixture type.
 - b. For groups with 500 or more fixtures but fewer than 1,000, seven (7) or more instantaneous measurements of single fixtures or circuits containing only one type of fixture will be taken. The average wattage per fixture will be calculated and be the measured wattage for that fixture type.
 - c. For groups with 100 or more fixtures but fewer than 500, four (4) or more instantaneous measurements of single fixtures or circuits containing only one type of fixture will be taken. The average wattage per fixture will be calculated and be the measured wattage for that fixture type.
 - d. For groups with 99 or fewer fixtures or where measurements are not physically possible, the measured wattage will be stipulated for that group to equal the wattage defined in *Exhibit R*, showing the existing fixture codes, quantities, and manufacturer's rated wattage for these type fixtures.
- ii. **Assumptions:** The annual unit consumption savings (kWh) for each retrofit will be calculated by multiplying the demand savings as calculated above by the Occupied Annual Hours, where the

Occupied Annual Hours have been agreed upon and stipulated to by the City and are presented in *Table E-2* below. The Energy Unit Savings (kWh) will be the sum of the calculated annual unit consumption savings for each retrofit.

Table E-2: Lighting Annual Hours

Agreed Upon Lighting Hours of Operation		
Location	Area Type	Annual Hours
Chavez Resource Center	Exterior	2,920
Chavez Resource Center	Interior	2,080
City Center / City Hall	Parking Garage	4,368
City Center / City Hall	City Hall North 2nd Floor	3,120
City Center / City Hall	City Hall North 2nd Floor	2,600
City Center / City Hall	City Hall North 2nd Floor	312
City Center / City Hall	City Hall North 2nd Floor	520
City Center / City Hall	City Hall North 2nd Floor	364
City Center / City Hall	Library 1st Floor	3,120
City Center / City Hall	Library 1st Floor	364
City Center / City Hall	Library 1st Floor	2,600
City Center / City Hall	Library 1st Floor	1,460
City Center / City Hall	Library 1st Floor	312
City Center / City Hall	Library 1st Floor	520
City Center / City Hall	Library 2nd Floor	3,120
City Center / City Hall	Library 2nd Floor	2,600
City Center / City Hall	Library 2nd Floor	312
City Center / City Hall	Library 2nd Floor	520
City Center / City Hall	Exterior	4,368
City Center / City Hall	Exterior	312
City Center / City Hall	Exterior	520
City Center / City Hall	City Hall South 1st Floor	3,120
City Center / City Hall	City Hall South 1st Floor	2,600
City Center / City Hall	City Hall South 1st Floor	312
City Center / City Hall	City Hall South 1st Floor	1,460
City Center / City Hall	City Hall South 1st Floor	520
City Center / City Hall	City Hall South 2nd Floor	3,120
City Center / City Hall	City Hall South 2nd Floor	2,600
City Center / City Hall	City Hall South 3rd Floor	3,120
City Center / City Hall	City Hall South 3rd Floor	2,600
City Center / City Hall	City Hall South 3rd Floor	312
City Center / City Hall	City Hall North 3rd Floor	3,120
City Center / City Hall	City Hall North 3rd Floor	2,600
City Center / City Hall	City Hall North 3rd Floor	364
City Center / City Hall	City Hall North 3rd Floor	520

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City Center / City Hall	City Hall North 3rd Floor	1,460
City Center / City Hall	City Hall North 3rd Floor	312
City Center / City Hall	City Hall North East Side	3,120
City Center / City Hall	City Hall North East Side	2,600
City Center / City Hall	City Hall North East Side	312
City Center / City Hall	City Hall North East Side	364
City Center / City Hall	City Hall East	3,120
City Center / City Hall	City Hall East	312
City Center / City Hall	COC	3,120
Fire Station #4	Interior	8,760
Fire Station #4	Area	4,368
Fire Station #7	Interior	8,760
Fire Station #7	Interior	3,640
Fire Station #7	Interior	1,460
Fire Station #7	Interior	364
Fire Station Training Center	Training Office	3,640
Fire Station Training Center	Training Office	728
Fire Station Training Center	Training Office	2,920
Fire Station Training Center	Training Classroom	2,920
Fire Station Training Center	Training Classroom	728
Fire Station Training Center	Command Training Center	2,920
Fire Station Training Center	Command Training Center	728
Fire Station Training Center	Shed	2,920
Fire Station Training Center	Shed	728
Heritage Village Park	Exterior	3,640
IT Storage Bldg	Area	0
IT Storage Bldg	Interior	2,080
Joe Balderrama Park	Interior	4,368
Joe Balderrama Park	Interior	1,040
John Landes Park	Exterior	3,640
Junior Seau Community Center	Community Center	4,368
Junior Seau Community Center	Community Center	3,120
Junior Seau Community Center	Community Center	1,460
Junior Seau Community Center	Community Center	520
Junior Seau Community Center	Community Center	2,600
Melba Bishop Park	Interior	3,744
Melba Bishop Park	Interior	520
Melba Bishop Park	Interior	1,040
Melba Bishop Park	Exterior	3,640
Mission Basin Desalting Facility	Exterior	4,368
Oceanside Senior Center	Interior	2,496
Robert Weese Water Filtration Plant	Operators Shop	3,640

Robert Weese Water Filtration Plant	Chemical Storage	3,640
Robert Weese Water Filtration Plant	Poles	3,640
Ron Ortega Recreation Park	Exterior	1,040
San Luis Rey WWTP	Exterior	3,640
San Luis Rey WWTP	Admin Building	2,600
San Luis Rey WWTP	Admin Building	260
San Luis Rey WWTP	Testing Program Building	3,640
San Luis Rey WWTP	Return Pump Sludge Station	2,600
San Luis Rey WWTP	Primary Treatment	2,600
San Luis Rey WWTP	Solids Dewatering	2,600
San Luis Rey WWTP	Polymer Storage Area	3,640
San Luis Rey WWTP	Operations Building	2,600
El Corazon Senior Center	Interior	520
El Corazon Senior Center	Interior	2,600
El Corazon Senior Center	Interior	1,040
El Corazon Senior Center	Exterior	2,920

iii. Post-retrofit measurements will be performed one time, after the retrofit is complete. Post-retrofit ECM performance is assumed to be consistent for the duration of the Energy Savings Term.

iv. EC Savings achieved from the lighting ECMs are calculated by the following equation:

$$\text{EC Savings} = \text{Energy Unit Savings} \times \text{Base Energy Rate}$$

Table E-3: Annual Lighting Savings

ECM	Location	Projected Annual Savings (kWh)
1	Chavez Resource Center	5,672
1	Civic Center / City Hall	106,376
1	Fire Station #4	1,842
1	Fire Station #7	30,731
1	Fire Station Training Center	6,894
1	Heritage Village Park	8,168
1	IT Storage Bldg	3,618
1	Joe Balderrama Park	27,411
1	John Landes Park	3,053
1	Junior Seau Community Center	6,821
1	Melba Bishop Park	25,411
1	Mission Basin Desalting Facility	28,382
1	Oceanside Senior Center	3,443
1	Robert Weese Water Filtration Plant	11,476
1	Ron Ortega Recreation Park	3,141
1	San Luis Rey WWTP	186,475
1	El Corazon Senior Center	25,565

Total	484,479
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ECM – 7: Transformer Replacements

- i. For each transformer selected for baseline metering, measurements will be taken over a 15-minute or longer period of time, where the comprehensive power and power quality data including losses, efficiency, and associated load profile will be collected and recorded. The existing transformers chosen for baseline measurements will be a City-wide sampling consisting of 15-20 percent of the total number in the scope.
- ii. Assumptions: The annual unit consumption savings (kWh) for each retrofit will be calculated by multiplying the demand savings by the Equipment Annual Operating Hours, where the Equipment Annual Operating Hours have been agreed upon and stipulated to by Oceanside and are presented in *Table E-4* below. The Energy Unit Savings (kWh) will be the sum of the calculated annual unit consumption savings for each retrofit.

Table E-4: Transformer Annual Hours

Agreed Upon Transformer Hours of Operation	
Location	Annual Hours
Civic Center	2,040
Mission Basin	5,840
San Luis Rey	5,840
Robert Weese	5,840

- iii. Post-retrofit measurements will be performed one time, after the retrofit is complete. The transformers selected will be the new units that replaced the baseline units previously measured. Post-retrofit ECM performance is assumed to be consistent for the duration of the Energy Savings Term.
- iv. EC Savings achieved from the transformer ECM are calculated by the following equation:

$$\text{EC Savings} = (\text{Existing Transformer Losses} - \text{Retrofit Transformer Losses}) \times \text{Base Energy Rate}$$

Where,

Existing Transformer Losses = (Existing kW Losses x Equipment Annual Operating Hours) + [(Existing kW Losses ÷ 3.52) x A/C System Performance x Equipment Annual Operating Hours]

Retrofit Transformer Losses = (Retrofit kW Losses x Equipment Annual Operating Hours) + [(Retrofit kW Losses ÷ 3.52) x A/C System Performance x Equipment Annual Operating Hours]

Table E-5: Annual Transformer Savings

ECM	Location	Projected Annual Savings (kWh)
7	Civic Center	64,120
7	Mission Basin	11,990
7	San Luis Rey	39,932
7	Robert Weese	13,782
Total		129,824

2. M&V Option B: Energy savings performance of Scope of Work are measured and verified at the end-use site. Option B techniques are designed for projects where long-term continuous measurement of performance is

desired and warranted. Under Option B, while some parameter may be stipulated or measured once then stipulated, some individual loads are continuously monitored to determine performance; and this measured performance is compared with an equipment-use Baseline to determine the Energy Unit Savings.

- a. ENGIE Services U.S. will supply a one-time report to Oceanside detailing any initial measurements taken to establish usage Baselines or other parameters. Ongoing post-retrofit measurements will be compared to the Baselines, and the quantified Energy Unit Savings will be calculated and presented in ongoing reports. During the Construction Period, the Energy Unit Savings will be calculated by adding the savings measured for the whole months between Substantial Completion or Beneficial Use of the EC Measure and the M&V Commencement Date.
- b. Scope of Work

ECM – 8: Solar Photovoltaics (PV)

- i. No baseline measurements are necessary because pre-retrofit PV production is zero. Kilowatt-hours produced by the PV system will be measured using automated metering. Measured interval production kilowatt-hours will be compared against production shown on the monthly utility bills and any differences will be reconciled. Projected kWh production is shown in *Table E-6* below and is projected to degrade by 0.5% per year.

Table E-6: First Year Solar PV Production

Location	Projected Annual Production (kWh)
Robert Weese	366,638
Civic Center	363,952
Navigation Center (Housing)	157,449
El Corazon Senior Center	668,314
Oceanside Harbor	979,932
Total	2,536,285

- ii. Assumptions: Once Work is Substantially Complete, these savings will be measured and verified monthly for the Energy Savings Term.
- iii. Baselines and Projected Savings: EC Savings will be determined by multiplying the Energy Unit savings by the applicable Base Energy Rate. EC Savings will be calculated and presented in ongoing reports. During the Construction Period, the EC Savings will be calculated by adding the production measure for the period between Substantial Completion or beneficial use of the ECM and the M&V Commencement Date.

ECM – 9: Battery Energy Storage System (BESS)

- i. Metering Plan: Four meters will be needed to measure savings associated with this ECM. M1 – measures the electricity imported from and exported to Utility. M2 – measures the PV Production flowing into the facility electrical distribution system. M3 – will measure the flow of electricity into and out of the energy storage system. M4 – will measure the actual energy consumed by facility electrical loads. In some facilities, the installation of M4 is not feasible. Installation of M4 offers redundancy of metering such that with one non-functional meter, the BESS savings can still be determined. All meters will be configured to read positive in the direction of facility load and negative away from the facility load.
- ii. Baselines and Projected Savings: The baseline consumption will be determined every 15 minutes and will be the consumption recorded by the sum of meters M1 and M3. The energy and demand recorded by this meter will be divided into time-of-use categories that correspond to the appropriate Utility rate structure in effect on the date of execution of this agreement.
- iii. Post-retrofit Usage Determination: Post-Retrofit usage will also be determined every 15 minutes and will be divided into the same time-of-use categories as the baseline use. The equation used to determine the Post-Retrofit use will be meter M1.

- iv. **Energy Unit Savings:** Energy Unit Savings (kWh) will be calculated for each time of use category by subtracting the post-retrofit consumption from the baseline consumption within each time-of-use category, then summing for all intervals within each time-of-use category.

$$\text{Energy Unit Savings} = \sum_{\text{Intervals}} \text{Baseline} - \text{PostRetrofit}$$

Energy Unit Savings (kW) will be calculated by selecting the maximum baseline demand measured in each month in any 15-minute interval for each time-of-use category and subtracting the post-retrofit demand measured at the same time interval for each month and each time-of-use category.

$$\text{Energy Unit Savings} = \sum_{\text{Months}} \text{Baseline}_{\text{Max}} - \text{Post Retrofit}_{\text{Max}}$$

- v. **Non-routine Adjustments:** Non-routine baseline adjustments may be calculated when operating conditions change from those that existed during the baseline. Events where the continuously sustained peak demand duration within any time of use category increases, significant loads are shifted between peak, mid-peak, or off-peak periods, backup generation is energized, or the occurrence of utility outages can all necessitate the calculation of a non-routine baseline adjustment in order to accurately reflect the savings associated with this ECM.
- vi. **Energy Use Savings** will be determined by multiplying the Energy Unit savings by the applicable Base Energy Rate. Energy Use Savings will be calculated and presented in on-going reports. During the Construction Period, the EC Savings will be calculated by adding the production measure for the period between Substantial Completion or beneficial use of the ECM and the M&V Commencement Date.

Table E-7: BESS Annual Savings by Month (Mission Lift Station)

TOU Element	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Maximum Peak Demand (kW)	0	0	0	0	0	62	75	80	60	80	0	0
Maximum TOU Peak (kW)	64	66	74	38	32	62	60	65	23	59	61	59
Maximum Demand (kW)	55	47	50	11	7	57	58	47	13	32	47	56
Peak Consumption (kWh)	6,422	5,483	6,067	4,817	4,411	6,070	6,272	6,389	7,005	6,783	6,090	6,448
Off-Peak Consumption (kWh)	(324)	534	2,460	2,251	1,795	(295)	88	810	(992)	1,432	557	(1,007)
Super Off-Peak Consumption (kWh)	(7,420)	(7,247)	(9,926)	(8,323)	(7,570)	(6,954)	(7,535)	(8,502)	(7,285)	(9,670)	(7,880)	(6,742)

Note: The projected annual savings shown in *Table E-7* above will have a degradation factor of 2% annually after Year 1.

3. **Stipulated Savings:** When the cost, complexity, or uncertainty of savings measurements are high as compared to the projected savings, Oceanside and ENGIE Services U.S. may agree to stipulate the projected Energy Unit Savings as being achieved, without any measurements being taken.

- a. For the Stipulated Option, the Energy Unit Savings presented below will be agreed to occur each Measurement Period. During the Construction Period, the Energy Unit Savings will be calculated by adding the savings projected for the whole months between Substantial Completion or Beneficial Use of the EC Measure and the M&V Commencement Date.

Table E-8: Annual Stipulated Savings

ECM	Location	Projected Annual Savings (kWh)
3	Chavez Resource Center	97
3	City Operations Center	1,306
3	Civic Center / City Hall	130
3	El Corazon Senior Center	1,063
3	Fire Station #1	307
3	Fire Station #2	230
3	Fire Station #3	288
3	Fire Station #4	203
3	Fire Station #5	136
3	Fire Station #6	283
3	Fire Station #7	1,059
3	Fire Station #8	411
3	Fire Training Center	134
3	Heritage Village Park	65
3	IT Storage Building	49
3	Joe Balderrama Park	517
3	John Landes Park	337
3	Libby Lake Community Center	739
3	Melba Bishop Park	248
3	Mission Basin Desalting Facility	575
3	Oceanside Senior Center	1,101
3	Oceanside Housing Division Office	356
3	San Luis Rey WWTP	3,659
3	Robert Weese Water Filtration Plant	282
2	Chavez Resource Center	359
2	City Operations Center	1,757
2	El Corazon Senior Center	13,876
2	Fire Station #4	8,115
2	Fire Station #7	1,911
2	Fire Training Center	6,398
2	Joe Balderrama Park	6,720
2	John Landes Park	2,209
2	Libby Lake Community Center	4,633
2	Melba Bishop Park	4,899
2	Oceanside Housing Division Office	3,167

2	Oceanside Senior Center	3,357
2	San Luis Rey WWTP	15,098
2	Fire Station #5	4,121
2	Fire Station #6	3,904
2	IT Storage Building	1,983
5	Chavez Resource Center	201
5	Civic Center / City Hall	641
5	City Operations Center	5,790
5	El Corazon Senior Center	769
5	Fire Station #1	1,424
5	Fire Station #2	1,068
5	Fire Station #3	1,335
5	Fire Station #4	356
5	Fire Station #5	356
5	Fire Station #6	1,025
5	Fire Station #7	1,876
5	Heritage Village Park	320
5	Joe Balderrama Park	512
5	John Landes Park	903
5	Libby Lake Community Center	2,080
5	Melba Bishop Park	534
5	Mission Basin Desalting Facility	2,829
5	Oceanside Housing Division Office	1,121
5	Robert Weese Water Filtration Plant	1,388
5	San Luis Rey WWTP	2,669
4	Civic Center	350,586
6	Mission Basin Desalting Facility	58,186
6	Robert Weese Water Filtration Plant	62,852
6	San Luis Rey WWTP	7,818
Total		602,721

4. **Base Energy Rates:** EC Savings will be calculated using the Base Energy Rates or Actual Energy Rates for that meter, whichever results in greater EC Savings. Actual Energy Rates will be calculated at the end of each Measurement Period using utility billing information for that Measurement Period and using the same methodology as was employed to determine the base energy rate in the Recommendations.

The Base Energy Rates listed here are to be increased each Measurement Period on a cumulative basis by five percent (5%) beginning on the first anniversary of the M&V Commencement Date and continuing on the first day of each Measurement Period thereafter.

Table E-9: Base Energy Rates

ECM	Location	Avoided Electricity Rate (\$/kWh)
1	Chavez Resource Center	0.4020

**Energy Services Contract
Oceanside and ENGIE Services U.S.**

1	Civic Center / City Hall	0.3709
1	Fire Station #4	0.0733
1	Fire Station #7	0.0763
1	Fire Station Training Center	0.3877
1	Heritage Village Park	0.3931
1	IT Storage Bldg	0.3657
1	Joe Balderrama Park	0.3512
1	John Landes Park	0.3844
1	Junior Seau Community Center	0.3818
1	Melba Bishop Park	0.3905
1	Mission Basin Desalting Facility	0.2810
1	Oceanside Senior Center	0.4161
1	Robert Weese Water Filtration Plant	0.3345
1	Ron Ortega Recreation Park	0.4175
1	San Luis Rey WWTP	0.3087
1	El Corazon Senior Center	0.3319
3	Chavez Resource Center	0.3800
3	City Operations Center	0.1526
3	Civic Center / City Hall	0.3223
3	El Corazon Senior Center	0.3272
3	Fire Station #1	0.3521
3	Fire Station #2	0.3233
3	Fire Station #3	0.5183
3	Fire Station #4	0.0733
3	Fire Station #5	0.3120
3	Fire Station #6	0.0173
3	Fire Station #7	0.0749
3	Fire Station #8	0.3446
3	Fire Training Center	0.3580
3	Heritage Village Park	0.3931
3	IT Storage Building	0.3451
3	Joe Balderrama Park	0.3203
3	John Landes Park	0.3844
3	Libby Lake Community Center	0.3778
3	Melba Bishop Park	0.3731
3	Mission Basin Desalting Facility	0.2720
3	Oceanside Senior Center	0.4161
3	Oceanside Housing Division Office	0.4212
3	San Luis Rey WWTP	0.3009
3	Robert Weese Water Filtration Plant	0.3345
2	Chavez Resource Center	0.3800
2	City Operations Center	0.1526

**Energy Services Contract
Oceanside and ENGIE Services U.S.**

2	El Corazon Senior Center	0.3272
2	Fire Station #4	0.0733
2	Fire Station #7	0.0749
2	Fire Training Center	0.3580
2	Joe Balderrama Park	0.3203
2	John Landes Park	0.3844
2	Libby Lake Community Center	0.3778
2	Melba Bishop Park	0.3731
2	Oceanside Housing Division Office	0.4212
2	Oceanside Senior Center	0.4161
2	San Luis Rey WWTP	0.3009
2	Fire Station #5	0.3120
2	Fire Station #6	0.0173
2	IT Storage Building	0.3451
5	Chavez Resource Center	0.3800
5	Civic Center / City Hall	0.3223
5	City Operations Center	0.1526
5	El Corazon Senior Center	0.3272
5	Fire Station #1	0.3521
5	Fire Station #2	0.3233
5	Fire Station #3	0.5183
5	Fire Station #4	0.0733
5	Fire Station #5	0.3120
5	Fire Station #6	0.0173
5	Fire Station #7	0.0749
5	Heritage Village Park	0.3931
5	Joe Balderrama Park	0.3203
5	John Landes Park	0.3844
5	Libby Lake Community Center	0.3778
5	Melba Bishop Park	0.3731
5	Mission Basin Desalting Facility	0.2720
5	Oceanside Housing Division Office	0.4212
5	Robert Weese Water Filtration Plant	0.3345
5	San Luis Rey WWTP	0.3009
4	Civic Center	0.3223
6	Mission Basin Desalting Facility	0.2720
6	Robert Weese Water Filtration Plant	0.3009
6	San Luis Rey WWTP	0.3345
7	Civic Center	0.3223
7	Mission Basin	0.2720
7	San Luis Rey	0.3009
7	Robert Weese	0.3345

8	Robert Weese	0.2301
8	Civic Center	0.2522
8	Navigation Center (Housing)	0.3632
8	El Corazon Senior Center	0.2789
8	Oceanside Harbor	0.3064

Table E-10: Base Energy Rates BESS (ECM-9)

TOU Element	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Maximum Peak Demand (kW)						10.20	10.20	10.20	10.20	10.20		
Maximum TOU Peak (kW)	21.35	21.35	21.35	21.35	21.35	21.35	21.35	21.35	21.35	21.35	21.35	21.35
Maximum Demand (kW)	9.14	9.14	9.14	9.14	9.14	9.14	9.14	9.14	9.14	9.14	9.14	9.14
Peak Consumption (kWh)	0.2594	0.2594	0.2594	0.2594	0.2594	0.2640	0.2640	0.2640	0.2640	0.2640	0.2594	0.2594
Off-Peak Consumption (kWh)	0.1550	0.1550	0.1550	0.1550	0.1550	0.1771	0.1771	0.1771	0.1771	0.1771	0.1550	0.1550
Super Off-Peak Consumption (kWh)	0.1247	0.1247	0.1247	0.1247	0.1247	0.1349	0.1349	0.1354	0.1349	0.1349	0.1247	0.1247

Time of the year and times of the day are defined as follows:

SUMMER Weekdays: (June 1 through November 1)

Peak: 4:00pm to 9:00pm
Off-peak: 9:00pm to 12:00am AND
6:00am to 4:00pm
Super-Off-peak: All other Hours.

