

ITEM # 20-0483



200 Liberty Street, 14<sup>th</sup> Floor  
New York, NY 10281

August 24, 2020

via USPS

City of Santa Fe  
P.O. Box 909  
200 Lincoln Avenue  
Santa Fe, NM 87504  
Attention: City Energy Specialist

Re: Request for Consent to Affiliate Assignment

Dear Ladies and Gentlemen:

Reference is made to that certain Solar Power & Services Agreement, dated June 24, 2009 (as amended, modified, supplemented, or clarified from time to time, the "Agreement"), by and between SunE J10 Holdings, LLC (as assignee of SunEdison Origination2, LLC) ("SunE") and the City of Santa Fe ("Santa Fe"). Capitalized terms used herein shall have the meanings given in the Agreement.

SunE desires to assign the Agreement to TerraForm Phoenix II CD Holdings, LLC, a Delaware limited liability company ("Affiliate"), an affiliate of SunE ("Affiliate Assignment"). Both SunE and Affiliate are wholly owned indirect subsidiaries of TerraForm Power, Inc. (Nasdaq: TERP). Accordingly, SunE hereby requests Santa Fe's written consent to the Affiliate Assignment and acknowledgment that the Affiliate Assignment shall not constitute an Event of Default. SunE hereby requests Santa Fe's written consent to the release of SunE from its obligations under the Agreement in accordance with Section 13.1 of the Agreement. I respectfully request that you acknowledge the consent by having an authorized person sign in the place provided below and return the fully executed version of this letter via email to Emily Spallino ([emily.spallino@stoel.com](mailto:emily.spallino@stoel.com)).

Time is of the essence with respect to this request. I therefore kindly request that you coordinate the execution and return of this later no later than September 1, 2020. Please feel free to contact Megha Shah at [MS Shah@terraform.com](mailto:MS Shah@terraform.com) with any questions or concerns.

(Signature on following page)

Request for Consent to Affiliate Assignment  
Page 3

ACKNOWLEDGED AND AGREED

City of Santa Fe

By: Jarel LaPan Hill  
Jarel LaPan Hill (Sep 25, 2020 08:51 MDT)  
Name: Jarel Lapan Hill  
Title: City Manager

Attest:

Yolanda Y. Vigil  
Yolanda Y. Vigil, City Clerk *aw*

City Attorney's Office:

Marcos Martinez  
Marcos Martinez (Sep 3, 2020 09:28 MDT)  
Senior Assistant City Attorney

# 2020 09 03 Terraform SE Solar

Final Audit Report

2020-09-03

Created:	2020-09-03
By:	Irene Romero (ikromero@ci.santa-fe.nm.us)
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POWERED BY  
Adobe Sign

## Assignment and Assumption Agreement

This ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Assignment") is entered into this 29th day of December, 2010 by SunEdison Origination2, LLC, a Delaware limited liability company ("Assignor"), and SunE J10 Holdings, LLC, a Delaware limited liability company (the "Assignee").

WHEREAS, Assignor desires to assign, transfer and deliver to Assignee the Assigned Interests (as defined below), and Assignee desires to acquire and accept the Assigned Interests from Assignor;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged:

1. Definitions. Capitalized terms used herein shall have the meanings set forth below, unless otherwise indicated.

"Assigned Interests" collectively, (i) the Transferred Assets, (ii) the Contract Interests and (iii) all other rights, benefits and interests the Assignor may have in connection with the Transferred Assets and Contract Interests.

"Contract Interests" means those contractual rights and obligations of Assignor identified in Schedule 1 hereto.

"SPSA" means the Solar Power Purchase Agreement dated as of June 24, 2009, as further described on Schedule 1 hereto.

"Transferred Assets" means those assets of the Assignor identified in Schedule 1 hereto.

2. Assignment of Interests.

Assignor hereby irrevocably transfers, conveys, assigns and delivers to the Assignee all of the Assignor's right, title, benefits and interest in and to the Assigned Interests, as amended, without recourse and without representation or warranty other than the representations and warranties set forth in Section 3 below. Assignee hereby accepts the assignment and transfer of the Assigned Interests.

3. Representations and Warranties. The Assignor hereby represents and warrants for the benefit of the Assignee that: (a) the Assignor is the sole owner of the Assigned Interests, holding good and marketable title to the Assigned Interests; (b) the Assignor has all requisite power and authority and legal right to transfer, convey, assign and deliver the Assigned Interests; (c) the System (as defined in the SPSA) has not been "Placed-in-Service" as that term is defined in the Internal Revenue Code; (d) no material breach of any Contract Interest by any of the parties thereto has occurred and is continuing, and Assignor is in compliance with all of the material terms and condition of such Contract Interests; (e) Assignor has not assigned or encumbered any of its rights to the Assigned Interests; and (f) title to the System shall be passed to Assignee free and clear of any lien, encumbrances or the like.

4. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of the State of New York applicable to contracts made and to be performed in such State.