SUMMER Weekends and Holidays: (June 1 through November 1)

Peak: 4:00pm to 9:00pm
Off-peak: 9:00pm to 12:00am
2:00pm to 4:00pm
Super-Off-peak: All other Hours.

WINTER1 Weekdays (November 1 through March 1)

Peak:	4:00pm to 9:00pm
Off-peak:	9:00am to 12:00am AND 6:00am to 4:00pm
Super-Off-peak:	All other Hours.

WINTER1 Weekends and Holidays (November 1 through March 1)

Peak:	4:00pm to 9:00pm
Off-peak:	9:00am to 12:00am AND 2:00pm to 4:00pm
Super-Off-peak:	All other Hours.

WINTER2 Weekdays (March 1 through May 1)

Peak:	4:00pm to 9:00pm
Off-peak:	9:00am to 12:00am AND 6:00am to 10:00am 2:00pm to 4:00pm
Super-Off-peak:	All other Hours.

WINTER2 Weekends and Holidays (March 1 through May 1)

Peak:	4:00pm to 9:00pm
Off-peak:	9:00pm to 12:00am 2:00pm to 4:00pm
Super-Off-peak:	All other Hours.

WINTER3 Weekdays (May 1 through June 1)

Peak:	4:00pm to 9:00pm
Off-peak:	9:00am to 12:00am AND 6:00am to 4:00pm
Super-Off-peak:	All other Hours.

WINTER3 Weekends and Holidays (May 1 through June 1)

Peak:	4:00pm to 9:00pm
Off-peak:	9:00pm to 12:00Am AND 2:00pm to 4:00pm
Super-Off-peak:	All other Hours.

TOU Demand Times Only Occur during Peak/Off-Peak/Super Off-Peak times as stated above.

5. Stipulated Non-Energy \$ Savings: The following dollar savings have been calculated by ENGIE Services U.S. from the installation of the EC measures and have been agreed to by the City and will not be measured. The sum of these savings for each Measurement Period will be added to the EC savings for that Measurement Period.

Table E-11: Annual Rate Change Savings

**Energy Services Contract
Oceanside and ENGIE Services U.S.**

Measurement Period	City Operations Center	Meiba Bishop Park	Fire Training Lift Station
1	\$13,483	\$20,661	\$10,141
2	\$14,157	\$21,694	\$10,648
3	\$14,865	\$22,779	\$11,180
4	\$15,608	\$23,918	\$11,739
5	\$16,388	\$25,114	\$12,326
6	\$17,207	\$26,370	\$12,942
7	\$18,067	\$27,689	\$13,589
8	\$18,970	\$29,073	\$14,268
9	\$19,919	\$30,527	\$14,981
10	\$20,915	\$32,053	\$15,730
11	\$21,961	\$33,656	\$16,517
12	\$23,059	\$35,339	\$17,343
13	\$24,212	\$37,106	\$18,210
14	\$25,423	\$38,961	\$19,121
15	\$26,694	\$40,909	\$20,077
16	\$28,029	\$42,954	\$21,081
17	\$29,430	\$45,102	\$22,135
18	\$30,902	\$47,357	\$23,242
19	\$32,447	\$49,725	\$24,404
20	\$34,069	\$52,211	\$25,624

ATTACHMENT F
MAINTENANCE SERVICES

EQUIPMENT AND FACILITIES COVERED

ENGIE Services U.S. will perform preventive maintenance services ("Maintenance Services") as set forth in this Attachment F with respect to Generating Facilities being constructed on Oceanside's property at the following Project Locations:

Site Name	Site Address	City	County	State	Zip Code
Robert Weese	3885 Silverleaf Lane	Vista	San Diego	CA	92084
Civic Center	300 N Coast Hwy	Oceanside	San Diego	CA	92054
Navigation Center (Housing)	3131 Oceanside Blvd	Oceanside	San Diego	CA	92055
John Landes Park	2855 Cedar Rd	Oceanside	San Diego	CA	92054
El Corazon Senior Center	3306 Senior Center Dr	Oceanside	San Diego	CA	92056
Oceanside Harbor	1960 N Harbor Dr	Oceanside	San Diego	CA	92054
Joe Balderrama Park	709 San Diego St	Oceanside	San Diego	CA	92054

Capitalized terms used in this Attachment F and not defined in the Contract, have the meanings set forth below:

I. Definitions

"Annual Maintenance Fee" means a fee payable annually in advance by Oceanside to ENGIE Services U.S., in consideration of the provision of up to twenty (20) years of Maintenance Services. The Annual Maintenance Fee for the first Measurement Period will be Sixty Thousand Seventy-Seven Dollars (\$60,077.00). The Annual Maintenance Fee will be increased annually thereafter at the rate of three percent (3%) per annum for the first five (5) Measurement Periods, each increase to be effective on the first day of the corresponding Measurement Period. The Annual Maintenance Fee for each Measurement Period after the fifth (5th) Measurement Period will be negotiated in good faith by the Parties, not later than ninety (90) days prior to the end of the preceding Measurement Period, on the basis of then-prevailing market rates for, e.g., labor and equipment.

II. Term

So long as Oceanside pays to ENGIE Services U.S. the Annual Maintenance Fee, ENGIE Services U.S. will provide the Maintenance Services, as described herein, up to twenty (20) years from the M&V Commencement Date, except as set forth below with regard to the BESS, on an annualized basis. At the end of this term, Oceanside may:

- a. Enter into another agreement with ENGIE Services U.S. to perform Maintenance Services
- b. Enter into an agreement with another service provider
- c. Self-perform preventive maintenance

III. Annual Maintenance Fee; Reporting

The Annual Maintenance Fee for the first Measurement Period will be invoiced by ENGIE Services U.S. to Oceanside in a lump sum on the M&V Commencement Date. All subsequent Annual Maintenance Fees will be invoiced by ENGIE Services U.S. on the first day of the corresponding Measurement Period. Oceanside, or its designee, will pay ENGIE Services U.S. such Annual Maintenance Fee, without any retention amount withheld, within thirty (30) calendar days after its receipt of the corresponding invoice. Any failure to timely pay the Annual Maintenance Fee in accordance with this Attachment F will be a material default by Oceanside, and ENGIE Services U.S., in addition to any other legal, contractual and equitable remedies available to it, will have no obligation thereafter to provide Maintenance Services.

Any amount not paid when due will, from and after the due date, bear Interest. Accrued and unpaid Interest on past due amounts (including Interest on past due Interest) will be due and payable upon demand.

The Annual Maintenance Fee is not refundable for any reason.

Upon completion of any maintenance or repair work, ENGIE Services U.S. will update service logs detailing the work performed, location and any notes relevant to safe and efficient operations. These service logs will be compiled and submitted to Oceanside on a quarterly basis.

If ENGIE Services U.S. is no longer the provider of Maintenance Services, Oceanside's new provider will maintain similar service logs. ENGIE Services U.S. will have reasonable access to inspect service logs to determine that adequate Maintenance Services are being performed.

IV. Preventive Maintenance Services Provided

ENGIE Services U.S. will provide the following Maintenance Services during the term:

- a. Inspection: Inspect PV modules, combiner boxes, inverters, isolation transformers, and PV service roof penetrations and support structure on an annual basis.
- b. Testing: Perform voltage testing, amperage testing, and infrared scans of inverters, combiner boxes, disconnects and switchgear on an annual basis.
- c. Monitoring: Monitor system performance on a daily basis.
- d. Cleaning:
 - i. Remove dust, dirt, and debris from outside cabinets of combiner boxes, inverters, transformers, and disconnect switches on an annual basis.
 - ii Wash PV modules and remove accumulated dust and debris on an annual basis.
- e. Battery Energy Storage Scope of Work:
The following Maintenance Services will be provided on an annual basis, based on the manufacturer recommendations during the first fifteen (15) years of the Maintenance Term only. Costs associated with the BESS scope below are included in the Contract Amount).
 - a) Visual Inspection:
 - Power conversion System (PCS) / Energy Storage inverter
 - Battery enclosure
 - Batteries
 - Air-Conditioning Unit(s)
 - Fire Suppression system
 - b) Mechanical Inspection:
 - Inspect all anchoring bolts, doors, locking mechanisms, torque check bolts, verify connections and bolts of wires, check nuts and bolts, check/replace air filter as needed.
 - c) Electrical Inspection:
 - Inspect AC/DC components throughout the system, surge protectors' condition, any open fuses, wiring harnesses and connectors, inspect circuit boards and fan operation, measure insulation resistance between battery terminals, measure control voltage, and all fuse status. Replace fuses as needed.
 - d) Safety Inspection:
Check all warning signs, emergency stop buttons, safety ground connections, and functionality of all suppression system(s).

V. Repair Services

If a Generating Facility is damaged and requires safe-off, repair, demolition and/or reconstruction, or otherwise requires repairs outside of warranty, Customer must contact the ENGIE Services U.S. PV Operations & Maintenance Manager. In the event of damage, any component of the Generating Facility installed by ENGIE Services U.S. can be repaired or reconstructed by ENGIE Services U.S. at Customer's request. Customer must submit a request for quotation to the ENGIE Services U.S. PV Operations & Maintenance Manager. ENGIE Services U.S. will inspect the damage and provide a written quotation and complete scope of work to Customer to restore the Generating Facility to normal operational condition. Before proceeding with repairs, ENGIE Services U.S. and Customer must execute a work order, on ENGIE Services U.S.'s form, for the agreed scope of work and quotation amount. Repair work is done on a time and materials basis. Standard Business Hours are M-F, 7am to 5pm. Non-business Hours & Saturdays Equals 1.5x Rates. Sundays & Holidays Equals 2.0x Rates.

Labor Category		Straight Time
Hourly Rate – PV Electrical Journeyman Technician ¹	\$/hr.	County Labor Rate
Hourly Rate – PV Electrical Apprentice Technician ¹	\$/hr.	County Labor Rate
Hourly Rate – Engineering ²	\$/hr.	\$ 170.00
Hourly Rate – Administrative ²	\$/hr.	\$ 65.00

Service call-out - Daily minimum fee	\$	\$ 550.00
Mileage	\$	IRS Rate
Material mark-up %	%	15.00
Lift rental fee	\$	Current Market Price

¹Trade Hourly rate will be adjusted based on the current year of the local prevailing wage determination plus Burden, requirement for either travel or subsistence and lodging, and markup for services being requested.

²Escalated according to an inflation rate to the year in which service will occur.

VI. Warranty Services

The ENGIE Services U.S. PV Operations & Maintenance Manager will also be Oceanside's point of contact for all issues related to the ENGIE Services U.S. Warranty set forth in ARTICLE 9 of the Contract. Oceanside should refer to ARTICLE 9 of the Contract for services provided by ENGIE Services U.S. to Oceanside in relation to manufacturer's warranties. The terms and conditions of the relevant manufacturer's warranties can be found in the operation and maintenance manuals delivered to Oceanside at Final Completion.

VII. Services and Equipment to Be Covered by Oceanside

ENGIE Services U.S.'s obligations under this Attachment F are expressly conditioned upon Oceanside's payment of the Annual Maintenance Fee and providing and being responsible for the following, without cost to ENGIE Services U.S.:

- a. Making the Generating Facilities described herein available to ENGIE Services U.S. as of the Contract Effective Date.
- b. Operating and maintaining security systems associated with the Generating Facilities.
- c. Maintaining all landscaping in and around Generating Facilities including tree trimming.
- d. Allowing ENGIE Services U.S. and its personnel access as necessary to the Generating Facilities, and any related areas that may be reasonably necessary for performance of the Maintenance Services, including reasonable work, parking, and equipment staging areas.
- e. Allowing ENGIE Services U.S. and its personnel to access electrical power and other utilities then existing at the Generating Facilities as necessary for ENGIE Services U.S. to satisfy its obligations under the Contract.
- f. Remediating, pursuant to Applicable Law, any known Hazardous Substances encountered by ENGIE Services U.S. during the performance of the Maintenance Services which Hazardous Substances were not deposited by ENGIE Services U.S., including any backfill with clean soil as may be reasonably required.
- g. Insuring the Generating Facilities against loss due to acts of God and the public enemy; flood, earthquake, tornado, storm, fire; civil disobedience, sabotage, and vandalism.

ENGIE Services U.S. will have no obligation to provide the Maintenance Services to the extent such provision of Maintenance Services is materially adversely affected by Oceanside's failure to satisfy the conditions set forth in this Attachment F.

ATTACHMENT G
SCOPE OF COMMUNITY ENGAGEMENT SERVICES

From the Contract Effective Date through December 2027, ENGIE Services U.S. will provide the following community engagement services for the City of Oceanside:

I. Professional Services Provided

Workforce & Economic Development

CivicSpark Fellow

ENGIE will work with City of Oceanside to secure a CivicSpark Fellow for the City and will work with the City to support the development of a project, application, and recruitment.

- 11 month posting of one Fellow
- City of Oceanside to contract directly with CivicSpark for non-financial Fellowship Agreement
- ENGIE will serve as the fiscal sponsor for the City of Oceanside Fellow
- ENGIE to work with city to develop project application and upon approval, support in outreach and recruitment of Fellow
- Fellowship position is contingent upon selection of City of Oceanside project by CivicSpark as fellow placement location

Internships

ENGIE will support interns working within the City or with ENGIE. Timing and schedule to be determined in collaboration with the City of Oceanside for the following:

- Up to four (4) interns over the age of 16
- Compensated at the local minimum wage or ENGIE standard intern pay scale, whichever is higher
- Each intern will be compensated for up to three hundred twenty (320) hours of work

Regional Sourcing Event

ENGIE will host an information session for local subcontractors. The session will cover the upcoming project, answer any questions, and inform about ENGIE's bidding process for this and future projects. Subcontractors will learn what is required of ENGIE subcontractors and have the opportunity to become pre-qualified. Once work is being bid out- attendees will receive notice of the opportunity.

- One (1) in person or virtual event
- ENGIE project operations staff will be present
- ENGIE subcontractor requirements will be covered
- Location to be provided by City

Community Engagement

Library Mobile Outreach Support

ENGIE will meet with library staff to determine content areas of focus and develop activities for mobile community outreach. ENGIE will provide hands-on materials, books, and activity guides to supplement current Library community outreach and activities.

- Not to exceed the equivalent of one hundred forty (140) hours of ENGIE time and resources
 - Hours include meetings, development, creation, materials, and delivery of resources

After School Program Support

ENGIE will partner with City Parks and Recreation staff to develop STEM activities that can be delivered via the After School Program at 4 sites. Extra consumable and non-consumable materials will be retained by the City for future use.

- Development of up to five (5) activities developed for Elementary through Middle School participants
- Four (4) materials kits to be created for use at the four (4) sites
 - Materials for a total of one hundred (100) participants across all sites
- 1 facilitator training session of up to two (2) hours will be provided

Summer Program

ENGIE will partner with City Parks and Recreation staff to develop STEM activities that can be delivered via the

Summer Program at 4 sites. Extra consumable and non-consumable materials will be retained by the City for future use.

- Development of up to five (5) activities developed for Elementary through Middle School participants
- Four (4) materials kits to be created for use at the four (4) sites
 - Materials for a total of one hundred (100) participants across all sites
- 1 facilitator training session of up to two (2) hours will be provided

Teen Program

ENGIE will partner with City Parks and Recreation staff to determine the best way to support the City's teen/youth program. This may include development of activities and lessons, materials kits, access to online resources, guest speakers, or virtual internships. Facilitator training will be provided if needed.

- Not to exceed the equivalent of one hundred forty (140) hours of ENGIE time and resources
 - Hours include meetings, development, creation, materials, and delivery of resources

Landes Community Center Support

- 2 new reading benches for the courtyard to support satellite library location
- Educational and interactive STEM stations inside of the community center
 - Three (3) station themes which may include energy, solar panels, lighting, biology, physics, etc.
- Weather Station for use with the youth programs at the Community Center

Landes Community Center Mural & Design Challenge

ENGIE will work with City staff to develop and launch a community mural design challenge. Collected entries will be reviewed and a final design will be made incorporating elements of multiple entries, or by selecting one entry to replicate. The Mural will be installed on the outside of the Landes Community Center

- ENGIE will create design challenge guidelines, submittal and review processes
- ENGIE will provide a project manager/designer for mural planning and installation
- ENGIE will provide all needed materials including paints, brushes, drop cloths, etc.
- Final installation of mural may include community participation

El Corazon Senior Center Raised Garden Beds

ENGIE will purchase and install new raised garden beds at the Senior Center Garden to make the space more accessible to the community. Raised beds will allow for gardeners to sit on stools or wheelchairs while they garden. ENGIE will provide:

- Five (5) ADA accessible garden beds
 - Installation of five (5) raised garden beds
- Soil for raised beds
- Plants for raised beds

Communication and Recognition

Living Laboratories

Data points from ENGIE installed photovoltaic systems are shared via community facing dashboards

- Data from ENGIE solar installations pulled into a community facing dashboard
- Living Lab will be available to City of Oceanside for three (3) years
- Living Lab can be linked to and shared on City websites

Award Application Support

ENGIE will support relevant awards to recognize both the ENGIE energy project as well as broader sustainability programs in the City of Oceanside. This support will include:

- Conduct or contract for grant search services
- Up to sixty (60) hours of meetings and writing services for grant applications
- Related grant application fees will be covered by ENGIE

Fees for Engagement Services are included in the Contract Amount.

**ATTACHMENT H
LED LIGHTING LINE BY LINE
(See attached PDF)**

ATTACHMENT I

MECHANICAL EQUIPMENT SCHEDULE AND SPECIFICATIONS

See attached PDF)

ATTACHMENT J
Claim Resolution Process

California Public Contract Code § 9204

§ 9204. Legislative findings and declarations regarding timely and complete payment of contractors for public works projects; claims process

(a) The Legislature finds and declares that it is in the best interests of the state and its citizens to ensure that all construction business performed on a public works project in the state that is complete and not in dispute is paid in full and in a timely manner.

(b) Notwithstanding any other law, including, but not limited to, Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2, Chapter 10 (commencing with Section 19100) of Part 2, and Article 1.5 (commencing with Section 20104) of Chapter 1 of Part 3, this section shall apply to any claim by a contractor in connection with a public works project.

(c) For purposes of this section:

(1) "Claim" means a separate demand by a contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

(A) A time extension, including, without limitation, for relief from damages or penalties for delay assessed by a public entity under a contract for a public works project.

(B) Payment by the public entity of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public works project and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled.

(C) Payment of an amount that is disputed by the public entity.

(2) "Contractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who has entered into a direct contract with a public entity for a public works project.

(3)

(A) "Public entity" means, without limitation, except as provided in subparagraph (B), a state agency, department, office, division, bureau, board, or commission, the California State University, the University of California, a city, including a charter city, county, including a charter county, city and county, including a charter city and county, district, special district, public authority, political subdivision, public corporation, or nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency.

(B) "Public entity" shall not include the following:

(i) The Department of Water Resources as to any project under the jurisdiction of that department.

(ii) The Department of Transportation as to any project under the jurisdiction of that department.

(iii) The Department of Parks and Recreation as to any project under the jurisdiction of that department.

(iv) The Department of Corrections and Rehabilitation with respect to any project under its jurisdiction pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code.

(v) The Military Department as to any project under the jurisdiction of that department.

(vi) The Department of General Services as to all other projects.

(vii) The High-Speed Rail Authority.

(4) "Public works project" means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

(5) "Subcontractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with a contractor or is a lower tier subcontractor.

(d)

(1)

(A) Upon receipt of a claim pursuant to this section, the public entity to which the claim applies shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the claimant a

written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, a public entity and a contractor may, by mutual agreement, extend the time period provided in this subdivision.

(B) The claimant shall furnish reasonable documentation to support the claim.

(C) If the public entity needs approval from its governing body to provide the claimant a written statement identifying the disputed portion and the undisputed portion of the claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the public entity shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the claimant a written statement identifying the disputed portion and the undisputed portion.

(D) Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. If the public entity fails to issue a written statement, paragraph (3) shall apply.

(2)

(A) If the claimant disputes the public entity's written response, or if the public entity fails to respond to a claim issued pursuant to this section within the time prescribed, the claimant may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the public entity shall schedule a meet and confer conference within 30 days for settlement of the dispute.

(B) Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the public entity shall provide the claimant a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the public entity and the claimant sharing the associated costs equally. The public entity and claimant shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.

(C) For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

(D) Unless otherwise agreed to by the public entity and the contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.

(E) This section does not preclude a public entity from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under this section does not resolve the parties' dispute.

(3) Failure by the public entity to respond to a claim from a contractor within the time periods described in this subdivision or to otherwise meet the time requirements of this section shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the public entity's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant.

(4) Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.

(5) If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against a public entity because privity of contract does not exist, the contractor may present to the public entity a claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on their own behalf or on behalf of a lower tier subcontractor, that the contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that

the claim be presented to the public entity shall furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, the contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the public entity and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

(e) The text of this section or a summary of it shall be set forth in the plans or specifications for any public works project that may give rise to a claim under this section.

(f) A waiver of the rights granted by this section is void and contrary to public policy, provided, however, that (1) upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) a public entity may prescribe reasonable change order, claim, and dispute resolution procedures and requirements in addition to the provisions of this section, so long as the contractual provisions do not conflict with or otherwise impair the timeframes and procedures set forth in this section.

(g) This section applies to contracts entered into on or after January 1, 2017.

(h) Nothing in this section shall impose liability upon a public entity that makes loans or grants available through a competitive application process, for the failure of an awardee to meet its contractual obligations.

(i) This section shall remain in effect only until January 1, 2027, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2027, deletes or extends that date.



(Exhibit C)

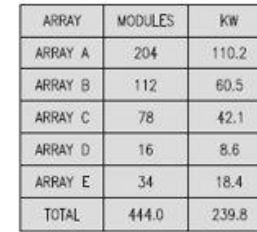
ECM Projects and Facility Lists



Energy Conservation Measures (ECMs)

- Solar Photovoltaics
- Roof Replacement (Civic Center)
- Interior & Exterior LED Lighting Upgrades
- Central Plant Upgrades (Civic Center)
- HVAC Unit Replacements & Refurbishments
- Energy Management System (EMS)
- Distribution Transformer Replacements
- Generator Heat Pump Installations
- Battery Energy Storage
- Utility Bill Change Rate Analysis





Level 2 Dual Port EV Chargers to be installed on main level of parking structure

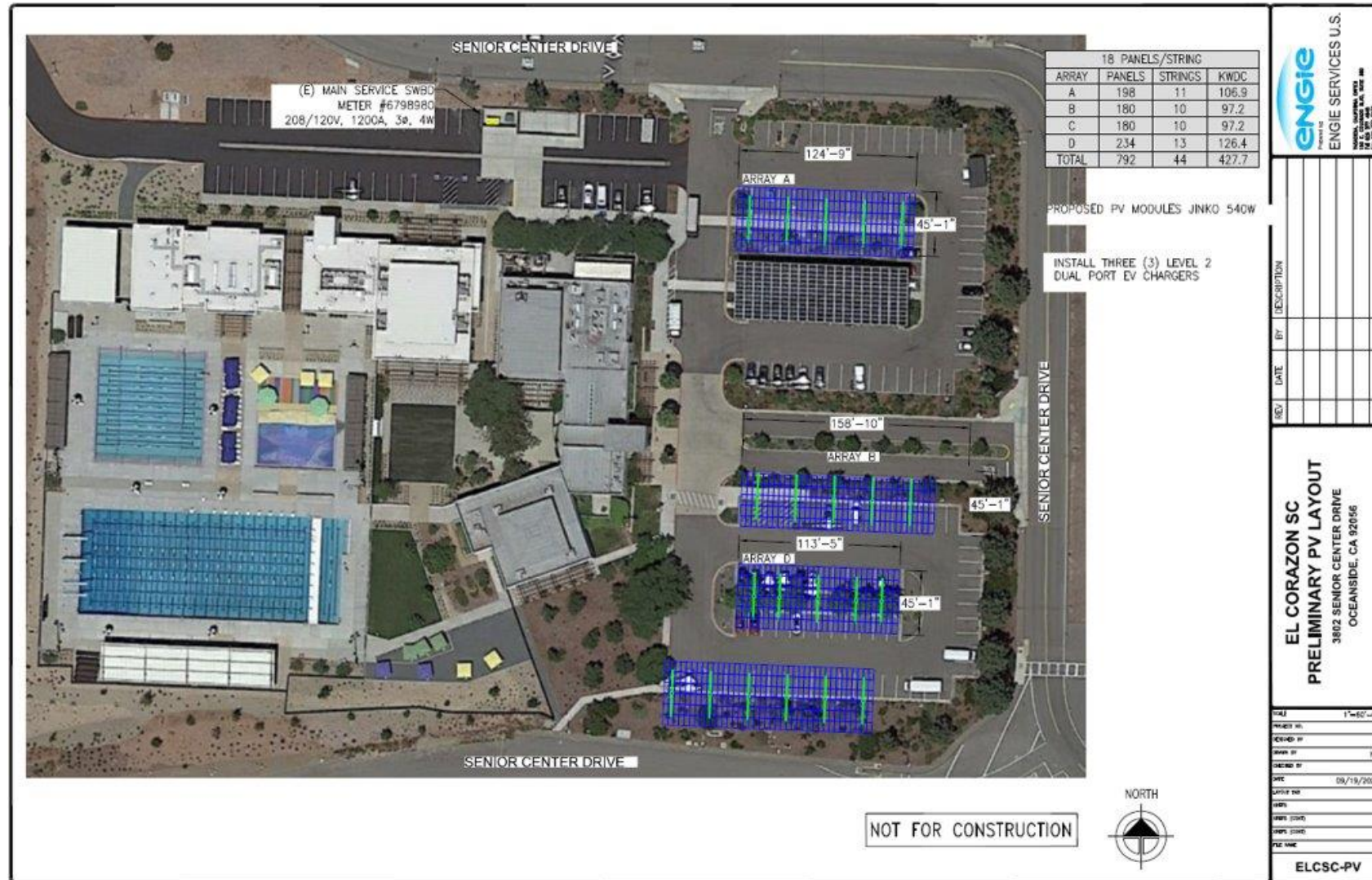
[illegible]

Civic Center Roof Replacement

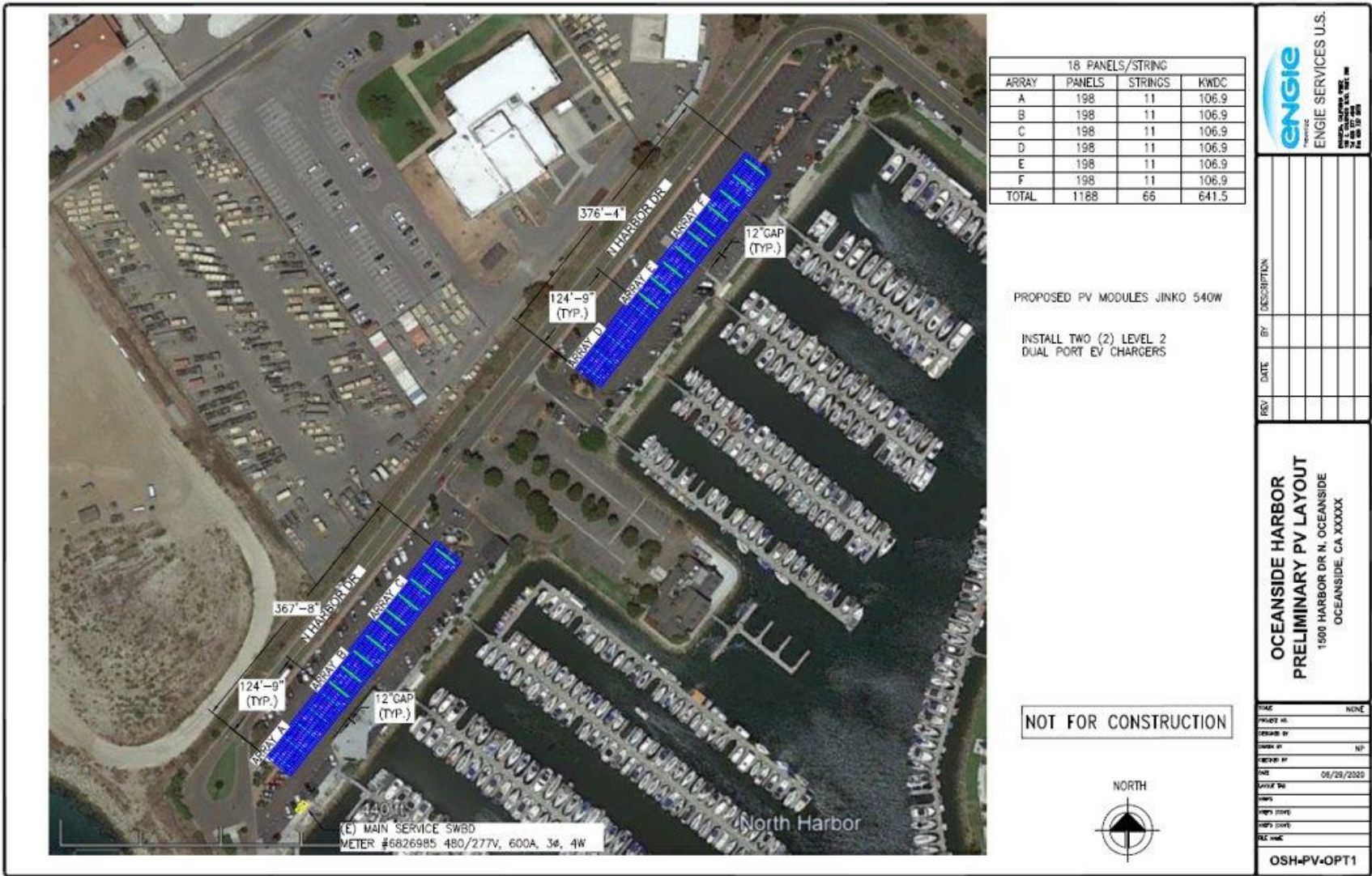
- Install new TPO roof system overlay for main roof areas where solar PV is being proposed. (See image to the right for highlighted areas).
- Clean existing roof surface of existing gravel as required for new recovery board.
- Provide new 1/2" recovery board onto existing roof system.
- Install new 115mil fully adhered TPO fleece back membrane.
- Provide new 20-year roof manufacturer's NDL warranty
- Addresses critical unfunded Capital Improvement plan project of Civic Center/Library roof replacement



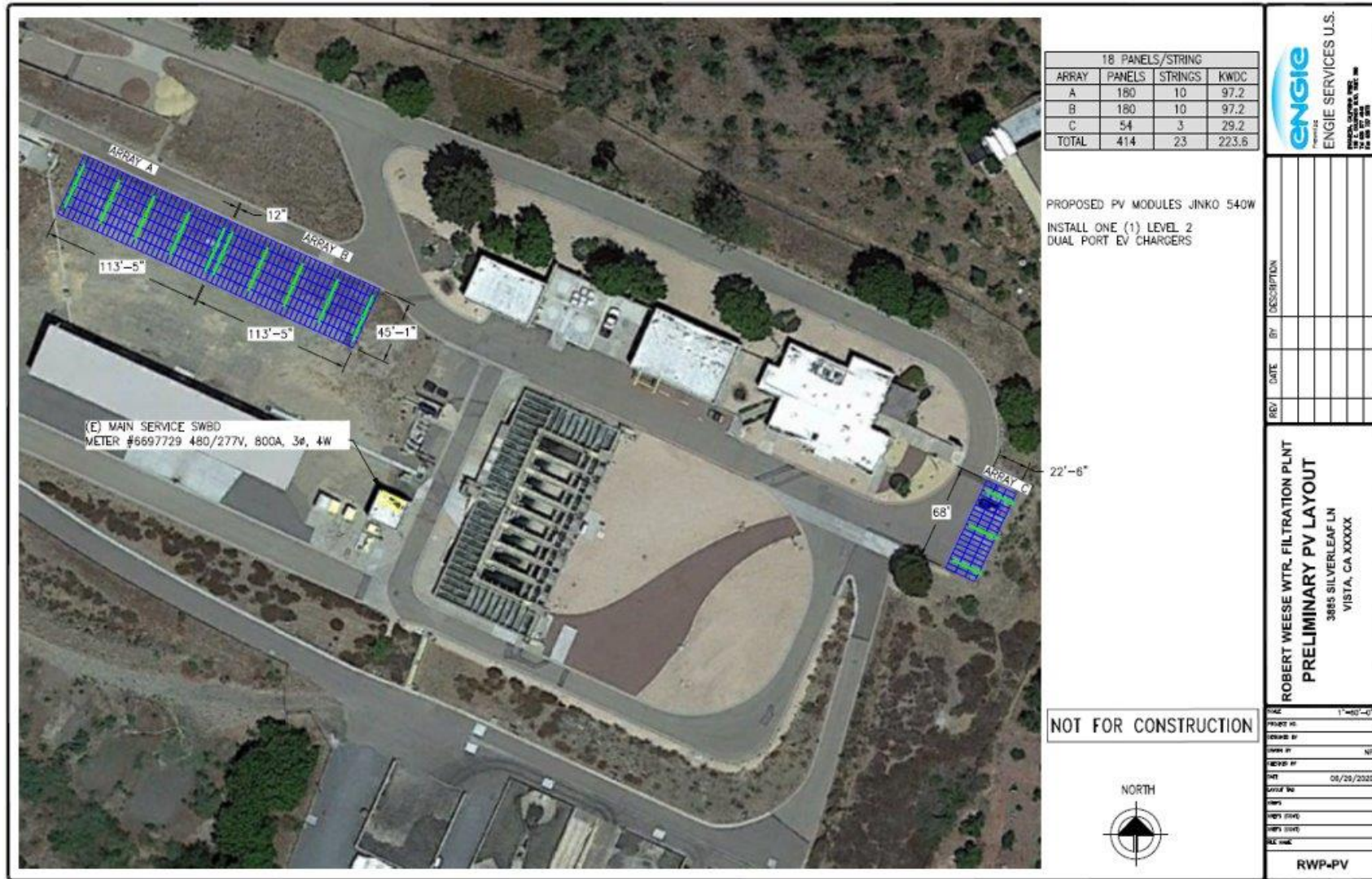
Solar PV – El Corazon Senior Center (427.7kWdc)



Solar PV – Harbor (641.5kWdc)



Solar PV – Robert Weese Plant (223.6kWdc)





Interior & Exterior LED Lighting Upgrades

Sites included:

- Chavez Resource Center
- Civic Center / City Hall
- El Corazon Senior Center
- Fire Station #4
- Fire Station #7 (Int Only)
- Fire Station Training Center (Int Only)
- Heritage Village Park (Ext Only)
- IT Storage Building
- Joe Balderrama Park (Int Only)
- John Landes Park
- Junior Seau Community Center
- Melba Bishop Park
- Mission Basin Desalting Facility
- Oceanside Pier (restrooms & lifeguard tower)
- Oceanside Senior Center (Int Only)
- Robert Weese Water Filtration Plant
- Ron Ortega Recreation Park (Ext Only)
- San Luis Rey WWTP

Civic Center HVAC Upgrades

Scope of work in central plant:

- Replace existing chiller with new 260-ton high efficiency water cooled chiller.
- Install two (2) new 40HP primary chilled water pumps with new variable frequency drives (VFDs)
- Install one (1) new 15HP condenser water pump for redundancy
- Install new chilled water bypass line to maintain new chiller minimum flow requirements
- Remove and dispose of existing glycol solution and replace with new standard chilled water for cooling
- Temporary chiller included to provide cooling during construction
- Replace existing Johnson Control front end energy management system with new industry-standard Tridium N4 Enterprise Supervisor Software. Includes new web-based graphics, trending and alarming setup for new controls.



Civic Center HVAC Upgrades

Scope of work in building:

- Replace 51 exhaust fans located on roof
- Replace 34 supply fans located on roof
- Replace outside air and return air dampers with new linkages at each fan coil unit inside building, a total of 115 units.
- Provide adjusting and balancing for all new units replaced.

Benefits Include:

- Replace aging and rusted fans throughout building
- Provide reliable control of outside air and relief for building
- Improve building air quality
- Provide electric savings due to economizer cycle operation



HVAC Unit Replacements

- **Upgrade and replace aging HVAC mechanical equipment to improve reliability, efficiency and indoor air quality.**
- **Units recommended for replacement are 10 or more years old.**
 - Replacing a total of 87 HVAC units totaling 426 tons of cooling, across 17 sites
 - Replacements include both rooftop package units and split system units.
- **New units to come equipped with weatherproof coating due to proximity to ocean of these sites.**
- **Benefits include:**
 - Replaces old and inefficient equipment
 - Improves Indoor Air Quality (IAQ) and ventilation
 - Reduces energy cost
 - Reduces maintenance cost

Site Name	Units	Tons
Chavez Resource Center	2	10
City Operations Center	9	53
El Corazon Senior Center	12	57
Fire Station #4	2	6
Fire Station #5	1	3
Fire Station #6	2	9
Fire Station #7	2	11
Fire Station Training Facility	6	18
IT Storage Bldg.	2	7
Joe Balderrama Park	5	19.5
John Landes Park	3	13
Libby Lake Community Center	3	31.5
Melba Bishop Park	4	12
Oceanside Housing Division Office	3	11
Oceanside Senior Center	15	59
San Luis Rey WWTP	21	140
Total	92	460

HVAC Unit Refurbishments

- **Refurbish HVAC units not being replaced by above measure.**
- **Refurbishment includes:**
 - General clean up of overall unit and wash-down of coils.
 - Deep clean condenser coils to remove materials and corrosion and straighten fins.
 - Provide new coating on condenser coils for improved efficiency and unit operating life.
- **Benefits Include:**
 - Restoring HVAC Capacity
 - Extend life cycle of HVAC equipment
 - Increases energy efficiency

Site Name	Units	Tons
Chavez Resource Center	1	4
City Hall Library	2	6
City Operations Center	10	56.5
El Corazon Senior Center	1	7.5
Fire Station #1	2	8
Fire Station #2	2	6
Fire Station #3	2	7.5
Fire Station #4	1	2
Fire Station #5	1	2
Fire Station #6	2	10
Fire Station #7	2	11
Heritage Village Park	1	3
Joe Balderrama Park	1	5
John Landes Park	4	18
Libby Lake Community Center	4	20.3
Melba Bishop Park	2	5
Mission Basin Desalting Facility	9	26.5
Oceanside Housing Division Office	3	10.5
Robert Weese Water Filtration Plant	3	13
San Luis Rey WWTP	6	25
Total	59	246.8

Energy Management System

- **Replace existing thermostats with new Pelican Wireless smart thermostats across 27 sites within the city.**

- Total of 148 new T-Stats to be installed

- **Benefits Include:**

- Reduces energy cost due to tightened schedules and cooling/heating set points
- Track energy usage
- Control thermostats remotely
- Provides ease of maintenance with remote monitoring and programming of existing systems



Site Name	Units
Chavez Resource Center	3
City Hall Library	2
City Operations Center	15
City Operations Center	4
El Corazon Senior Center	11
El Corazon Senior Center	3
Fire Station #1	2
Fire Station #2	2
Fire Station #3	2
Fire Station #4	3
Fire Station #5	2
Fire Station #6	4
Fire Station #7	2
Fire Station #7	2
Fire Station #8	4
Fire Station Training Facility	6
Heritage Village Park	1
IT Storage Bldg.	2
Joe Balderrama Park	1
Joe Balderrama Park	5
John Landes Park	7
Libby Lake Community Center	5
Libby Lake Community Center	2
Melba Bishop Park	5
Melba Bishop Park	1
Mission Basin Desalting Facility	9
Mission Basin Desalting Facility	4
Oceanside Housing Division Office	6
Oceanside Senior Center	15
Robert Weese Water Filtration Plant	3
San Luis Rey WWTP	25
San Luis Rey WWTP	2
Total	160

High Efficiency Transformers

- Replace older generation transformers with new, more efficient, transformers, resulting in a reduction in electrical losses.
- Benefits include:
 - Replaces old transformers
 - Savings in energy cost
 - Longer life of electrical infrastructure
 - An updated electrical foundation optimized for modern electronic equipment & loading conditions delivering both lower losses and better power quality



Location	Transformer Size (kVA)	Total Quantity of Transformers
Civic Center	30	3
Civic Center	112.5	2
Civic Center	45	2
Civic Center	150	1
Civic Center	300	1
Mission Basin Desalting Facility	45	1
Mission Basin Desalting Facility	75	1
Robery Weese Plant	30	1
Robery Weese Plant	45	2
San Luis Rey WWTP	15	1
San Luis Rey WWTP	25	1
San Luis Rey WWTP	30	3
San Luis Rey WWTP	37.5	1
San Luis Rey WWTP	45	3
San Luis Rey WWTP	50	1
San Luis Rey WWTP	75	1
Total	N/A	25

Generator Heat Pump

- **Install Generator Heat Pumps in series with existing resistive block heaters**
 - Emergency Generators required to maintain a 90°F min temp in order to start within their designed operating parameters
 - New heat pumps to provide heat to maintain that minimum temperature instead of electric resistive block heaters
- **Benefits Include:**
 - Provides heating redundancy for generator
 - Extends life of heating system by 15 – 20 years
 - Energy savings when cooling can be utilized

Location	Generator Manufacturer	Generator Size (kW)
Mission Basin Desalting Facility	Kohler	1500
Mission Basin Desalting Facility	Kohler	795
San Luis Rey WWTP	CAT	1500
San Luis Rey WWTP	CAT	1500
San Luis Rey WWTP	Kohler	300
Robert Weese Water Filtration Plant	Kohler	250



Battery Energy Storage System

- Install a total of 500 kW/ 1541 kWh Battery Energy Storage System utilizing Lithium-Ion Batteries
- **Locations:**
 - Mission Lift Station – 250kW/511kWh
- **Benefits include:**
 - Peak demand shaving
 - Energy arbitrage
 - Demand response
 - Battery storage systems incentive of \$150,000 through the Self Generation Incentive Program



RESOLUTION NO. ____**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE,
CALIFORNIA, AUTHORIZING THE EXECUTION AND DELIVERY OF A
LEASE PURCHASE AGREEMENT AND AN ESCROW AGREEMENT TO
FINANCE CERTAIN ENERGY EFFICIENCY EQUIPMENT AND
IMPROVEMENTS AND AUTHORIZING CERTAIN ACTIONS IN
CONNECTION THEREWITH**

WHEREAS, the City of Oceanside (the "City") is a municipal corporation and charter city duly organized and existing under and pursuant to the Constitution and laws of the State of California; and

WHEREAS, the City has determined that it is necessary and desirable to finance the acquisition and installation of certain energy efficiency equipment and improvements for the benefit of the City, including without limitation interior and exterior LED Lighting, HVAC unit replacements and refurbishments, smart thermostat retrofits, Civic Center mechanical upgrades, generator heat pump installations, transformer replacements, solar photovoltaics, and a battery energy storage system (collectively, the "Project"); and

WHEREAS, the City distributed a request for proposals (the "RFP") to finance the Equipment to multiple banks; and

WHEREAS, the Lender submitted a Financing Proposal dated December 6, 2023 (the "Financing Proposal") in response to the RFP; and

WHEREAS, City staff reviewed the Financing Proposal and all other financing proposals submitted to the City in response to the RFP and selected the Lender's Financing Proposal based on the interest rate and other financing terms set forth in the Financing Proposal; and

WHEREAS, in order to accomplish the financing of the Project in accordance with the Financing Proposal, the City and TD Equipment Finance, Inc., or an affiliate thereof (the "Lender"), desire to enter into a Lease Purchase Agreement (the "Lease"), a form of which has been presented to

1 the City Council of the City (the "City Council") at the meeting at which this Resolution has been
2 adopted; and

3 **WHEREAS**, pursuant to the Lease, the City will grant a security interest in certain equipment
4 owned or to be acquired by the City (the "Equipment") to the Lender in consideration for the Lender's
5 financing such Equipment in an amount not to exceed \$21,500,000, and the City will lease the
6 Equipment from the Lender and pay certain rental payments in connection therewith;

7 **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OCEANSIDE**
8 **HEREBY FINDS, DETERMINES, RESOLVES, AND ORDERS AS FOLLOWS:**

9 **Section 1. Recitals.** The City Council does hereby find and declare that the above recitals
10 are true and correct.