5. Further Assurances. The Assignor agrees to execute, acknowledge and deliver, as appropriate, any and all such other and additional instruments, notices, and other documents and to perform such other acts as may be reasonably necessary more fully to assure the Assignee, its successors and assigns, all of the rights and interests hereby sold, assigned, conveyed and transferred or intended to be so sold, assigned, conveyed and transferred. In connection therewith, any required third-party written consents to assignment are provided in Attachment 1 hereto.


6. Counterparts and Headings. This Assignment may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same agreement. The headings used in this Assignment have been inserted for convenience of reference only and do not define, limit, interpret or constitute a part of this Assignment.

*[signatures on following page]*

IN WITNESS WHEREOF, the Assignor has caused this Assignment to be executed and delivered by one of its duly authorized officers as of the date first above written.

**SunEdison Origination2, LLC**

By: Sun Edison LLC, its member and manager


By:   
Name: Chris Bailey  
Title: Director – Project Finance

ACCEPTED AND AGREED:

**SUNE J10 HOLDINGS, LLC**

By: SunE Solar X, LLC, its member and manager

By: Sun Edison LLC, its sole member and manager

By:   
Name: Chris Bailey  
Title: Director – Project Finance

## SCHEDULE 1

### A. Contract Interests:

#### (1) SPSAs

General Terms and Conditions dated as of June 24, 2009, by and between City of Santa Fe (Host) and Assignor (as may be amended or supplemented from time to time).

Solar Power & Services Agreement dated as of June 24, 2009, by and between Host and Assignor (as may be amended or supplemented from time to time).

#### (2) PIAs

Project Installation Agreement (the "Santa Fe Wastewater PIA"), dated as of September 1, 2010, by and between Assignor and NVT Licenses, LLC ("Contractor").

#### (3) RECs

NONE

#### (4) Rebates

NONE

#### (5) Other

Acknowledgement and Confirmation dated as of November 22, 2010 by between Host and Assignor.

All warranties relating to each Project and all Work (as each such term is defined in the PIAs) and all Project components including, without limitation, every module warranty and inverter warranty that relates to each Project.

Any and all Interconnection Approval Letters, Interconnection Agreements or similar documents or agreements between Assignor (or any predecessor in interest thereof), on the one hand, and any utility, local service provider or other similar entity, on the other hand.

### B. Transferred Assets:

(1) All Work and each Project (each as defined in the PIAs).

(2) All equipment, material and other items constituting the System (as defined in the SPSA).



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Appendix A: Professional Services Agreement 08-0937

POWER PURCHASE AGREEMENTS SUMMARY											
No.	Location	Size (kW DC)	Annual kWh Generated	Annual kWh Used	% of Facility Usage	SunEdison Fixed 20-Year Rate	Current PNM Blended Rate	Rate Difference	Cost Through SunEdison	Cost Through PNM	Estimated Savings
1	Airport	75	183,500	177,600	92.1%	\$0.0850	\$0.0924	\$0.0074	\$13,898	\$15,107	\$1,210
2	Convention Center	98	171,848	645,000	28.8%	\$0.0840	\$0.0880	\$0.0040	\$14,418	\$15,105	\$687
3	Fort Marcy	48	84,384	354,200	23.8%	\$0.0830	\$0.0856	\$0.0026	\$7,004	\$7,223	\$219
4	LaFarge Library	42	73,784	151,800	48.7%	\$0.0830	\$0.0838	\$0.0008	\$6,125	\$6,169	\$44
5	Police Station - Cerrillos	188	411,401	459,000	89.8%	\$0.0800	\$0.0844	\$0.0044	\$32,912	\$34,722	\$1,810
6	Salvador Perez	48	84,000	211,970	38.6%	\$0.0830	\$0.0839	\$0.0009	\$8,972	\$7,048	\$78
7	Transit	46	84,384	422,000	20.0%	\$0.0860	\$0.0934	\$0.0074	\$7,257	\$7,881	\$624
8	Wastewater (at Airport)	1,114	2,435,204	8,440,000	37.8%	\$0.0658	\$0.0742	\$0.0084	\$180,238	\$180,892	\$20,458
9	Wastewater Composting	170	302,600	325,000	93.1%	\$0.0730	\$0.0742	\$0.0012	\$22,080	\$22,453	\$363
10	Genoveva Chavez*	Terminated	380,000	2,698,000	13.3%	\$0.0770	\$0.0564	(\$0.0206)	\$27,720	\$20,304	(\$7,416)
Total		1,829	3,810,915	9,186,370	41.8%				\$270,912	\$286,401	\$25,489

\*GCCC data is for information only and is not included in totals

Tons of CO <sub>2</sub> offset in year 1	4,001
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Current CO <sub>2</sub> production from City operations	78,985
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Percentage of total	5.2%
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**CONFIDENTIAL AND PROPRIETARY**

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**GENERAL TERMS AND CONDITIONS OF  
SOLAR POWER & SERVICES AGREEMENT**

These General Terms and Conditions ("General Conditions") are dated as of 24<sup>th</sup> day of June, 2009 and are witnessed and acknowledged by SunEdison Origination2, LLC ("SunEdison") and City of Santa Fe, a New Mexico municipal corporation ("Party B"), as evidenced by their signature on the last page of this document. These General Conditions are intended to be incorporated by reference into Solar Power & Services Agreements that may be entered into between SunEdison and Party B or between their respective affiliates. Except to the extent SunEdison or Party B becomes a party to a Solar Power & Purchase Agreement that incorporates these General Conditions, these General Conditions shall have no binding effect upon SunEdison or Party B.