11 **Section 2. Financing Proposal.** The City Council hereby selects the Lender and approves
12 the terms set forth in the Financing Proposal, subject to adjustments and modifications to such terms
13 approved by any of the Authorized Officers (defined below) consistent with the authority set forth in
14 this Resolution. The City Council finds that funds for the repayment of the financing provided under
15 the Lease are projected to be available from revenues resulting from sales of electricity or thermal
16 energy from the Equipment and/or from funding that otherwise would have been used for purchase of
17 electrical, thermal, or other energy required by the City in the absence of the Equipment.

18 **Section 3. Approval of Lease.** The form of the Lease presented to this meeting and on
19 file with the City Clerk is hereby approved; provided that the maximum principal amount of all rental
20 payments pursuant to the Lease shall not exceed \$21,500,000, the interest rate on the principal
21 component of the rental payments shall not exceed 4.50% (except in the case of any increase due to a
22 late payment, a default or an event of taxability), and the term of the lease shall not exceed 21 years.
23 Each of the Mayor of the City, or such member of the City Council as the Mayor may designate, the
24 City Manager of the City, the Financial Services Director of the City, and their authorized designees
25 (collectively, the "Authorized Officers") is hereby authorized for and in the name of the City to execute
26 the Lease in substantially the form on file with the City Clerk, with such additions thereto and changes
therein as are recommended or approved by Stradling Yocca Carlson & Rauth LLP, as Special Counsel

1 (“Special Counsel”), the City Attorney, and the Authorized Officers executing the same. Approval of
2 such changes shall be conclusively evidenced by the execution and delivery of the Lease by such
3 Authorized Officers. Each of the Authorized Officers is hereby authorized to execute, acknowledge
4 and deliver any and all documents required to consummate the transaction contemplated by the Lease.
5 The City reasonably expects, and hereby states its intention, to reimburse itself from proceeds of the
6 Lease for Project costs incurred prior to the execution and delivery of the Lease.

7 **Section 4. Approval of Escrow Agreement.** The form of Escrow Agreement (the
8 “Escrow Agreement”) by and among the Lender, the City, and U.S. Bank National Association, as
9 escrow agent, presented to this meeting and on file with the City Clerk, is hereby approved. Each of
10 the Authorized Officers is hereby authorized for and in the name of the City to execute the Escrow
11 Agreement in substantially the form on file with the City Clerk, with such additions thereto and changes
12 therein as are recommended or approved by Special Counsel, the City Attorney and the Authorized
13 Officers executing the same, including without limitation selection of a different or replacement escrow
14 agent. Approval of such changes shall be conclusively evidenced by the execution and delivery of the
15 Escrow Agreement by such Authorized Officers. Each of the Authorized Officers is hereby authorized
16 to execute, acknowledge and deliver any and all documents required to consummate the transactions
17 contemplated by the Escrow Agreement.

18 **Section 5. Attestations.** The City Clerk or other appropriate City officer is hereby
19 authorized and directed to attest the signature of the Authorized Officers or of such other person or
20 persons as may have been designated by the Authorized Officers and to affix and attest the seal of the
21 City, as may be required or appropriate in connection with the execution and delivery of the Lease and
22 Escrow Agreement.

23 **Section 6. Other Actions.** Each of the Authorized Officers is hereby authorized, jointly
24 and severally, to do any and all things and to execute and deliver any and all documents which they
25 may deem necessary and advisable in order to consummate the entry into of the Lease and the Escrow
26 Agreement and otherwise effectuate the purposes of this Resolution, including without limitation
negotiation, execution and delivery of an alternative form of escrow agreement with another escrow

1 agent selected by the Authorized Officer executing the same. All actions heretofore taken by the
2 Authorized Officers with respect to the Lease and Escrow Agreement, or in connection with or related
3 to any of the agreements or documents referenced herein or therein, are hereby approved, confirmed
4 and ratified.

5 **Section 7. Good Faith Estimates.** The City Council acknowledges that the good faith
6 estimates required by Section 5852.1 of the California Government Code are attached hereto as
7 Attachment A and are available to the public at the meeting at which this Resolution is approved. The
8 City Council hereby finds that the requirements of Section 5852.1 have been satisfied.

9 **Section 8. Appointment of Authorized Lessee Representatives.** The Authorized
10 Officers are each hereby designated to act as authorized representatives of the City, as lessee, for
11 purposes of the Lease and Escrow Agreement until such time as the City Council designates any other
12 or different authorized representative for purposes of the Lease and Escrow Agreement.

13 **Section 9. Appointment of Professionals.** Stradling Yocca Carlson & Rauth LLP is
14 hereby appointed to serve as Special Counsel and Urban Futures, Inc., is hereby appointed to serve as
15 Municipal Advisor in connection with the transaction contemplated by this Resolution, including
16 without limitation the execution and delivery of the Lease and the Escrow Agreement. The Authorized
17 Officers are (and each of them is) authorized to enter into such professional services agreements or
18 amendments or addenda to the existing professional services agreements with such professionals, as
19 are necessary to provide for such services, and all actions heretofore taken by the Authorized Officers
20 in furtherance thereof are hereby approved, confirmed and ratified.

21 **Section 10.** This Resolution shall be effective upon its adoption.

22 **PASSED AND ADOPTED** by the City Council of the City of Oceanside, California, this __ th
23 day of January, 2024 by the following vote:
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AYES:

NAYS:

ABSENT:

ABSTAIN:

MAYOR OF THE CITY OF OCEANSIDE

ATTEST:

APPROVED AS TO FORM:

City Clerk

John P. Mueller
City Attorney

1 ATTACHMENT A

2 GOOD FAITH ESTIMATES

3
4 The good faith estimates set forth herein are provided with respect to the financing of the
5 Equipment pursuant to the Lease (the "Financing") in accordance with California Government Code
6 Section 5852.1. Such good faith estimates have been provided to the City by Urban Futures, Inc., as
7 municipal advisor to the City (the "Municipal Advisor"), each with respect to the Financing.

8 **Principal Amount.** The Municipal Advisor has informed the City that, based on the City's
9 financing plan and current market conditions, its good faith estimate of the aggregate principal amount
10 of the Financing is \$21,000,327 (the "Estimated Principal Amount").

11 **True Interest Cost of the Financing.** The Municipal Advisor has informed the City that,
12 assuming the Estimated Principal Amount, and based on the current market interest rates at the time of
13 preparation of such estimate, its good faith estimate of the true interest cost of the Financing, which
14 means the rate necessary to discount the amounts payable on the respective principal and interest
15 payment dates to the purchase price received for the Financing, is 3.99%.

16 **Finance Charge of the Financing.** The Municipal Advisor has informed the City that,
17 assuming the Estimated Principal Amount, and based on the interest rate bid provided by TD
18 Equipment Finance, Inc., at the time of preparation of such estimate, its good faith estimate of the
19 finance charge for the Financing, which means the sum of all fees and charges paid to third parties (or
20 costs associated with the Financing), is \$90,000.

21 **Amount of Proceeds to be Received.** The Municipal Advisor has informed the City that,
22 assuming the Estimated Principal Amount, and based on the interest rate bid provided by TD
23 Equipment Finance, Inc., at the time of preparation of such estimate, its good faith estimate of the
24 amount of proceeds expected to be received by the City, less the finance charge of the Financing, as
25 estimated above, is \$20,910,327.
26

1 **Total Payment Amount.** The Municipal Advisor has informed the City that, assuming the
2 Estimated Principal Amount, and based on the interest rate bid provided by TD Equipment Finance,
3 Inc., at the time of preparation of such estimate, its good faith estimate of the total payment amount,
4 which means the sum total of all payments the City will make to pay debt service on the Financing,
5 plus the finance charge for the Financing, as described above, not paid with the proceeds of the
6 Financing, calculated to the final maturity of the Financing, is \$30,880,747.

7 The foregoing estimates constitute good faith estimates only. The actual principal amount of
8 the Financing, the true interest cost thereof, the finance charges thereof, the amount of proceeds
9 received therefrom and total payment amount with respect thereto may differ from such good faith
10 estimates due to (a) the actual closing date being different than the date assumed for purposes of such
11 estimates, (b) the actual original principal amount being different from the Estimated Principal
12 Amount, (c) the actual debt service payments on the Financing being different than the debt service
13 payments assumed for purposes of such estimates, (d) the actual interest rate being different than the
14 interest rate estimated for purposes of such estimates, (e) other market conditions, or (f) alterations in
15 the City's financing plan, or a combination of such factors. The actual closing date of the Financing
16 and the actual principal amount will be determined by the City based on the timing of the need for
17 proceeds and other factors. Market interest rates are affected by economic and other factors beyond
18 the control of the City.

LEASE PURCHASE AGREEMENT

This Lease Purchase Agreement (this "Agreement"), dated as of January , 2024 is made and entered into by and between **TD EQUIPMENT FINANCE, INC.**, and its successors and permitted assigns ("Lessor"), and the **City of Oceanside**, a California municipal corporation and charter City ("Lessee").

RECITALS

WHEREAS, Lessee desires to lease and acquire from Lessor the Equipment (as defined herein) subject to the terms and conditions hereof;

WHEREAS, Lessee is authorized under the constitution and laws of the State of California (the "State") to enter into this Agreement for the purposes set forth herein;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and in consideration of the premises hereinafter contained, the parties hereby agree as follows:

ARTICLE I LEASE, FUNDING AND ACQUISITION OF EQUIPMENT

Section 1.01 Lease. Lessor hereby agrees to sell, transfer and lease to Lessee, and Lessee hereby agrees to acquire, purchase and lease from Lessor the property described in the Equipment Schedule attached as Schedule 1 hereto and incorporated by reference herein, upon the terms and conditions set forth herein, together with all attachments, additions, accessions, parts, repairs, improvements, replacements and substitutions thereto (the "Equipment").

Section 1.02 Funding. Upon satisfaction (or waiver by Lessor) of the conditions set forth in Section 1.03, Lessor will cause an amount necessary to pay all or a portion of the costs to acquire and install the Equipment and certain costs related to the execution and delivery of this Agreement as specified in the Payment Schedule attached as Schedule 2 hereto and incorporated by reference herein (the "Funding Amount") to be deposited into the escrow fund created under that certain Escrow Agreement dated as of even date herewith (the "Escrow Agreement"), among Lessor, Lessee and U.S. Bank National Association, as escrow agent (the "Escrow Agent"). As used herein, "Closing Date" means the date of Lessor's payment of the Funding Amount.

Section 1.03 Conditions Precedent. Lessor's payment of the Funding Amount and the performance by Lessor of any of its obligations hereunder, are subject to the satisfaction the following:

(a) Lessor has received all of the following documents, which shall be reasonably satisfactory, in form and substance, to Lessor:

- (i) the Escrow Agreement duly executed by Lessee and the Escrow Agent;
- (ii) a certified copy of the resolution, ordinance or other required official action by Lessee's governing body, duly authorizing the execution and delivery of this Agreement and the Escrow Agreement and the performance by Lessee of its obligations hereunder and thereunder, substantially in the form attached hereto as Exhibit A or otherwise satisfactory to Lessor;
- (iii) an incumbency certificate for the authorized official(s) of Lessee executing this Agreement, the Escrow Agreement and any related certificates, documents and instruments, dated the Closing Date and substantially in the form attached hereto as Exhibit B or otherwise satisfactory to Lessor;
- (iv) evidence of insurance coverage or self-insurance as required by Article V;
- (v) an opinion of counsel to Lessee, dated the Closing Date and substantially in the form attached hereto as Exhibit C or otherwise satisfactory to Lessor;
- (vi) an opinion of qualified bond counsel or special tax counsel to Lessee as to the valid execution and delivery of this Agreement and excludability of the interest payable hereunder from gross income for federal income tax purposes, addressed to Lessor and dated the Closing Date;

- (vii) a properly completed and executed IRS Form 8038-G;
- (viii) Uniform Commercial Code financing statement(s) and any other documents required by Lessor to secure its interest in the Equipment and any other collateral with respect to this Agreement;
- (ix) waivers of third parties holders of interests in the real property where the Equipment will be located, as Lessor may deem necessary;
- (x) a performance contract between Lessee and the energy service contract or similar vendor engaged by Lessee (the "Energy Services Company") to install the Equipment (the "Performance Contract"), executed by Lessee and the Energy Services Company;
- (xi) copies of payment and performance bonds as required by Section 5.03; and
- (xii) such other documents as may be reasonably requested by Lessor.

Section 1.04 Delivery, Installation and Acceptance of Equipment. Lessee shall order the Equipment, cause the Equipment to be delivered and installed at the location(s) specified in Equipment Schedule attached hereto and shall pay all taxes, delivery costs and installation costs, if any, in connection therewith. The Funding Amount shall be disbursed as provided in the Escrow Agreement. When the Equipment is delivered, installed and accepted, Lessee shall promptly deliver to Lessor an Acceptance Certificate, executed by an authorized official of Lessee, in the form attached hereto as Exhibit D. The insufficiency of the Funding Amount to pay all costs of the Equipment and any other costs related thereto shall not affect Lessee's obligations under this Section 1.04.

ARTICLE II TERM; RENTAL PAYMENTS

Section 2.01 Term. The term of this Agreement (the "Lease Term") shall commence on the Closing Date and shall continue until the end of the current fiscal year of Lessee (the "Original Term"); provided that the Lease Term may be continued, at the option of Lessee, at the end of the Original Term or any renewal term of this Agreement, each having a duration of one year and a term coextensive with Lessee's fiscal year or such earlier date specified in the Payment Schedule attached hereto (each a "Renewal Term"), up to the maximum Lease Term set forth in the Payment Schedule. At the end of the Original Term and at the end of each Renewal Term until the maximum Lease Term has been completed, Lessee shall be deemed to have exercised its option to continue each this Agreement for the next Renewal Term, unless sooner terminated pursuant to this Agreement.

Section 2.02 Rental Payments. Lessee agrees to pay the rental payments in the amounts (the "Rental Payments") and on the dates (each a "Payment Date") as specified in the Payment Schedule. A portion of each Rental Payment is paid as interest and the balance is paid as principal, as specified in the Payment Schedule. All Rental Payments shall be paid to Lessor, at such place as Lessor may from time to time designate by written notice to Lessee. Lessee shall pay the Rental Payments in lawful money of the United States of America from moneys legally available therefor.

Section 2.03 Current Expense. The obligations of Lessee hereunder, including its obligation to pay the Rental Payments due in any fiscal year shall constitute a current expense of Lessee for such fiscal year and shall not constitute an indebtedness of Lessee within the meaning of the Constitution and laws of the State. THE RENTAL PAYMENTS ARE TO BE MADE ONLY FROM LESSEE'S LEGALLY AVAILABLE FUNDS APPROPRIATED ON AN ANNUAL BASIS, AND NEITHER LESSEE, THE STATE, NOR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF SHALL BE OBLIGATED TO PAY ANY SUMS DUE HEREUNDER FROM THE COMPELLED LEVY OF AD VALOREM OR OTHER TAXES EXCEPT FROM THOSE LEGALLY AVAILABLE FUNDS APPROPRIATED BY LESSEE ON AN ANNUAL BASIS. Nothing herein shall constitute a pledge by Lessee of the full faith and credit or taxing power of Lessee. The Lessee official in charge of preparing Lessee's budget will include in the budget request for each fiscal year the Rental Payments to become due during such fiscal year and recommend to the City Council approval of such payments. Lessor acknowledges that appropriation for Rental Payments is a governmental function which Lessee cannot contractually commit itself in advance to perform. Lessee reasonably believes that moneys in an amount sufficient to make all Rental Payments can and will lawfully be appropriated and made available to permit Lessee's continued utilization of the Equipment in the performance of its essential functions during the Lease Term.

Section 2.04 Nonappropriation. If during the then current fiscal year of Lessee, sufficient funds are not appropriated to pay the Rental Payments required hereunder for the following fiscal year (an "Event of Nonappropriation"), Lessee shall be deemed not to have renewed this Agreement for the following fiscal year, and this Agreement shall terminate at the end of the then current fiscal year, and Lessee shall not be obligated to pay Rental Payments beyond the then current fiscal year for which funds have been appropriated. Upon an Event of Nonappropriation, Lessee shall return the Equipment to Lessor in accordance with the requirements of Section 10.03. Lessee shall notify Lessor in writing no later than 30 days following an Event of Nonappropriation, but failure to provide such notice shall not operate to extend the Lease Term. If Lessee fails to return the Equipment or otherwise comply with Section 10.03, the termination shall nevertheless be effective, but Lessee shall be responsible for the payment of an amount equal to the Rental Payments that would thereafter have come due if this Agreement had not been terminated and which are attributable to the number of days after which Lessee fails to comply with Lessor's instructions and for any other loss suffered by Lessor as a result of Lessee's failure to take such actions as required hereunder. In addition, upon an Event of Nonappropriation, Lessor may, direct the Escrow Agent to release to Lessor any portion of the Funding Amount and any earnings thereon remaining on deposit in the escrow fund established under the Escrow Agreement.

Section 2.05 Unconditional Rental Payments. Subject to Sections 2.01, 2.03 and 2.04 hereof: (a) Lessee's obligation to make Rental Payments and any other payments hereunder shall be absolute and unconditional; (b) Lessee shall make such payments when due and shall not withhold any of such payments pending final resolution of any disputes; and (c) Lessee shall not assert any right of set-off or counterclaim against its obligation to make the Rental Payments or other payments hereunder and such payments shall not be abated due to any accident, unforeseen circumstances, failure of the Equipment to perform as desired, damage or destruction to the Equipment, loss of possession of the Equipment or obsolescence of the Equipment, failure to realize any energy savings with respect to the Equipment, disputes with the Energy Services Company or other manufacturer(s) or operation and maintenance provider(s) of the Equipment or any provider(s) of any energy savings guarantee related to the Equipment, failure of the Energy Services Company under the Performance Contract to deliver any Equipment or to perform any of its obligations thereunder for whatever reason, including bankruptcy, insolvency, reorganization or any similar event with respect to the Energy Services Company, or the failure or inability (for whatever reason) of Lessee to receive (or delay in receipt of) all or any portion of any rebate or any payment for guaranteed energy savings by the Energy Services Company under the Performance Contract; and (e) Lessee shall be obligated to continue to make payments required under this Agreement if temporary use of the Equipment or any part thereof shall be taken under exercise of the power of eminent domain.

ARTICLE III PURCHASE AND PREPAYMENT

Section 3.01 End of Lease Term. Lessee shall have the option to purchase all of the Equipment upon the expiration of the Lease Term and payment in full of all Rental Payments then due and all other amounts then owing hereunder, and the payment of \$1.00 to Lessor.

Section 3.02 Optional Prepayment. Lessee shall have the option to prepay its obligations hereunder in whole, but not in part (except as provided in Section 3.03 hereof), on any Payment Date. Lessee shall give written notice to Lessor of its intention to exercise its option not less than thirty (30) days prior to the Payment Date on which the option will be exercised and shall pay to Lessor not later than such Payment Date an amount equal to all Rental Payments and any other amounts then due or past due hereunder, including the Rental Payment due on the Payment Date on which the option shall be effective, and the applicable Purchase Price set forth in the Payment Schedule attached hereto (the "Purchase Price").

Section 3.03 Mandatory Prepayment from Excess Funding Amount. ~~Any portion of the Funding Amount not applied to the costs of the Equipment and remaining in the escrow fund established under the Escrow Agreement on the earlier of (a) the expiration of the Escrow Period (as defined in the Payment Schedule) and (b) the date on which Lessee executes the final Acceptance Certificate, shall be applied by Lessor on any Rental Payment date to all or a portion of the Rental Payment due and owing in the succeeding twelve (12) months and any remaining amounts shall be applied by Lessor as prepayment to the remaining principal balance owing hereunder, without premium, to be applied pro-rata to reduce the remaining annual Rental Payments.~~

(a) Any portion of the Funding Amount not applied to the costs of the Equipment and remaining in the escrow fund established under the Escrow Agreement on the earlier of (i) the expiration of the Escrow Period (as defined in the Payment Schedule) and (ii) the date on which Lessee executes the final Acceptance Certificate, shall be applied by Lessor on any Rental Payment date to all or a portion of the Rental Payments due and owing in the succeeding twelve (12) months and any remaining amounts shall be applied by Lessor as prepayment to the remaining principal balance owing hereunder in the inverse order of Rental Payment dates, without premium.

(b) Lessee may exercise a one-time principal paydown within twenty-four (24) months of the Closing Date if Lessee determines that the required approvals for the Equipment related to the harbor project may not be obtained. Upon Lessor's written receipt of a Joint Written Direction from Lessee directing Lessor to apply the portion the Funding Amount related to such Equipment on any Rental Payment date to pay down the principal balance owing hereunder, without premium, Lessor will provide an updated Schedule 2 to this Agreement with the re-amortization of Rental Payments acceptable to both parties starting with next Rental Payment Date.

Section 3.04 Release of Lessor's Interest. Upon timely receipt of all amounts required for the purchase of the Equipment pursuant to Section 3.01 or Section 3.02, this Agreement shall terminate, all of Lessor's security interest in the Equipment shall terminate, and Lessor shall deliver to Lessee all such documents and instruments as Lessee may reasonably request to evidence the termination of this Agreement and Lessor's security interest in the Equipment, without warranty by or recourse to Lessor.

ARTICLE IV REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 4.01 Representations and Warranties of Lessee. Lessee represents and warrants to Lessor as of the Closing Date as follows:

(a) Lessee is a political subdivision of the State within the meaning of Section 103(c) of the Internal Revenue Code of 1986, as amended (the "Code"), duly organized and existing under the Constitution and laws of the State, and is authorized under the Constitution and laws of the State to enter into this Agreement and the transactions contemplated hereby, and to perform all of its obligations under this Agreement.

(b) The execution and delivery of this Agreement have been duly authorized by all necessary action of Lessee's governing body and such action is in compliance with all public bidding and other State and federal laws applicable to this Agreement and the acquisition and financing of the Equipment by Lessee.

(c) This Agreement has been duly executed and delivered by and constitutes the valid and binding obligation of Lessee, enforceable against Lessee in accordance with its terms.

(d) The execution, delivery and performance of this Agreement by Lessee does not (i) violate any State or federal law or local law or ordinance, or any order, writ, injunction, decree, or regulation of any court or other governmental agency or body applicable to Lessee, or (ii) conflict with or result in the breach or violation of any term or provision of, or constitute a default under, any note, bond, mortgage, indenture, agreement, deed of trust, lease or other obligation to which Lessee is bound.

(e) There is no action, suit, proceeding, claim, inquiry or investigation, at law or in equity, before or by any court, regulatory agency, public board or body pending or, to the best of Lessee's knowledge, threatened against or affecting Lessee, challenging Lessee's authority to enter into this Agreement or any other action wherein an unfavorable ruling or finding would adversely affect the enforceability of this Agreement.

(f) Lessee or Lessee's governing body has appropriated and/or taken other lawful actions necessary to provide moneys sufficient to pay all Rental Payments during Lessee's current fiscal year, and such moneys will be applied in payment of all Rental Payments due and payable during such current fiscal year.

(g) Lessee has an immediate need for, and expects to make immediate use of, the Equipment, which need is not temporary or expected to diminish during the Lease Term.

(h) Lessee is the fee owner of the real estate where the Equipment is and will be located and has good and marketable title thereto, and there exists no mortgage, pledge, lien, security interest, charge or other claim or encumbrance of any nature whatsoever (each, a "Lien") on or with respect to such real estate, except for Permitted Encumbrances. As used herein, "Permitted Encumbrances" means, at any time, with respect to the real estate in, on or to which any Equipment is or will be located (collectively, the "Property"): (a) this Agreement and Lessor's security interest in the Equipment; (b) the interests represented by any lease-leaseback arrangements entered into by the City for financing purposes; (c) any lease, mortgage, lien or other encumbrance or sale/leaseback or lease/leaseback arrangement that is recorded against or encumbers all or any portion of the Property from time to time in the future. Notwithstanding anything to the contrary set forth in this Agreement, the City shall have the full right and authority to lease, sublease, lease-purchase, and otherwise grant and accept leasehold interests in any portion of the Property for financing purposes.

(i) The estimated total costs of the Equipment will not be less than the Funding Amount; (ii) the Equipment has been ordered or is expected to be ordered within six months after the Closing Date and the Equipment will be delivered and installed, and the Vendor fully paid, within 18 months from the Closing Date; (iii) Lessee will pursue the acquisition of the Equipment and the expenditure of the Funding Amount with due diligence; (iv) no sinking, debt service, reserve or similar fund will be maintained by Lessee with respect to the Rental Payments or pledged as security therefor; (v) the Equipment has not been and is not expected to be sold or otherwise disposed of by Lessee, either in whole or in major part, prior to the last Payment Date; (vi) there are no other obligations of Lessee which are being sold within 15 days of the Closing Date or are being sold pursuant to the same plan of financing as this Agreement, and are expected to be paid from substantially the same source of funds; (vii) Lessee made a declaration of its intention to reimburse the costs of the Equipment to be reimbursed with the Funding Amount not later than 60 days after the date on which payment is made; (viii) the officer or official who has executed this Agreement on Lessee's behalf is familiar with Lessee's expectations regarding the use and expenditure of the Funding Amount; and (ix) the facts and estimates set forth in this paragraph are accurate and the expectations of Lessee set forth in this paragraph are reasonable.

(j) None of this Agreement, Lessee's financial statements furnished to Lessor, or any other agreement, document, certificate or written statement furnished to Lessor by or on behalf of Lessee in connection with the transactions contemplated by this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein or therein not misleading in any material respect. There is no fact that Lessee has not disclosed in writing to Lessor that would cause a material adverse change in the business, assets, operations or condition, financial or otherwise, of Lessee.

Section 4.02 Tax Covenants.

(a) [Lessee covenants and agrees that it will (i) comply with all provisions of the Code and the Treasury Department regulations applicable to establishing and maintaining the excludability of the interest component of the Rental Payments from federal gross income pursuant to Section 103 of the Code; (ii) not permit the Equipment to be directly or indirectly used for a private business use within the meaning of Section 141 of the Code including, without limitation, use by private persons or entities pursuant to contractual arrangements which do not satisfy Internal Revenue Service ("IRS") guidelines for permitted management contracts, as the same may be amended from time to time; (iii) invest and reinvest moneys related to this Agreement from time to time in a manner that will not cause this Agreement to be classified as an "arbitrage bond" within the meaning of Section 148(a) of the Code; (iv) rebate an amount equal to excess earnings on invested proceeds of this Agreement to the federal government if required by, and in accordance with, Section 148(f) of the Code and make the determinations and maintain the records required by the Code; and (v) complete and timely file an IRS Form 8038-G with the IRS in accordance with Section 149(e) of the Code.]

(b) If Lessor either (i) receives notice, in any form, from the IRS; or (ii) reasonably determines, based on an opinion of independent tax counsel selected by Lessor and reasonably acceptable to Lessee, that Lessor may not exclude the interest component of any Rental Payment from gross income for federal income tax purposes, then Lessee shall pay to Lessor, within thirty (30) days after Lessor notifies Lessee of such determination, the amount which, with respect to Rental Payments previously paid and taking into account all penalties, fines, interest and additions to tax (including all federal, state and local taxes imposed on the interest component of all Rental Payments due through the date of such event) that are imposed on Lessor as a result of the loss of the exclusion, will restore to Lessor the same after tax yield on the transaction evidenced by this Agreement (assuming tax at the

highest marginal corporate tax rate) that it would have realized had the exclusion not been lost. Additionally, Lessee agrees that upon the occurrence of such an event, it shall pay additional rent to Lessor on each succeeding Payment Date an amount that will maintain such after tax yield to Lessor. Lessor's determination of the amount necessary to maintain its after-tax yield as provided in this Section 4.02(b) shall be conclusive (absent manifest error).

Section 4.03 Representations and Warranties of Lessor.

(a) The Lessor is a Qualified Institutional Buyer as defined in Rule 144A promulgated under the Securities Act of 1933, as amended or an "accredited investor" as defined in Rule 501 of Regulation D promulgated under the Securities Act of 1933, as amended. The Lessor has such knowledge and experience in financial and business matters in general, and in transactions such as the financial arrangements contemplated by this Agreement in particular, that it is capable of evaluating and has evaluated the merits and risks of entering into the financial arrangements contemplated by this Agreement and the Lessor understands the risks of entering into this Agreement with Lessee.

(b) The Lessor has conducted its own investigation of the financial condition of the Lessee, the purpose for which this Agreement is being entered into and of the security for payment of the Rental Payments due under this Agreement, and has obtained such information regarding this Agreement and the Lessee and its operations, financial condition and financial prospects as the Lessor deems necessary to make an informed lending decision with respect to its acquisition of this Agreement. The Lessor acknowledges that no official statement, offering memorandum or other disclosure document is being provided by the Lessee or Lessor in connection with this Agreement.

(c) The Lessor is entering into this Agreement for its own account and without a present intention to sell any portion hereof to any other person, provided that the Lessor retains the right at any time to dispose of this Agreement or any interest therein as it may determine to be in its best interests, provided further that any subsequent assignment or transfer of any interest in this Agreement or the Rental Payments shall be made only in accordance with the restrictions on transferability and resale set forth in Section 9.01 of this Agreement.

(d) The Lessor acknowledges and agrees that the obligation of the Lessee to pay Rental Payments in each Fiscal Year under this Agreement shall constitute a current expense of the Lessee for such Fiscal Year, subject to appropriation by Lessee's governing board, and shall not in any way be construed to be a debt of the Lessee in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by the Lessee, nor shall anything contained in this Agreement constitute a pledge of the full faith and credit or taxing power of the Lessee.

ARTICLE V INSURANCE

Section 5.01 Liability and Property Insurance. Lessee shall, at its own expense, procure and maintain continuously in effect during the Lease Term: (a) public liability insurance for death or injuries to persons, or damage to property arising out of or in any way connected to the Equipment sufficient to protect Lessor and its assigns from liability in all events, with a coverage of not less than \$1,000,000 per occurrence, and (b) insurance against such hazards as Lessor may require (provided that City is not required to provide flood or earthquake coverage), including, but not limited to, all-risk casualty and property insurance, in an amount equal to the greater of the full replacement cost of the Equipment or the applicable Purchase Price.

Section 5.02 Insurance Requirements. All insurance policies required by Section 5.01 shall be taken out and maintained with insurance companies rated not less than "A" by A.M. Best Company and otherwise acceptable to Lessor and shall contain a provision that thirty (30) days prior to any change in the coverage (including cancellation) the insurer must provide written notice to the insured parties. No insurance shall be subject to any co-insurance clause. Each liability insurance policy shall be endorsed to name Lessor and its assigns as an additional insured party and each casualty and property insurance policy shall be endorsed to name Lessor and its assigns as lender's loss payee, in each case regardless of any breach of warranty or other act or omission of Lessee. Lessee may self-insure against the risks described in Section 5.01 with the prior written consent of Lessor.

Section 5.03 Surety Bonds. Lessee shall secure from the Energy Services Company, a payment and performance bond issued by a surety company authorized to do business in the State, rated not less than "A" by A.M. Best Company and otherwise satisfactory to Lessor in a sum equal to the entire amount to become payable under the Performance Contract.

ARTICLE VI ADDITIONAL OBLIGATIONS

Section 6.01 Use and Maintenance of Equipment. Lessee shall, at its own expense, maintain the Equipment in good condition and proper working order, and shall make all necessary repairs and replacements to keep the Equipment in such condition. The Equipment will be used by Lessee only for the purpose of performing Lessee's essential governmental functions. Lessee shall not install, use, operate or maintain the Equipment improperly, carelessly, in violation of any manufacturer's guidelines or in violation of any applicable law or regulation or in a manner contrary to that contemplated by this Agreement. Lessee shall obtain and maintain all permits and licenses necessary for the installation and operation of the Equipment. Lessee shall have sole responsibility to maintain and repair the Equipment. Lessee shall keep (or in the case of Equipment constituting motor vehicles, house) the Equipment at the address specified in the Equipment Schedule attached hereto; provided that Lessee may change the location at which any Equipment is kept (or housed) with thirty (30) days prior written notice to Lessor specifying the address of the new location. Lessee shall provide Lessor access at all reasonable times to examine and inspect the Equipment and provide Lessor with such access to the Equipment as may be reasonably necessary to perform maintenance on the Equipment in the event of failure by Lessee to perform its obligations hereunder. If Lessor reasonably determines that Lessee is not maintaining any of the Equipment in accordance with this Section 6.01, Lessor may (in addition to any other remedies it may have) require Lessee to enter into maintenance contracts for such Equipment in form approved by Lessor and with approved providers.

Section 6.02 Taxes. Lessee shall pay all taxes, assessments and other charges which are assessed or levied against the Equipment or any part thereof, during the Lease Term, whether assessed against Lessee or Lessor. With respect to any taxes or charges that may lawfully be paid in installments over a period of years, Lessee shall be obligated to pay only such installments as accrue during the then current fiscal year of the Lease Term.

Section 6.03 Modification of Equipment. Lessee will not, without the prior written consent of Lessor, affix or install any accessory equipment or device on any of the Equipment if such addition will adversely affect the originally intended value, function or use of the Equipment.

Section 6.04 Liens. Lessee shall not, directly or indirectly, create, incur, assume or suffer to exist any Lien with respect to the Equipment other than the respective rights of Lessor and Lessee as herein provided, except for Permitted Encumbrances. Lessee shall promptly, at its own expense, take such actions as may be necessary duly to discharge or remove any such Lien if the same shall arise at any time. Notwithstanding anything to the contrary set forth in this Agreement, the City shall have the full right and authority to lease, sublease, lease-purchase, and otherwise grant and accept leasehold interests in any portion of the Property for financing purposes.

Section 6.05 Reporting. Lessee shall deliver to Lessor (i) its annual audited financial statements within 210 days after the end of each fiscal year, (ii) its annual budget for each fiscal year promptly following approval thereof, including written evidence that the Rental Payments for such fiscal year have been appropriated, (iii) financial statements and information relating to the ability of Lessee to satisfy its obligations under this Agreement as may be reasonably requested by Lessor from time to time, and (iv) to provide any annual measurement and verification (M&V) reports provided to the City under the entire Performance Contract within 30 days of receipt from the Energy Services Company.

Section 6.06 Advances. If Lessee shall fail to perform any of its obligations under Section 6.01, Section 6.02 or Section 6.04, or shall fail to maintain the insurance required by Article V, Lessor may (but shall not be required to) take such action to cure such failure, including the advancement of money, and Lessee shall be obligated to repay all such advances on demand, with interest at the Default Rate (as defined herein), from the date of the advance to the date of repayment.

Section 6.07 Filing of Agreement. In connection with the Lessee's compliance with any continuing disclosure undertakings (each, a "Continuing Disclosure Agreement") entered into by the Lessee pursuant to SEC Rule 15c2-12 promulgated pursuant to the Securities and Exchange Act of 1934, as amended (the "Rule"), the Lessee may be required to file with the Municipal Securities Rulemaking Board's Electronic Municipal Market Access system, or its successor ("EMMA"), notice of its incurrence of its obligations under the Related Documents and notice of any accommodation, waiver, amendment, modification of terms or other similar events reflecting financial difficulties in connection with the Related Documents, in each case including posting a full copy thereof or

a description of the material terms thereof (each such posting, an "EMMA Posting"). Except to the extent required by applicable law, including the Rule, the Lessee shall not file or submit or permit the filing or submission of any EMMA Posting that includes the following unredacted confidential information about the Lessor or its affiliates and the Escrow Agent in any portion of such EMMA Posting: address and account information of the Lessor or its affiliates and the Escrow Agent; e mail addresses, telephone numbers, fax numbers, names and signatures of officers, employees and signatories of the Lessor or its affiliates and the Escrow Agent; and the form of Disbursement Request that is attached to the Escrow Agreement. The Lessee acknowledges and agrees that the Lessor and its affiliates are not responsible for the Lessee's or any other entity's (including, but not limited to, any broker dealer's) compliance or noncompliance (or any claims, losses or liabilities arising therefrom) with the Rule, any Continuing Disclosure Agreement or any applicable securities or other laws, including but not limited to those relating to the Rule.

ARTICLE VII TITLE; SECURITY INTEREST; NO WARRANTIES BY LESSOR

Section 7.01 Title. During the Lease Term, legal title to all Equipment shall be in Lessee, subject to Lessor's interests under this Agreement. Upon the occurrence of an Event of Default or upon termination of this Agreement due to an Event of Nonappropriation, title shall immediately vest in Lessor, free and clear of any right, title or interest of Lessee.

Section 7.02 Security Interest. As security for Lessee's obligations to pay all Rental Payments and all other amounts due and payable and to perform and observe all covenants, agreements and conditions (direct or indirect, absolute or contingent, due or to become due or existing or hereafter arising) hereunder, Lessee hereby grants to Lessor a first priority, security interest in any and all of the Equipment (now existing or hereafter acquired), the escrow fund established under the Escrow Agreement and any and all proceeds of the foregoing. Lessee agrees to execute and deliver to Lessor all necessary documents to evidence and perfect such security interest, including, without limitation, Uniform Commercial Code financing statements and any amendments thereto and certificates of title or certificates of origin (or applications thereof) noting Lessor's interest thereon.

Section 7.03 Personal Property. To the extent authorized by Government Code Section 4217.18, Lessee agrees to characterize the Equipment as personal property and not fixtures.

Section 7.04 No Warranties. Lessee acquires and leases the Equipment "AS IS." Lessee acknowledges that Lessor did not manufacture the Equipment. Lessor does not represent the manufacturer, supplier, owner or dealer, and Lessee selected the Equipment based upon Lessee's own judgment. Lessor makes no warranties, express or implied, including warranties of merchantability or fitness for a particular purpose or otherwise or as to the Equipment's value, design, condition, use, capacity or durability. Lessee agrees that regardless of cause, Lessor is not responsible for, and Lessee will not make any claim against Lessor for, any damages, whether consequential, direct, special or indirect incurred by Lessee in connection with the Equipment. Neither the manufacturer, supplier or dealer nor any salesperson, employee or agent of the manufacturer, supplier or dealer is Lessor's agent or has any authority to speak for Lessor or to bind Lessor in any way. For and during the Lease Term, Lessor assigns to Lessee any manufacturer's or supplier's product warranties, express or implied, applicable to any Equipment and Lessor authorizes Lessee to obtain the customary services furnished in connection with such warranties at Lessee's sole expense. Lessee agrees that (a) all Equipment will have been purchased in accordance with Lessee's specifications from suppliers selected by Lessee, (b) Lessor is not a manufacturer or dealer of any Equipment and has no liability for the delivery or installation of any Equipment, (c) Lessor assumes no obligation with respect to any manufacturer's or supplier's product warranties or guaranties, (d) no manufacturer or supplier or any representative of said parties is an agent of Lessor, and (e) any warranty, representation, guaranty or agreement made by any manufacturer or supplier or any representative of said parties shall not be binding upon Lessor.

ARTICLE VIII RISK OF LOSS; CASUALTY

Section 8.01 Risk of Loss. As between Lessee and Lessor, Lessee bears the entire risk of loss, theft, damage or destruction of any Equipment in whole or in part for any reason whatsoever. No loss to the Equipment shall relieve Lessee from the obligation to make any Rental Payments or to perform any other obligation hereunder. Proceeds of any insurance recovery will be applied to Lessee's obligations under this Article VIII.

Section 8.02 Notice of Loss. If a casualty occurs to the Equipment, Lessee shall immediately notify Lessor of the same and Lessee shall, unless otherwise directed by Lessor, immediately repair the same.

Section 8.03 Application of Proceeds. If Lessor determines that any item of Equipment has suffered a casualty loss that is beyond repair, then Lessee shall either: (a) immediately replace such Equipment with similar equipment in good repair, condition and working order free and clear of any Liens and deliver to Lessor a purchase order, bill of sale or other evidence of sale to Lessee covering the replacement equipment, in which event such replacement equipment shall automatically be Equipment hereunder, or (b) on the next scheduled Payment Date, pay Lessor (i) all amounts owed by Lessee hereunder, including the Rental Payment due on such date, plus (ii) an amount equal to the applicable Purchase Price. If the net proceeds of any insurance are insufficient to pay in full the cost of any repair, restoration, modification or improvement of the Equipment, Lessee shall either (a) complete such replacement, repair, restoration, modification or improvement and pay any costs thereof in excess of the amount of available insurance proceeds, or (b) pay or cause to be paid to Lessor the amount of the then applicable Purchase Price for the Equipment. If Lessee makes any payments pursuant to this Section, Lessee shall not be entitled to any reimbursement therefor from Lessor nor shall Lessee be entitled to any diminution of the amounts payable under Article II.

Section 8.04 Claims and Expenses. Lessee shall bear the risk of loss for, shall pay directly and shall defend against any and all claims, liabilities, proceedings, actions, expenses (including reasonable attorney's fees), damages or losses arising under or related to any Equipment, including, but not limited to, the possession, ownership, lease, use or operation thereof. These obligations of Lessee shall survive any expiration or termination of this Agreement. Lessee shall not bear the risk of loss of, nor pay for, any claims, liabilities, proceedings, actions, expenses (including attorneys' fees), damages or losses which arise directly from events occurring after any Equipment has been returned by Lessee to Lessor in accordance with the terms hereof or which arise directly from the gross negligence or willful misconduct of Lessor.

ARTICLE IX ASSIGNMENT

Section 9.01 Assignment by Lessor.

(a) Lessor's interest in, to and under this Lease Agreement and the Equipment may be assigned and reassigned in whole or in part to one or more assignees by Lessor without the necessity of obtaining the consent of Lessee (except as provided in Section 9.01(b) below); and such assignment, transfer or conveyance shall be made only to (i) an affiliate of Lessor or (ii) banks, insurance companies, trusts, custodians or other financial institutions or their affiliates, but no such assignment, transfer or conveyance shall be effective as against Lessee unless and until Lessor has delivered to Lessee written notice thereof that discloses the name(s) and address(es) of the assignee(s) or the Lease Servicer (as hereafter provided). Nothing herein shall limit the right of Lessor or its assignees to sell, assign or grant participation interests in this Lease Agreement to one or more entities listed in (i) or (ii); provided that if such assignment is made pursuant to a participation, custodial or similar agreement under which multiple ownership interests in this Lease Agreement are created, it shall establish a single entity, owner, servicer or other fiduciary or agent to act on behalf of all of the holders of such participation interests (herein referred to as the "Lease Servicer") with respect to the rights and interests of such holders hereunder, including the exercise of rights and remedies thereunder upon the occurrence of an event of default, and further including the maintenance of a register by which a record of the names and addresses of such holders as of any particular time is kept and agrees, upon request of Lessee, to furnish such information to Lessee. Lessee will retain all notices of assignment as a register of all assignees and will make all payments to the assignee, assignees or Lease Servicer designated in such register. Lessee agrees to execute all documents, including notices of assignment and chattel mortgages or financing statements that may be reasonably requested by Lessor or any assignee to protect its interest in the Equipment and in this Lease Agreement and agrees to the filing of financing statements with respect to the Equipment and this Agreement. Lessee will not have the right to and will not assert against any assignee any claim, counterclaim, defense, set-off or other right Lessee may have against Lessor.

Section 9.02 (b) No assignment, transfer or conveyance permitted by this Section 9.01 shall be effective as against Lessee until Lessee shall have received a written notice of assignment that discloses the name and address of each such assignee, identifies the new sole Lease Servicer, if applicable, and a representation letter in substantially the form attached as Exhibit E attached hereto (the "Representation Letter"). Notices of assignment provided pursuant to this Section 9.01(b) shall contain a confirmation of compliance with the transfer requirements imposed by this Section 9.01. During the Lease Term, Lessee shall keep, or cause to be kept, a complete and accurate record of all such assignments in form necessary to comply with Section 149 of the Code. Lessee shall retain all such notices as a register of all assignees and shall make all payments to the Lease Servicer (for the benefit of the assignee or assignees, as the case may be) last designated in such register. Lessee shall not have the right to and shall not assert against any assignee any claim, counterclaim or other right Lessee may have against Lessor. Assignments in part may include without limitation assignment of all of Lessor's security interest in and to the Equipment and all rights in, to and under this Agreement related to such Equipment. Assignment and Subleasing by Lessee. Neither this Agreement nor the Equipment may be assigned, subleased, sold, transferred, pledged or mortgaged by Lessee.

ARTICLE X EVENTS OF DEFAULT; REMEDIES

Section 10.01 Events of Default. The occurrence of any of the following events shall constitute an Event of Default hereunder:

(a) Lessee's failure to pay any Rental Payment or other amount required to be paid to Lessor hereunder within ten (10) days following the due date thereof, other than by reason of an Event of Nonappropriation;

(b) Lessee's failure to maintain insurance as required herein;

(c) With the exception of the above clauses (a) or (b), Lessee's failure to perform or abide by any condition, agreement or covenant hereunder for a period of thirty (30) days after written notice by Lessor to Lessee specifying such failure and requesting that it be remedied, unless Lessor shall agree in writing to an extension of time prior to its expiration;

(d) Any statement, representation or warranty made by Lessee in this Agreement or in any writing delivered by Lessee pursuant hereto or in connection herewith proves at any time to have been false, misleading or erroneous in any material respect as of the time when made; or

(e) *Reserved*

(f) Lessee shall be in default under any other financing agreement executed at any time with Lessor or any Lessor affiliate; or

(g) A default by Lessee occurs under the Performance Contract and remains uncured after the expiration of applicable notice and cure periods set forth in the Performance Contract; or

(h) Lessee shall (i) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of Lessee, or of all or a substantial part of the assets of Lessee, (ii) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors, (iv) have an order for relief entered against it under applicable federal bankruptcy law, or (v) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any answer admitting the material allegations of a petition filed against Lessee in any bankruptcy, reorganization, moratorium or insolvency proceeding; or

(i) An order, judgment or decree shall be entered by any court of competent jurisdiction, approving a petition or appointing a receiver, trustee, custodian or liquidator for Lessee or of all or a substantial part of the assets of Lessee, in each case without its application, approval or consent, and such order, judgment or decree shall continue unstayed and in effect for any period of 30 consecutive days.

Section 10.02 Remedies on Default. Upon the occurrence of any Event of Default, Lessor shall have the right, at its option and without any further demand or notice to one or more or all of the following remedies:

(a) Lessor, with or without terminating this Agreement, may declare all Rental Payments payable hereunder to the end of the then-current fiscal year of Lessee to be immediately due and payable by Lessee, whereupon such Rental Payments shall be immediately due and payable;

(b) Lessor may terminate this Agreement and by written notice to Lessee direct Lessee to deliver the Equipment in the manner provided in Section 10.03. Lessor may thereafter dispose of the Equipment. If Lessor terminates this Agreement and disposes of any or all of the Equipment, Lessor shall apply the proceeds of any such disposition to pay the following items in the following order: (i) all costs and expenses (including, but not limited to, attorneys' fees) incurred in securing possession of the Equipment; (ii) all costs and expenses incurred in completing the disposition of the Equipment; (iii) any sales or transfer taxes incurred in the disposition of the Equipment; (iv) any Rental Payments payable hereunder to the end of the then-current fiscal year of Lessee; (v) the outstanding principal component of Rental Payments; and (vi) any other amounts then due hereunder. Any disposition proceeds remaining after the requirements of clauses (i), (ii), (iii), (iv), (v) and (vi) have been met shall be paid to Lessee. No deficiency shall be allowed against Lessee, except with respect to any unpaid Rental Payments to the end of the then-current fiscal year of Lessee and unpaid costs and expenses incurred by Lessor in connection with the repossession and disposition of the Equipment;

(c) By written notice to the Escrow Agent, Lessor may direct the Escrow Agent to release any portion of the Funding Amount and any earnings thereon to Lessor, such sums to be credited to payment of Lessee's obligations hereunder; and

(d) Lessor may exercise any other remedy available, at law or in equity, with respect to such Event of Default.

Section 10.03 Return of Equipment; Release of Lessee's Interest. Upon termination of this Agreement prior to the payment of all Rental Payments or the Purchase Price (whether as result of an Event of Nonappropriation or Event of Default), Lessee shall, within ten (10) days after such termination, at its own expense: (a) perform any testing and repairs required to place the related Equipment in the condition required by Section 6.01; (b) if deinstallation, disassembly or crating is required, cause the Equipment to be deinstalled, disassembled and crated by an authorized manufacturer's representative or such other service person as is satisfactory to Lessor; and (c) return the Equipment to a location in the State of California specified by Lessor, freight and insurance prepaid by Lessee. In addition, Lessee shall execute and deliver to Lessor such documents as Lessor may request to evidence the passage of such legal title to Lessor and the termination of Lessee's interest therein.

Section 10.04 Late Charge. To the extent permitted by applicable law, Lessee shall pay Lessor a charge on any Rental Payment or any other amount payable hereunder not paid on the date such payment is due at a rate equal to the interest rate set forth on the Payment Schedule, plus 5% per annum, or the maximum amount permitted by law, whichever is less (the "Default Rate"), from such date.

Section 10.05 No Remedy Exclusive. Each of the rights and remedies under this Agreement is cumulative and may be enforced separately or concurrently. No course of dealing or conduct between Lessor and Lessee shall be effective to amend, modify or change any provisions of this Agreement. No failure or delay by Lessor to insist upon the strict performance of any term, covenant or agreement of the Agreement, or to exercise any right, power or remedy consequent upon a breach thereof, shall constitute a waiver of any such term, covenant or agreement or of any such breach, or preclude Lessor from exercising any such right, power or remedy at any later time or times.

Section 10.06 Costs and Attorneys' Fees. Upon the occurrence of an Event of Default, Lessee agrees to pay to Lessor or reimburse Lessor for, in addition to all other amounts payable hereunder, all of Lessor's costs of collection, including reasonable attorneys' fees, whether or not suit or action is filed thereon. Any such costs shall be immediately due and payable upon written notice and demand given to Lessee, shall be secured by this Agreement until paid, and shall bear interest at the Default Rate commencing ten business days following the date written demand for payment of such costs is delivered to Lessee. In the event suit or action is instituted to enforce any of the terms of this Agreement, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorneys' fees at trial and on appeal of such suit or action or in any bankruptcy proceeding, in addition to all other sums provided by law.

ARTICLE XI MISCELLANEOUS PROVISIONS

Section 11.01 Notices. All notices, requests and other communications to either party hereunder shall be in writing and shall be given to such party at its address or telecopier number set forth on the signature pages hereof or such other address or telecopier number as such party may hereafter specify. Each such notice, request or other communication shall be effective (a) if given by certified mail, 72 hours after such communication is deposited with the United States Postal Service with first class postage prepaid, addressed as aforesaid or (b) if given by any other means, including e-mail or facsimile, when delivered at the address, email address or telecopier number specified on the signature pages hereto or to such other addresses or telecopier numbers as specified in writing by a party to the other party hereunder, as evidenced by a confirmation report.

Section 11.02 Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of Lessor and Lessee and their respective successors and assigns. Specifically, as used herein the term "Lessor" means any person or entity to whom Lessor has assigned its right to receive Rental Payments in accordance with Section 9.01 hereof.

Section 11.03 Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 11.04 Rules of Construction. Unless the context otherwise requires, (a) the singular of each term used in this Agreement includes the plural and the plural of each such term includes the singular, (b) any definition of or reference to any agreement, instrument or other document shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements, or modifications set forth herein), and shall include all exhibits, schedules, annexes and other attachments thereto, (c) the words "hereto," "herein," "hereof" and "hereunder," and words of similar import when used in this Agreement, shall be construed to refer to this Agreement in its entirety and not to any particular provision thereof, (d) any reference herein to any person shall be construed to include such person's successors and permitted assigns, (e) any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, (f) the terms "Article" and "Section" refer to an article or section of this Agreement and the terms "Exhibit" and "Schedule" refer to an exhibit or schedule to this Agreement, and (g) the symbol "\$" refers to United

States dollars or such coin or currency as at the time of payment is legal tender for the payment of public and private debts in the United States of America

Section 11.05 Entire Agreement; Amendments. This Agreement constitutes the entire agreement of the parties with respect to the subject matter thereof and supersedes all prior and contemporaneous writings, understandings, agreements, solicitation documents and representations, express or implied. This Agreement may be amended or modified only by written documents duly authorized, executed and delivered by Lessor and Lessee.

Section 11.06 Further Assurances and Corrective Instruments. Lessor and Lessee agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required to perfect, confirm, establish, reestablish, continue or complete the interests of Lessor in this Agreement, to consummate the transactions contemplated hereby and thereby, and to carry out the purposes and intentions of this Agreement.

Section 11.07 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State.

Section 11.08 Waiver of Jury Trial. To the extent permitted by applicable law, Lessor and Lessee hereby waive any right to trial by jury in any action or proceeding with respect to, in connection with or arising out of this Agreement.

Section 11.09 Usury. It is the intention of the parties hereto to comply with any applicable usury laws; accordingly, it is agreed that, notwithstanding any provisions to the contrary herein, in no event shall this Agreement require the payment or permit the collection of interest or any amount in the nature of interest or fees in excess of the maximum amount permitted by applicable law. Any such excess interest or fees shall first be applied to reduce principal, and when no principal remains, refunded to Lessee. In determining whether the interest paid or payable exceeds the highest lawful rate, the total amount of interest shall be spread through the Lease Term so that the interest is uniform through such term.

Section 11.10 USA Patriot Act Compliance Notification. Lessor hereby notifies Lessee that pursuant to the requirements of the USA PATRIOT Act (the "Patriot Act"), it is required to obtain, verify and record information that identifies Lessee, which information includes the name and address of Lessee and other information that will allow Lessor to identify Lessee in accordance with the Patriot Act. Lessee shall, promptly upon Lessor's request, provide all documentation and other information that Lessor requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the Patriot Act.

Section 11.11 Relationship of Parties. Lessee acknowledges and agrees that (i) this Agreement and the transactions related thereto is an arm's-length commercial transaction between Lessor and Lessee, (ii) in connection therewith and with the discussions, undertakings, and procedures leading up to the consummation of this transaction, Lessor is and has been acting solely as a principal and is not acting as the agent, advisor or fiduciary of Lessee, (iii) Lessor has not assumed an advisory or fiduciary responsibility in favor of Lessee with respect to the transactions contemplated hereby or the discussions, undertakings, and procedures leading thereto (regardless of whether Lessor or any affiliate thereof has provided other services or is currently providing other services to Lessee on other matters) and Lessor has no obligation to Lessee with respect to the transactions contemplated hereby except the obligations expressly set forth in this Agreement, and (iv) Lessee has consulted its own legal, financial, and other advisors to the extent it has deemed appropriate.

Section 11.12 Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions, Articles, Sections or clauses hereof.

Section 11.13 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument, and in making proof of this Agreement it shall not be necessary to produce or account for more than one such counterpart.

Section 11.14 Electronic Signatures. The parties agree that the electronic signature of a party to this Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this

Agreement. The parties agree that any electronically signed document (including this Agreement) shall be deemed (i) to be "written" or "in writing," (ii) to have been signed and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. Such paper copies or "printouts", if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form. Neither party shall contest the admissibility of true and accurate copies of electronically signed documents on the basis of the best evidence rule or as not satisfying the business records exception to the hearsay rule. For purposes hereof, "electronic signature" means a manually signed original signature that is then transmitted by electronic means; "transmitted by electronic means" means sent in the form of a facsimile or sent via the internet as a "pdf" (portable document format) or other replicating image attached to an e mail message; and, "electronically signed document" means a document transmitted by electronic means and containing, or to which there is affixed, an electronic signature.

[The remainder of this page is intentionally blank. Signature page follows.]

IN WITNESS WHEREOF, Lessor and Lessee hereto have caused this Lease Purchase Agreement to be executed and delivered, all as of the date first above written.

City of Oceanside
Lessee

TD EQUIPMENT FINANCE, INC.
Lessor

By: _____
Name: Jonathan Borrego
Title: City Manager

Address:

300 North Coast Highway
Oceanside, CA 92054

Telephone: (760) 435-3065
Email: CityManager@OceansideCa.org

By: _____
Name: _____
Title: _____

Address:

12000 Horizon Way, 4th Floor
Mount Laurel, NJ 08054

Telephone: _____
Email: _____

[Signature Page to Lease Purchase Agreement]

SCHEDULE 1

Equipment Schedule

1. Equipment Description: The Equipment consists of the following:
2. Equipment Location: The Equipment is or will be located at:

[illegible]

6. **Purchase Price:** The Purchase Price is an amount equal to 101% of the outstanding principal balance of the Rental Payments.

Form of

LESSEE RESOLUTION

To be provided by Stradling Yocca Carlson & Rauth LLP

**Form of
INCUMBENCY CERTIFICATE**

The undersigned, the duly appointed and acting City Clerk of City of Oceanside ("Lessee") certifies as follows:

1. The individuals identified below are the duly elected or appointed officers of Lessee holding the offices set forth opposite their respective names.

2. The individuals identified below have the authority on behalf of Lessee to enter into that certain Lease Purchase Agreement, dated as of Date (the "Agreement") between such entity and TD Equipment Finance, Inc., and the documents, instruments and certificates contemplated therein.

<u>Name</u>	<u>Title</u>	<u>Signature</u>
<u>Jonathan Borrego</u>	City Manager _____	_____
<u>Robert O'Brien</u>	Deputy City Manager _____	_____
<u>Jill Moya</u>	Financial Services Director _____	_____

3. Attached hereto as Exhibit A is a true and accurate copy of the resolution of Lessee dated as of _____, 2024 approving the acquisition and financing of the property as described in the Agreement. The resolution is in full force and effect, have not been in any respect modified, revoked or rescinded and reflect all action taken by Lessee in connection with the approval of the financing contemplated by the Agreement.

IN WITNESS WHEREOF, I have duly executed this certificate as of January 30, 2024.

By: _____
Name: Zeb Navarro
Title: City Clerk

Form of

OPINION OF COUNSEL TO LESSEE
 [Place on Letterhead of Counsel to Lessee]
 January 30, 2024

TD Equipment Finance, Inc.
 12000 Horizon Way, 4th Floor
 Mount Laurel, NJ 08054

Re: Lease Purchase Agreement, dated as of January 30, 2024, between TD Equipment Finance, Inc. and the City of Oceanside, California

Ladies and Gentlemen:

[I][We] have acted as counsel to the City of Oceanside ("Lessee") in connection with the above-referenced transaction. In such capacity, I have reviewed (a) an executed counterpart of that certain Lease Purchase Agreement, dated as of January 30, 2024 (the "Agreement"), by and between TD Equipment Finance, Inc. ("Lessor") and Lessee, which, among other things, provides for the lease of certain property described therein (the "Equipment"), (b) an executed counterpart of that certain Escrow Agreement dated January 30 2024 (the "Escrow Agreement" and, together with the Agreement, the "Financing Documents"), among Lessor, Lessee, and U.S. Bank National Association, as escrow agent, (c) an ordinance(s) or resolution(s) of the governing body of Lessee which, among other things, authorize(s) Lessee to execute the Financing Documents and (d) such other opinions, documents and matters of law as I have deemed necessary in connection with the following opinions. Terms capitalized in this opinion but not defined herein shall have the meanings assigned to them in the Agreement. Based upon foregoing, it is [my][our] opinion that:

1. Lessee is a political subdivision of the State of California (the "State") within the meaning of Section 103(c) of the Internal Revenue Code of 1986, as amended, and is duly organized, existing and operating under the Constitution and laws of the State.
2. Lessee has the requisite power and authority to lease and acquire the Equipment and to execute and deliver the Financing Documents and to perform its obligations thereunder.
3. Each of the Financing Documents has been duly authorized, executed and delivered by and on behalf of Lessee, and is a legal, valid and binding obligation of Lessee enforceable in accordance with its terms, except as enforcement thereof may be limited by bankruptcy, insolvency and other similar laws affecting the enforcement of creditors' rights generally and by general equitable principles.
4. The authorization and execution of the Financing Documents and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all applicable open meeting, public records, public bidding and all other laws, rules and regulations of the State.
5. The execution of the Agreement and the appropriation of moneys to pay the Rental Payments coming due thereunder do not and will not result in the violation of any constitutional, statutory or other limitation relating to the manner, form or amount of indebtedness which may be incurred by Lessee.
6. ~~To the actual knowledge of the undersigned~~ There is no proceeding pending or threatened in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would adversely affect the transactions contemplated by the Financing Documents or the security interest of Lessor or its assigns, as the case may be, in the Equipment or other collateral thereunder.

This opinion may be relied upon by the addressee hereof and its successors and assignees of interests in the Agreement.

Very truly yours,

Form of

ACCEPTANCE CERTIFICATE

TD Equipment Finance, Inc.
12000 Horizon Way, 4th Floor
Mount Laurel, NJ 08054

Re: Lease Purchase Agreement dated as of [Date] (the "Agreement") between TD Equipment Finance, Inc. and City of Oceanside ("Lessee")

Ladies and Gentlemen:

I, the undersigned, hereby certify that I am the duly qualified and acting officer of Lessee and, with respect to the above-referenced Agreement, that:

1. The Equipment subject to the Agreement has been delivered and installed, is in good working order and is fully operational and has been fully accepted by Lessee on or before the date hereof.

2. Attached hereto are true and correct copies of the manufacturers' and dealers' invoices for the Equipment.

3. Lessee has appropriated and/or taken other lawful actions necessary to provide moneys sufficient to pay all Rental Payments required to be paid under the Agreement during the current fiscal year of Lessee. Such moneys will be applied in payment of all such Rental Payments due and payable during such current fiscal year.

4. No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default (as defined in the Agreement) exists on the date hereof.

Date: _____

City of Oceanside

By: _____
Name:
Title:

EXHIBIT E

FORM OF REPRESENTATION LETTER

I, _____, of _____ (the "Assignee") do hereby certify for and on behalf of the Assignee as follows with respect to that certain \$_____ Lease Purchase Agreement, dated as of _____, 2024 (the "Agreement") between TD Equipment Finance, Inc., as Lessor, and the City of Oceanside, California, as Lessee:

1. The Assignee is a Qualified Institutional Buyer as defined in Rule 144A promulgated under the Securities Act of 1933, as amended or an "accredited investor" as defined in Rule 501 of Regulation D promulgated under the Securities Act of 1933, as amended. The Assignee has such knowledge and experience in financial and business matters in general, and in transactions such as the financial arrangements contemplated by the Agreement in particular, that it is capable of evaluating and has evaluated the merits and risks of entering into the financial arrangements contemplated by the Agreement and the Assignee understands the risks of its purchase of the Agreement.
2. The Assignee has conducted its own investigation of the financial condition of the Lessee, the purpose for which the Agreement is being entered into and of the security for payment of the Rental Payments due under the Agreement, and has obtained such information regarding the Agreement and the Lessee and its operations, financial condition and financial prospects as the Assignee deems necessary to make an informed lending decision with respect to its acquisition of the Agreement. The Assignee acknowledges that no official statement, offering memorandum or other disclosure document is being provided by the Lessee or Lessor in connection with the Agreement.
3. The Assignee is acquiring the Agreement for its own account and without a present intention to sell any portion thereof to any other person, *provided* that the Assignee retains the right at any time to dispose of the Agreement or any interest therein as it may determine to be in its best interests, *provided further* that any subsequent resale shall be made only in accordance with the restrictions on transferability and resale set forth in Section 9.01 of the terms of the Agreement.
4. The Assignee acknowledges and agrees that the obligation of the Lessee to pay Rental Payments in each Fiscal Year under the Agreement shall constitute a current expense of the Lessee for such Fiscal Year, subject to appropriation by Lessee's governing board, and shall not in any way be construed to be a debt of the Lessee in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by the Lessee, nor shall anything contained in the Agreement constitute a pledge of the full faith and credit or taxing power of the Lessee.

Dated this _____ day of _____, 20__.

[ASSIGNEE]

By:
Name:
Title:

ESCROW AGREEMENT

THIS ESCROW AGREEMENT, dated as of January _____, 2024 ("Agreement"), is by and among the City of Oceanside, a California municipal corporation and charter city ("Lessee"), TD Equipment Finance, Inc., a Maine corporation ("Lessor"), and U.S. BANK NATIONAL ASSOCIATION, a national banking association, as escrow agent hereunder ("Escrow Agent").

BACKGROUND

A. Lessee and Lessor have entered into a Lease Purchase Agreement dated as of January _____, 2024 (the "Lease"), relating to the acquisition and leasing of certain equipment defined in the Lease as the Equipment (the "Equipment"). It is a requirement of the Lease that the cost of such Equipment in the amount of \$ _____ (the "Lease Proceeds") be deposited into an escrow under terms satisfactory to the Lessor and the Lessee, for the purpose of fully funding the Lease.

B. Escrow Agent has agreed to accept, hold, and disburse the funds deposited with it and any earnings thereon in accordance with the terms of this Agreement.

C. Lessee and Lessor have appointed the Representatives (as defined below) to represent them for all purposes relating to the funds to be deposited with Escrow Agent pursuant to this Agreement.

D. Lessee and Lessor acknowledge that (i) Escrow Agent is not a party to and has no duties or obligations under the Lease, (ii) all references in this Agreement to the Lease are solely for the convenience of Lessee and Lessor, and (iii) Escrow Agent shall have no implied duties beyond the express duties set forth in this Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

1. Definitions. The following terms shall have the following meanings when used herein:

"Business Day" shall mean any day, other than a Saturday, Sunday or legal holiday, on which Escrow Agent at its location identified in Section 15 is open to the public for general banking purposes.

"Escrow Funds" shall mean the funds deposited with Escrow Agent pursuant to Section 3 of this Agreement, together with any interest and other income thereon.

"Final Order" shall mean a final and nonappealable order of a court of competent jurisdiction (an "Order"), which Order is delivered to Escrow Agent accompanied by a written instruction from Lessee or Lessor given to effectuate such Order and confirming that such Order is final, nonappealable and issued by a court of competent jurisdiction, and Escrow Agent shall be

entitled to conclusively rely upon any such confirmation and instruction and shall have no responsibility to review the Order to which such confirmation and instruction refers.

"Indemnified Party" shall have the meaning set forth in Section 11.

"Joint Written Direction" shall mean a written direction executed by a Lessee Representative and a Lessor Representative, delivered to Escrow Agent in accordance with Section 15 and directing Escrow Agent to disburse all or a portion of the Escrow Funds or to take or refrain from taking any other action pursuant to this Agreement.

"Lessee Representative" shall mean each person so designated on Schedule C hereto or any other person so designated in a writing signed by Lessee and delivered to Escrow Agent and a Lessor Representative in accordance with Section 15.

"Lessor Representative" shall mean each person so designated on Schedule C hereto or any other person so designated in a writing signed by Lessor and delivered to Escrow Agent and a Lessee Representative in accordance with the notice provisions of this Agreement.

2. **Appointment of and Acceptance by Escrow Agent.** Lessee and Lessor hereby appoint Escrow Agent to serve as escrow agent hereunder. Escrow Agent hereby accepts such appointment and, upon receipt by wire transfer of the Escrow Funds in accordance with Section 3, agrees to hold, invest and disburse the Escrow Funds in accordance with this Agreement.

3. **Deposit of Escrow Funds.** Simultaneously with the execution and delivery of this Agreement, Lessor will transfer the Escrow Funds in the amount of \$_____, by wire transfer of immediately available funds, to an account designated by Escrow Agent. Escrow Funds shall remain uninvested except as provided in Section 7.

4. **Disbursements of Escrow Funds.**

- (a) Escrow Agent shall disburse Escrow Funds at any time and from time to time, upon receipt of, and in accordance with, a Joint Written Direction substantially in the form of Attachment 1 hereto and received by Escrow Agent as set forth in Section 15. Such Joint Written Direction shall contain complete payment instructions, including funds transfer instructions or an address to which a check shall be sent.
- (b) Lessee and Lessor each agrees that the Escrow Agent is authorized to use the following funds transfer instructions to disburse any funds due to Lessee:

Bank Name: _____
Bank Address: _____
ABA No.: _____
Account Name: _____
Account No.: _____

- (c) Prior to any disbursement, Escrow Agent must receive reasonable identifying information regarding the payee so that Escrow Agent may comply with its regulatory obligations and reasonable business practices, including without limitation a completed United States Internal Revenue Service ("IRS") Form W-9 or Form W-8, as applicable. All disbursements of Escrow Funds shall be subject to the fees and claims of Escrow Agent and the Indemnified Parties pursuant to Section 11 and Section 12.
- (d) Lessee may deliver written notice to Escrow Agent in accordance with Section 15 changing funds transfer instructions, which notice shall be effective only upon receipt by Escrow Agent and after Escrow Agent has had a reasonable time to act upon such notice.

5. Suspension of Performance; Disbursement into Court. If, at any time, (a) a dispute exists with respect to any obligation of Escrow Agent hereunder, (b) Escrow Agent is unable to determine, to Escrow Agent's sole satisfaction, Escrow Agent's proper actions with respect to its obligations hereunder, or (c) the Representatives have not, within 10 days of receipt of a notice of resignation, appointed a successor Escrow Agent to act hereunder, then Escrow Agent may, in its sole discretion, take either or both of the following actions:

- (i) suspend the performance of any of its obligations (including without limitation any disbursement obligations) under this Agreement until such dispute or uncertainty shall be resolved to the sole satisfaction of Escrow Agent or until a successor Escrow Agent shall have been appointed.

- (ii) petition (by means of an interpleader action or any other appropriate method) any court of competent jurisdiction, in any venue convenient to Escrow Agent, for instructions with respect to such dispute or uncertainty and, to the extent required or permitted by law, pay into such court, for holding and disposition in accordance with the instructions of such court, all Escrow Funds, after deduction and payment to Escrow Agent of all fees and expenses (including court costs and attorneys' fees) payable to, incurred by, or expected to be incurred by Escrow Agent in connection with the performance of its duties and the exercise of its rights hereunder.

Escrow Agent shall have no liability to Lessee or Lessor for suspension of performance or disbursement into court, specifically including any liability or claimed liability that may arise due to any delay in any other action required or requested of Escrow Agent.

6. Lessor Direction. Upon written notice to the Lessee and Escrow Agent that an Event of Default (as defined in the Lease), an Event of Nonappropriation (as defined in the Lease) or the expiration of the Escrow Period (as defined in the Lease) has occurred, Escrow Agent shall disburse any Escrow Funds on deposit as directed in writing by Lessor.

7. Investment of Funds. Based upon Lessee's and Lessor's prior review of investment alternatives, in the absence of further specific written direction to the contrary at any time that an investment decision must be made, Escrow Agent is directed to invest and reinvest the Escrow Funds in the investment identified in Schedule A. If applicable, Lessee and Lessor

acknowledge receipt from Escrow Agent of a current copy of the prospectus for the investment identified in Schedule A. Lessee and Lessor may deliver to Escrow Agent a Joint Written Direction changing the investment of the Escrow Funds, upon which direction Escrow Agent shall conclusively rely without inquiry or investigation; provided, however, that Lessee and Lessor warrant that no investment or reinvestment direction shall be given except in the following: (a) direct obligations of the United States of America or obligations the principal of and the interest on which are unconditionally guaranteed by the United States of America; (b) U.S. dollar denominated deposit accounts and certificates of deposit issued by any bank, bank and trust company, or national banking association (including Escrow Agent and its affiliates), which are either (i) insured by the Federal Deposit Insurance Corporation ("FDIC") up to FDIC limits, or (ii) with domestic commercial banks which have a rating on their short-term certificates of deposit on the date of purchase of at least "A-1" by S&P or "P-1" by Moody's (ratings on holding companies are not considered as the rating of the bank); or (c) money market funds, including funds managed by Escrow Agent or any of its affiliates; provided further, however, that Escrow Agent will not be directed to invest in investments that Escrow Agent determines are not consistent with Escrow Agent's policies or practices. Lessee and Lessor recognize and agree that Escrow Agent will not provide supervision, recommendations or advice relating to either the investment of Escrow Funds or the purchase or disposition of any investment and the Escrow Agent shall not have any liability for any loss in an investment made pursuant to the terms of this Agreement. Escrow Agent has no responsibility whatsoever to determine the market or other value of any investment and makes no representation or warranty as to the accuracy of any such valuations. To the extent applicable regulations grant rights to receive brokerage confirmations for certain security transactions, Lessee and Lessor waive receipt of such confirmations.

All investments shall be made in the name of Escrow Agent. Escrow Agent may, without notice to Lessee and Lessor, sell or liquidate any of the foregoing investments at any time for any disbursement of Escrow Funds permitted or required hereunder and shall not be liable for any loss, cost or penalty resulting from any sale or liquidation of any such investment. All investment earnings shall become part of the Escrow Funds and investment losses shall be charged against the Escrow Funds. With respect to any Escrow Funds or investment instruction received by Escrow Agent after 11:00 a.m., U.S. Central Time, Escrow Agent shall not be required to invest applicable funds until the next Business Day. Receipt of the Escrow Funds and investment and reinvestment of the Escrow Funds shall be confirmed by Escrow Agent by an account statement. Failure to inform Escrow Agent in writing of any error or omission in any such account statement within 90 days after receipt shall conclusively be deemed confirmation and approval by Lessee and Lessor of such account statement.

8. Tax Reporting. (a) Escrow Agent has no responsibility for the tax consequences of this Agreement and Lessee and Lessor shall consult with independent counsel concerning any and all tax matters. Lessee and Lessor jointly and severally agree to (i) assume all obligations imposed now or hereafter by any applicable tax law or regulation with respect to payments or performance under this Agreement and (ii) request and direct the Escrow Agent in writing with respect to withholding and other taxes, assessments or other governmental charges, and advise the Escrow Agent in writing with respect to any certifications and governmental reporting that may be required under any applicable laws or regulations. Except as otherwise agreed by Escrow Agent in writing, Escrow Agent has no tax reporting or withholding obligation

except to the Internal Revenue Service with respect to Form 1099-B reporting on payments of gross proceeds under Internal Revenue Code Section 6045 and Form 1099 and Form 1042-S reporting with respect to investment income earned on the Escrow Funds, if any. Escrow Agent shall have no responsibility for Form 1099-MISC reporting with respect to disbursements that Escrow Agent makes in an administrative or ministerial function to vendors or other service providers and shall have no tax reporting or withholding duties with respect to the Foreign Investment in Real Property Tax Act.

(b) To the extent that U.S. federal imputed interest regulations apply, Lessee and Lessor shall so inform the Escrow Agent, provide the Escrow Agent with all imputed interest calculations and direct the Escrow Agent to disburse imputed interest amounts as Lessee and Lessor deem appropriate. Escrow Agent will rely solely on such provided calculations and information and will have no responsibility for the accuracy or completeness of any such calculations or information. Lessee and Lessor shall provide Escrow Agent a properly completed IRS Form W-9 or Form W-8, as applicable, for each payee. If requested tax documentation is not so provided, Escrow Agent is authorized to withhold taxes as required by the United States Internal Revenue Code and related regulations.

(c) Except as otherwise directed by Lessee and Lessor in writing, Escrow Agent will report, on an accrual basis, all interest or income on the Escrow Funds as being owned by Lessor for federal income tax purposes. If any accrued interest income attributed to Lessor is subsequently disbursed by Escrow Agent to Lessee, Lessee and Lessor shall jointly direct Escrow Agent in writing with respect to the appropriate tax treatment and reporting of such disbursements.

9. Resignation or Removal of Escrow Agent. Escrow Agent may resign and be discharged from the performance of its duties hereunder at any time by giving ten (10) days' prior written notice to Lessee and Lessor specifying a date when such resignation shall take effect and, after the date of such resignation notice, notwithstanding any other provision of this Agreement, Escrow Agent's sole obligation will be to hold the Escrow Funds pending appointment of a successor Escrow Agent. Similarly, Escrow Agent may be removed at any time by Lessee and Lessor giving at least thirty (30) days' prior written notice to Escrow Agent specifying the date when such removal shall take effect. If Lessee and Lessor fail to jointly appoint a successor Escrow Agent prior to the effective date of such resignation or removal, Escrow Agent may petition a court of competent jurisdiction to appoint a successor escrow agent, and all costs and expenses related to such petition shall be paid jointly and severally by Lessee and Lessor. The retiring Escrow Agent shall transmit all records pertaining to the Escrow Funds and shall pay all Escrow Funds to the successor Escrow Agent, after making copies of such records as the retiring Escrow Agent deems advisable and after deduction and payment to the retiring Escrow Agent of all fees and expenses (including court costs and attorneys' fees) payable to, incurred by, or expected to be incurred by the retiring Escrow Agent in connection with the performance of its duties and the exercise of its rights hereunder. After any retiring Escrow Agent's resignation or removal, the provisions of this Agreement shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Escrow Agent under this Agreement.

10. Duties and Liability of Escrow Agent.

(a) Escrow Agent undertakes to perform only such duties as are expressly set forth herein and no duties shall be implied. Escrow Agent has no fiduciary or discretionary duties of any kind. Escrow Agent's permissive rights shall not be construed as duties. Escrow Agent shall have no liability under and no duty to inquire as to the provisions of any document other than this Agreement, including without limitation any other agreement between any of the parties hereto or any other persons even though reference thereto may be made herein and whether or not a copy of such document has been provided to Escrow Agent. Escrow Agent's sole responsibility shall be for the safekeeping of the Escrow Funds in accordance with Escrow Agent's customary practices and disbursement thereof in accordance with the terms of this Agreement. Escrow Agent shall not be responsible for or have any duty to make any calculations under this Agreement, or to determine when any calculation required under the provisions of this Agreement should be made, how it should be made or what it should be, or to confirm or verify any such calculation. Escrow Agent shall not be charged with knowledge or notice of any fact or circumstance not specifically set forth herein.

(b) Escrow Agent shall not be liable for any action taken or omitted by it in good faith except to the extent that a court of competent jurisdiction determines, which determination is not subject to appeal, that Escrow Agent's gross negligence or willful misconduct in connection with its material breach of this Agreement was the sole cause of any loss to Lessee or Lessor. Escrow Agent may retain and act hereunder through agents, and shall not be responsible for or have any liability with respect to the acts of any such agent retained by Escrow Agent in good faith.

(c) Escrow Agent may conclusively rely upon any notice, instruction, request or other instrument, not only as to its due execution, validity and effectiveness, but also as to the truth and accuracy of any information contained therein, which Escrow Agent believes to be genuine and to have been signed or presented by the person purporting to sign it and shall have no responsibility or duty to make inquiry as to or to determine the truth, accuracy or validity thereof (or any signature appearing thereon). In no event shall Escrow Agent be liable for (i) acting in accordance with or conclusively relying upon any instruction, notice, demand, certificate or document believed by Escrow Agent to have been created by or on behalf of Lessee or Lessor, (ii) incidental, indirect, special, consequential or punitive damages or penalties of any kind (including, but not limited to lost profits), even if Escrow Agent has been advised of the likelihood of such damages or penalty and regardless of the form of action or (iii) any amount greater than the value of the Escrow Funds as valued upon deposit with Escrow Agent.

(d) Escrow Agent shall not be responsible for delays or failures in performance resulting from acts of God, strikes, lockouts, riots, acts of war or terror, epidemics, governmental regulations, fire, communication line failures, computer viruses, attacks or intrusions, power failures, earthquakes or any other circumstance beyond its control. Escrow Agent shall not be obligated to take any legal action relating to the Escrow Funds, this Agreement or the Lease or to appear in, prosecute or defend any such legal action or to take any other action that in Escrow Agent's sole judgment may expose it to potential expense or liability. Lessee and Lessor are aware that under applicable state law, property which is presumed abandoned may under certain circumstances escheat to the applicable state. Escrow Agent shall have no liability to Lessee or

Lessor, their respective heirs, legal representatives, successors and assigns, or any other party, should any of the Escrow Funds escheat by operation of law.

(e) Escrow Agent may consult, at Lessee's and Lessor's cost, legal counsel selected by it in the event of any dispute or question as to the construction of any of the provisions hereof or of any other agreement or of its duties hereunder, or relating to any dispute involving this Agreement, and shall incur no liability and shall be fully indemnified from any liability whatsoever in acting in accordance with the advice of such counsel. Lessee and Lessor agree to perform or procure the performance of all further acts and things, and execute and deliver such further documents, as may be required by law or as Escrow Agent may reasonably request relating to its duties hereunder. When any action is provided for herein to be done on or by a specified date that falls on a day other than a Business Day, such action may be performed on the next ensuing Business Day.

(f) If any portion of the Escrow Funds is at any time attached, garnished or levied upon, or otherwise subject to any writ, order, decree or process of any court, or in case disbursement of Escrow Funds is stayed or enjoined by any court order, Escrow Agent is authorized, in its sole discretion, to respond as it deems appropriate or to comply with all writs, orders, decrees or process so entered or issued, including but not limited to those which it is advised by legal counsel of its own choosing is binding upon it, whether with or without jurisdiction; and if Escrow Agent relies upon or complies with any such writ, order, decree or process, it shall not be liable to any of the parties hereto or to any other person or entity by reason of such compliance even if such order is reversed, modified, annulled, set aside or vacated.

(g) Escrow Agent and any stockholder, director, officer or employee of Escrow Agent may buy, sell and deal in any of the securities of any other party hereto and contract and lend money to any other party hereto and otherwise act as fully and freely as though it were not Escrow Agent under this Agreement. Nothing herein shall preclude Escrow Agent from acting in any other capacity for any other party hereto or for any other person or entity.

(h) In the event instructions, including funds transfer instructions, address change or change in contact information are given to Escrow Agent (other than in writing at the time of execution of this Agreement), whether in writing, by facsimile or otherwise, Escrow Agent is authorized but shall not be required to seek confirmation of such instructions by telephone call-back to any person designated by the instructing party on Schedule C hereto, and Escrow Agent may rely upon the confirmation of anyone purporting to be a person so designated. The persons and telephone numbers for call-backs may be changed only in writing actually received and acknowledged by Escrow Agent and shall be effective only after Escrow Agent has a reasonable opportunity to act on such changes. If Escrow Agent is unable to contact any of the designated representatives identified in Schedule C, Escrow Agent is hereby authorized but shall be under no duty to seek confirmation of such instructions by telephone call-back to any one or more of Lessee's or Lessor's executive officers ("Executive Officers"), as the case may be, which shall include the titles of Chief Executive Officer, President and Vice President and, as to the Lessee, the titles of Mayor, Deputy Mayor, City Manager, and Financial Services Director, as Escrow Agent may select. Such Executive Officer shall deliver to Escrow Agent a fully executed

incumbency certificate, and Escrow Agent may rely upon the confirmation of anyone purporting to be any such officer. Lessee and Lessor agree that Escrow Agent may at its option record any telephone calls made pursuant to this Section. Escrow Agent in any funds transfer may rely solely upon any account numbers or similar identifying numbers provided by Lessee or Lessor to identify (i) the beneficiary, (ii) the beneficiary's bank, or (iii) an intermediary bank, even when its use may result in a person other than the beneficiary being paid, or the transfer of funds to a bank other than the beneficiary's bank or an intermediary bank so designated. Lessee and Lessor acknowledge that these optional security procedures are commercially reasonable.

11. Indemnification of Escrow Agent. Lessee and Lessor, jointly and severally, shall indemnify and hold harmless Escrow Agent and each director, officer, employee and affiliate of Escrow Agent (each, an "Indemnified Party") upon demand against any and all claims (whether asserted by Lessee, Lessor or any other person or entity and whether or not valid), actions, proceedings, losses, damages, liabilities, penalties, costs and expenses of any kind or nature (including without limitation reasonable attorneys' fees, costs and expenses) (collectively, "Losses") arising from this Agreement or Escrow Agent's actions hereunder, except to the extent such Losses are finally determined by a court of competent jurisdiction, which determination is not subject to appeal, to have been directly caused solely by the gross negligence or willful misconduct of such Indemnified Party in connection with Escrow Agent's material breach of this Agreement. Lessee and Lessor further agree, jointly and severally, to indemnify each Indemnified Party for all costs, including without limitation reasonable attorneys' fees, incurred by such Indemnified Party relating to the enforcement of Lessee's and Lessor's obligations hereunder. Each Indemnified Party shall, in its sole discretion, have the right to select and employ separate counsel with respect to any action or claim brought or asserted against it, and the reasonable fees of such counsel shall be paid upon demand by Lessee and Lessor jointly and severally. The obligations of Lessee and Lessor under this Section shall survive any termination of this Agreement and the resignation or removal of Escrow Agent.

12. Compensation of Escrow Agent.

(a) Fees and Expenses. Lessee and Lessor agree, jointly and severally, to compensate Escrow Agent upon demand for its services hereunder in accordance with Schedule B attached hereto. The obligations of Lessee and Lessor under this Section shall survive any termination of this Agreement and the resignation or removal of Escrow Agent.

(b) Disbursements from Escrow Funds to Pay Escrow Agent. Escrow Agent is authorized to, and may disburse to itself from the Escrow Funds, from time to time, the amount of any compensation and reimbursement of expenses due and payable hereunder (including any amount to which Escrow Agent or any other Indemnified Party is entitled to seek indemnification hereunder). Escrow Agent shall notify Lessee and Lessor of any such disbursement from the Escrow Funds to itself or any other Indemnified Party and shall furnish Lessee and Lessor copies of related invoices and other statements.

(c) Security and Offset. Lessee and Lessor hereby grant to Escrow Agent and the other Indemnified Parties a first priority security interest in, lien upon and right of offset against the Escrow Funds with respect to any compensation or reimbursement due any of them

hereunder (including any claim for indemnification hereunder). If for any reason the Escrow Funds are insufficient to cover such compensation and reimbursement, Lessee and Lessor shall promptly pay such amounts upon receipt of an itemized invoice.

d) Allocation. Without limiting the joint and several nature of Lessor's and Lessee's obligations to compensate, reimburse and indemnify the Escrow Agent and other Indemnified Parties under this Agreement, Lessor and Lessee agree, solely as between themselves, that all amounts owing with respect to such obligations shall be paid by Lessee.

13. Representations and Warranties. Lessee and Lessor each respectively make the following representations and warranties to Escrow Agent:

(a) it has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder; and this Agreement has been duly approved by all necessary action and constitutes its valid and binding agreement enforceable in accordance with its terms.

(b) each of the applicable persons designated on Schedule C attached hereto has been duly appointed to act as its authorized representative hereunder and individually has full power and authority on its behalf to execute and deliver any instruction or direction, to amend, modify or waive any provision of this Agreement and to take any and all other actions as its authorized representative under this Agreement and no change in designation of such authorized representatives shall be effective until written notice of such change is delivered to each other party to this Agreement pursuant to Section 15 and Escrow Agent has had reasonable time to act upon it.

(c) the execution, delivery and performance of this Agreement by Escrow Agent does not and will not violate any applicable law or regulation and no printed or other material in any language, including any prospectus, notice, report, and promotional material that mentions "U.S. Bank" or any of its affiliates by name or the rights, powers, or duties of Escrow Agent under this Agreement shall be issued by any other parties hereto, or on such party's behalf, without the prior written consent of Escrow Agent.

(d) it will not claim any immunity from jurisdiction of any court, suit or legal process in the County of San Diego, State of California, whether from service of notice, injunction, attachment, execution or enforcement of any judgment or otherwise.

(e) except for the first-priority security interest granted by Lessee to Lessor under the Lease, there is no security interest in the cash fund or any part thereof; no financing statement under the Uniform Commercial Code is on file in any jurisdiction claiming a security interest in or describing (whether specifically or generally) the Escrow Funds or any part thereof.

14. Identifying Information. To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account. For a non-individual person such as a business entity, a charity, a trust or other legal entity, Escrow Agent requires documentation to verify its formation and existence as a legal entity. Escrow Agent may require financial statements, licenses or identification and authorization documents from individuals

claiming authority to represent the entity or other relevant documentation. Lessee and Lessor agree to provide all information requested by Escrow Agent relating to any legislation or regulation to which Escrow Agent is subject, in a timely manner. Escrow Agent's appointment and acceptance of its duties under this Agreement is contingent upon verification of all regulatory requirements applicable to Lessee, Lessor and any of their permitted assigns, including successful completion of a final background check. These conditions include, without limitation, requirements under the USA PATRIOT Act, the USA FREEDOM Act, the Bank Secrecy Act, and the U.S. Department of the Treasury Office of Foreign Assets Control. If these conditions are not met, Escrow Agent may at its option promptly terminate this Agreement in whole or in part or refuse any otherwise permitted assignment by Lessee or Lessor, without any liability or incurring any additional costs.

15. Notices. All notices, approvals, consents, directions and other communications hereunder (each, a "Notice") must be in writing, in English, and may only be delivered (a) by personal delivery, or (b) by national overnight courier service, or (c) by certified or registered mail, return receipt requested, or (d) by facsimile transmission, with confirmed receipt or (e) by email. Notice shall be effective upon receipt except for notice via email, which shall be effective only when the recipient, by return email or notice delivered by other method provided for in this Section, acknowledges having received that email (with an automatically generated receipt or similar notice not constituting an acknowledgement of an email receipt for purposes of this Section). Such Notices shall be sent to the applicable party or parties at the address specified below:

If to Lessee or Lessee Representative, at:

Telephone:
Facsimile:
E-mail:

If to Lessor or Lessor Representative, at:

TD Equipment Finance, Inc.
12000 Horizon Way
Mt. Laurel, NJ 08054
Telephone:
Facsimile:
E-mail:

If to Escrow Agent, at:

U.S. Bank National Association, as Escrow Agent
ATTN: Global Corporate Trust
Address: 6410 Southpoint Parkway, Suite 200
Jacksonville, Florida 32216
Telephone: 904-358-5363
E-mail: sheryl.lear@usbank.com

and to:

U.S. Bank National Association
ATTN: Susan Selser
Trust Finance Management
West Side Flats St. Paul
60 Livingston Ave
Saint Paul, Minnesota 55107
Telephone: 651-466-6090

E-mail: susan.selser@usbank.com and
TFMCorporateEscrowShared@usbank.com

or to such other address as each party may designate for itself by like notice and unless otherwise provided herein shall be deemed to have been given on the date received. Escrow Agent shall not have any duty to confirm that the person sending any Notice by electronic transmission (including by e-mail, facsimile transmission, web portal or other electronic methods) is, in fact, a person authorized to do so. Electronic signatures believed by Escrow Agent to comply with the ESIGN Act of 2000 or other applicable law (including electronic images of handwritten signatures and digital signatures provided by DocuSign, Orbit, Adobe Sign or any other digital signature provider acceptable to Escrow Agent) shall be deemed original signatures for all purposes. Each other party assumes all risks arising out of the use of electronic signatures and electronic methods to send Notices to Escrow Agent, including without limitation the risk of Escrow Agent acting on an unauthorized Notice, and the risk of interception or misuse by third parties. Notwithstanding the foregoing, Escrow Agent may in any instance and in its sole discretion require that an original document bearing a manual signature be delivered to Escrow Agent in lieu of, or in addition to, any such electronic Notice.

16. Amendment and Assignment. None of the terms or conditions of this Agreement may be changed, waived, modified, discharged, terminated or varied in any manner whatsoever unless in writing duly signed by each party to this Agreement. No course of conduct shall constitute a waiver of any of the terms and conditions of this Agreement, unless such waiver is specified in writing, and then only to the extent so specified. No party may assign this Agreement or any of its rights or obligations hereunder without the written consent of the other parties, provided that if Escrow Agent consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business (including the escrow contemplated by this Agreement) to another entity, the successor or transferee entity without any further act shall be the successor Escrow Agent.

17. Termination. This Agreement shall terminate upon the distribution of all the Escrow Funds pursuant to any applicable provision of this Agreement, and Escrow Agent shall thereafter have no further obligation or liability whatsoever with respect to this Agreement or the Escrow Funds.

18. Governing Law, Jurisdiction and Venue. This Agreement shall be construed and interpreted in accordance with the internal laws of the State of California without giving effect to the conflict of laws principles thereof that would require the application of any other laws. Each of the parties hereto irrevocably (a) consents to the exclusive jurisdiction and venue of the state

and federal courts in the County of San Diego, State of California, in connection with any matter arising out of this Agreement, (b) waives any objection to such jurisdiction or venue (c) agrees not to commence any legal proceedings related hereto except in such courts, (d) consents to and agrees to accept service of process to vest personal jurisdiction over it in any such courts made as set forth in Section 15 and (e) waives any right to trial by jury in any action in connection with this Agreement.

19. Entire Agreement, No Third-Party Beneficiaries. This Agreement constitutes the entire agreement between the signatory parties hereto relating to the holding, investment and disbursement of Escrow Funds and sets forth in their entirety the obligations and duties of Escrow Agent with respect to Escrow Funds. This Agreement and any Joint Written Direction may be executed in two or more counterparts, which when so executed shall constitute one and the same agreement or direction. To the extent any provision of this Agreement is prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement. The section headings appearing in this instrument have been inserted for convenience only and shall be given no substantive meaning or significance whatsoever in construing the terms and conditions of this Agreement. Nothing in this Agreement, express or implied, is intended to or shall confer upon any person other than the signatory parties hereto and the Indemnified Parties any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

CITY OF OCEANSIDE
as Lessee

By: _____
Name: _____
Title: _____

TD EQUIPMENT FINANCE, INC.
as Lessor

By: _____
Name: _____
Title: _____

U.S. BANK NATIONAL ASSOCIATION
as Escrow Agent

By: _____
Name: _____
Title: _____

[Signature Page to Escrow Agreement]

SCHEDULE A

U.S. BANK NATIONAL ASSOCIATION Investment Authorization Form

FIRST AMERICAN FUNDS: AUTOMATIC MONEY MARKET INVESTMENTS INVESTMENT AUTHORIZATION LETTER

Based upon client's prior review of investment alternatives, in the absence of further specific written direction to the contrary, U.S. Bank National Association ("USBNA") or U.S. Bank Trust National Association ("USBTNA") is hereby directed to invest and reinvest proceeds and other available moneys in the following fund as permitted by the operative documents:

First American Government Obligations Fund Class A Shares

PLEASE REFER TO THE PROSPECTUS OF FIRST AMERICAN FUNDS, INC. WHICH YOU HEREBY ACKNOWLEDGE HAS PREVIOUSLY BEEN PROVIDED. NOTE THAT THE ABOVE FUNDS' INVESTMENT ADVISOR, CUSTODIAN, DISTRIBUTOR AND OTHER SERVICE PROVIDERS AS DISCLOSED IN THE FUNDS PROSPECTUS ARE U.S. BANK NATIONAL ASSOCIATION AND AFFILIATES THEREOF. U.S. BANK DOES NOT HAVE A DUTY NOR WILL IT UNDERTAKE ANY DUTY TO PROVIDE INVESTMENT ADVICE TO YOU. U.S. BANK, WHEN ACTING AS AN INDENTURE TRUSTEE OR IN A SIMILAR CAPACITY, IS NOT REQUIRED TO REGISTER AS A MUNICIPAL ADVISOR WITH THE SECURITIES AND EXCHANGE COMMISSION FOR PURPOSES OF COMPLYING WITH THE DODD-FRANK WALL STREET REFORM & CONSUMER PROTECTION ACT. INVESTMENT ADVICE, IF NEEDED, SHOULD BE OBTAINED FROM YOUR FINANCIAL ADVISOR. **FOR INFORMATION ABOUT OTHER AVAILABLE SWEEP OPTIONS, CONTACT YOUR ACCOUNT MANAGER.**

U.S. Bank National Association (or U.S. Bank Trust National Association) will not vote proxies for the First American Funds. Proxies will be mailed to you for voting.

SHAREHOLDER COMMUNICATIONS ACT AUTHORIZATION

The Shareholder Communications Act of 1985 and its regulation require that banks and trust companies make an effort to facilitate communication between registrants of U.S. securities and the parties who have the authority to vote or direct the voting of those securities regarding proxy dissemination and other corporate communications. Unless you indicate your objection below, we will provide the obligatory information to the registrant upon request. Your objection will apply to all securities held for you in the account now and in the future unless you notify us in writing.

_____ I object to US Bank providing my name, address, and securities positions to requesting issuers.
(Initial, check, or place an X on the [blank] to indicate your objection)

Acknowledgments. Client Acknowledges that:

1.1. Shares of Mutual Funds are not deposits or obligations of, or guaranteed by, any bank, including any bank affiliated with U.S. Bancorp. Nor does the Federal Deposit Insurance Corporations, the Federal Reserve Board, or any other government agency insure such products. An investment in such products involves investment risks, including the possible loss of principal, due to fluctuations in each product's net asset value.

1.2. Same-day Settlement. If USBNA (or USBTNA) receives a direction to purchase or redeem Sweep Vehicle shares by the fund's established U.S. Bank cut-off time (the "Internal Trading Cut-off"), then such entity will settle the purchase or redemption on the same business day, subject to the Sweep Vehicle's cut-off and policy for determining when a purchase or redemption order is considered to be received. Meeting the Internal Trading Cut-off does not guarantee same-business-day settlement.

1.3. Advance of Funds. If USBNA (or USBTNA) receives a direction to redeem Sweep Vehicle shares (the "Redemption Direction") and to disburse or invest the proceeds thereof before the redeemed shares settle (the "Proceeds Direction"), then they have the power to (i) determine the dollar amount of anticipated proceeds based on the net asset value ("NAV") most recently determined (ii) advance funds in that dollar amount in furtherance of settling the redemption and, as applicable, the purchase; (iii) determine the number of shares redeemed based on the NAV at settlement; and (iv) as part of USBNA's (or USBTNA's) compensation for servicing the Account, retain the yield paid on Sweep Vehicle shares that were treated as redeemed. USBNA (or USBTNA) reserves the right not to advance funds, including where the Sweep Vehicle has a floating NAV and the dollar amount of the Proceeds Direction is at least 99% of the dollar value of all Sweep Vehicle shares in the Account based on the NAV most recently determined.

1.4. Fund-level Fees. USBNA (or USBTNA), U.S. Bancorp Asset Management, Inc. ("USBAM"), U.S. Bancorp Fund Services, LLC, ("USBFS") and Quasar Distributors, LLC ("Quasar") are affiliates of U.S. Bancorp (collectively with U.S. Bancorp, "U.S. Bank"). USBAM is the investment advisor to the Mutual Funds in the First American Funds, Inc. family (the "First American Funds"). U.S. Bank may enter into agreements with First American Funds, other Mutual Funds, or any Mutual Funds' service providers (including investment advisers, administrators, transfer agents, or distributors) whereby U.S. Bank provides services to Mutual Funds, including, as applicable, services provided by USBAM (investment advisory, shareholder services), by USBNA (or USBTNA) (custody, securities-lending, shareholder services, National Securities Clearing Corporation (NSCC) networking), by USBFS (accounting, administration, transfer agency, sub-transfer agency), and by Quasar (distribution, principal underwriting) and receives fees for these services. The fees received by Quasar may include distribution and service fees paid under a plan of distribution adopted pursuant to Rule 12b-1 under the Investment Company Act of 1940. The fees may be received from the Mutual Fund or its investment advisor, administrator, transfer agent, distributor, or other agent; are based on investment in a Mutual Fund, may vary by Mutual Fund and by class of shares issued by the Mutual Fund, are charged against the Mutual Fund's assets, and reduce the Mutual Fund's average daily balance and investment yields. From time to time, a Mutual Fund's service provider may voluntarily waive a portion of the fees it is entitled to receive for serving the Mutual Fund. If a waiver is in effect, then the Client's approval of the fees described herein includes approval up to the Sweep Vehicle's total annual operating expenses before waivers; if the service provider terminates the waiver as provided in the Sweep Vehicle's prospectus, the approval persists.

1.5. Directed Account. USBNA (or USBTNA) (i) has no discretion to invest Account assets (such as discretion to select the Sweep Vehicle; determine whether, or what amount of, Account assets will be used to purchase a position in the Sweep Vehicle; or redeem Sweep Vehicle shares) and (ii) does not render investment advice with respect to Account assets. Nor will USBNA's (or USBTNA's) power to advance funds in furtherance of settlement, whether exercised or not, be deemed to be such discretion or advice.

1.6. Revocation. The Client acknowledges that as part of its account administration fee package, it has directed investment in a money market fund that has several share classes. If client chooses to direct investment in a different class of the fund (or any other sweep investment), client agrees to renegotiate its account administration fee package in good faith.

2. Representations and Warranties. Represents and warrants that (i) the Client is independent of U.S. Bank; has discretionary authority to select the investments and approve the fees described herein for the Account; received, read, and understood the Sweep Vehicle's prospectus and fund fact-sheet, including the sections thereof describing fees, gates, expenses, cut-offs, and compensation, before Account assets were first invested in the Sweep Vehicle; and understands and approves the services and fees described herein; (ii) if the Account assets are subject to the Employee Retirement Income Security Act of 1974, as amended, ("ERISA"), then the Client is a trustee under ERISA §403(a) with respect to the assets, a "named fiduciary" with respect to the plan within the meaning of ERISA §402(a), or an "investment manager" within the meaning of ERISA §3(38) with respect to the assets that has been delegated the authority to manage, acquire, and dispose of such assets pursuant to ERISA §402(c)(3); and (iii) the foregoing designation, direction, acknowledgments, representations and warranties are made according to the Account's governing service agreement and are not contrary to applicable law.

SCHEDULE B

Schedule of Fees for Services as Escrow Agent

Acceptance Fee **\$250.00**
Covers review of documents, participation in document conferences, establishing records/accounts, receipt of funds, establishment of procedures and ticklers necessary to perform our duties and monitor the various terms and covenants in the financing documents.

Escrow Agent Fee: **\$1,000 Annual Fee, Payable in Advance**
The fee covers the routine duties of the escrow agent associated with the administration of the account. Escrow Agent Fee payable annually in advance and not subject to proration.

Pivot **Waived**
Pivot provides our clients the real-time deal and account information that matters most. Through a customizable, user-friendly interface, Pivot offers our clients a secure and centralized online platform.

Legal Fees **None Expected, if required Billed at Cost**
Any additional ongoing legal fees and expenses would be billed at cost.

Out of Pocket Expenses **Billed at Cost**
Includes, but is not limited to, travel expenses to attend closing.

Extraordinary Expenses / Other Services **Billed at Cost**
Extraordinary Administration Services ("EAS") are duties, responsibilities or activities not expected to be provided by the trustee or agent at the outset of the transaction, not routine or customary, and/or not incurred in the ordinary course of business, and may require analysis or interpretation. Billing for fees and expenses related to EAS is appropriate in instances where particular inquiries, events or developments are unexpected, even if the possibility of such circumstances could have been identified at the inception of the transaction, or as changes in law, procedures, or the cost of doing business demand. At our option, EAS may be charged on an hourly (time expended multiplied by current hourly rate), flat or special fee basis at such rates or in such amounts in effect at the time of such services, which may be modified by us in our sole discretion from time to time. In addition, all fees and expenses incurred by the trustee or agent, in connection with the trustee's or agent's EAS and ordinary administration services and including without limitation the fees and expenses of legal counsel, financial advisors and other professionals, charges for document amendments and substitutions, tenders, optional redemptions, UCC filings, investment agreements, outside held money market funds, default administration, wire transfers, checks, internal transfers and securities transactions, travel expenses, communication costs, postage (including express mail and overnight delivery charges), copying charges and the like will be payable, at cost, to the trustee or agent. EAS fees are due and payable in addition to annual or ordinary administration fees. Failure to pay for EAS owed to U.S. Bank within 45 days may result in interest being charged on amounts owed to U.S. Bank for extraordinary administration services fees and expenses at the prevailing market rate.

* The quoted fee does not include services as Disclosure Agent pursuant to Securities & Exchange commission Rule 15c12- 12, as amended. U.S. Bank will discuss this service with the Obligor if applicable pursuant to the terms of the bond issues.

Account approval is subject to review and qualification. Fees are subject to change at our discretion and upon written notice. Fees paid in advance will not be prorated. The fees set forth above and any subsequent modifications thereof are part of your agreement. Finalization of the transaction constitutes agreement to the above fee schedule, including agreement to any subsequent changes upon proper written notice. In the event your transaction is not finalized, any related out-of-pocket expenses will be billed to the client directly. Absent your written instructions to sweep or otherwise invest, all sums in your account will remain uninvested and no accrued interest or other compensation will be credited to the account. Payment of fees constitutes acceptance of the terms and conditions set forth.

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT:

To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account. For a nonindividual person such as a business entity, a charity, a trust or other legal entity, we ask for documentation to verify its formation and existence as a legal entity. We may also ask to see financial statements, licenses, identification and authorization documents from individuals claiming authority to represent the entity or other relevant documentation.

SCHEDULE C-1

Each of the following person(s) is a **Lessee Representative** authorized to execute documents and direct Escrow Agent as to all matters, including fund transfers, address changes and contact information changes, on Lessee's behalf (only one signature required):

_____ Name	_____ Specimen signature	_____ Telephone No.
_____ Name	_____ Specimen signature	_____ Telephone No.
_____ Name	_____ Specimen signature	_____ Telephone No.

If only one person is identified above, the following person is authorized for call-back confirmations:

_____ Name	_____ Telephone Number
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SCHEDULE C-2

Each of the following person(s) is a **Lessor Representative** authorized to execute documents and direct Escrow Agent as to all matters, including fund transfers, address changes and contact information changes, on Lessor's behalf (only one signature required):

<u>Melissa Godish</u>	<u></u>	<u>856-237-5367</u>
Name	Specimen signature	Telephone No.
<u>Steve Nelson</u>	<u></u>	<u>609-500-1884</u>
Name	Specimen signature	Telephone No.
<u></u>	<u></u>	<u></u>
Name	Specimen signature	Telephone No.

If only one person is identified above, the following person is authorized for call-back confirmations:

Name	Telephone Number
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ATTACHMENT 1

FORM OF JOINT WRITTEN DIRECTION

U.S. Bank National Association, as Escrow Agent

ATTN: Global Corporate Trust Services

Address: _____

RE: ESCROW AGREEMENT made and entered into as of [] by and among the City of Oceanside ("Lessee"), TD Equipment Finance, Inc. ("Lessor") and U.S. Bank National Association, in its capacity as escrow agent (the "Escrow Agent").

Pursuant to Section 4 of the above-referenced Escrow Agreement, Lessee and Lessor hereby instruct Escrow Agent to disburse Escrow Funds as provided below:

Payee Name/Address	Invoice Number	Amount
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City of Oceanside

By: _____

Name:

Date: _____

TD EQUIPMENT FINANCE, INC.

By: _____

Name:

Date: _____