**1. DEFINITIONS.**

1.1 Definitions. In addition to other terms specifically defined elsewhere in the Agreement, where capitalized, the following words and phrases shall be defined as follows:

"Actual Monthly Production" means the amount of energy recorded by Provider's metering equipment during each calendar month of the Term, pursuant to Section 4.2.

"Affiliate" means, with respect to any specified Person, any other Person directly or indirectly controlling, controlled by or under common control with such specified Person.

"Agreement" means, the Solar Power & Services Agreement.

"Applicable Law" means, with respect to any Person, any constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding, injunction, registration, license, franchise, permit, authorization, guideline, Governmental Approval, consent or requirement of any Governmental Authority having jurisdiction over such Person or its property, enforceable at law or in equity, including the interpretation and administration thereof by such Governmental Authority.

"Assignment" has the meaning set forth in Section 13.1.

"Bankruptcy Event" means with respect to a Party, that either:

(i) such Party has (A) applied for or consented to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or of all or a substantial part of its property; (B) admitted in writing its inability, or be generally unable, to pay its debts as such debts become due; (C) made a general assignment for the benefit of its creditors; (D) commenced a voluntary case under any bankruptcy law; (E) filed a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; (F) failed to controvert in a timely and appropriate manner, or acquiesced in writing to, any petition filed against such Party in an involuntary case under any bankruptcy law; or (G) taken any corporate or other action for the purpose of effecting any of the foregoing; or

(ii) a proceeding or case has been commenced without the application or consent of such Party in any court of competent jurisdiction seeking (A) its liquidation, reorganization, dissolution or winding-up or the composition or readjustment of debts or, (B) the appointment of a trustee, receiver, custodian, liquidator or the like of such Party under any bankruptcy law, and such proceeding or case has continued undefended, or any order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect for a period of sixty (60) days.

"Business Day" means any day other than Saturday, Sunday or any other day on which banking institutions in New York, NY are required or authorized by Applicable Law to be closed for business.

"Commercial Operation Date" has the meaning set forth in Section 3.3(b).

"Confidential Information" has the meaning set forth in Section 15.1.

"Covenants, Conditions and Restrictions" or "CCR" means those requirements or limitations related to the Premises as may be set forth in a lease, if applicable, or by any association or other organization, having the authority to impose restrictions.

"Disruption Period" has the meaning set forth in Section 4.3(b).

"Early Termination Date" means any date on which the Agreement terminates other than by reason of expiration of the then applicable Term.

"Early Termination Fee" means the fee payable by Purchaser to Provider under the circumstances described in Section 2.2, Section 2.3, Section 4.3(a) or Section 11.2.

"Effective Date" has the meaning set forth in the Special Conditions.

"Environmental Attributes" shall mean, without limitation, carbon trading credits, renewable energy credits or certificates, emissions reduction credits, emissions allowances, green tags, tradable renewable credits, or Green-e® products.

"Estimated Remaining Payments" means as of any date, the estimated remaining Solar Services Payments to be made through the end of the then-applicable Term, as reasonably determined by Provider.

"Estimated Annual Production" has the meaning set forth in Section 5.2.

"Expiration Date" means the date on which the Agreement terminates by reason of expiration of the Term.

"Fair Market Value" means, with respect to any tangible asset or service, the price that would be negotiated in an arm's-length, free market transaction, for cash, between an informed, willing seller and an informed, willing buyer, neither of whom is under compulsion to complete

the transaction. Fair Market Value of the System will be determined pursuant to Section 2.4.

"Financing Party" means, as applicable (i) any Person (or its agent) from whom Provider (or an Affiliate of Provider) leases the System, or (ii) any Person (or its agent) who has made or will make a loan to or otherwise provide financing to Provider (or an Affiliate of Provider) with respect to the System.

"Force Majeure Event" has the meaning set forth in Section 10.1.

"General Conditions" means these Terms and Conditions.

"Governmental Approval" means any approval, consent, franchise, permit, certificate, resolution, concession, license, or authorization issued by or on behalf of any applicable Governmental Authority.

"Governmental Authority" means any federal, state, regional, county, town, city, or municipal government, whether domestic or foreign, or any department, agency, bureau, or other administrative, regulatory or judicial body of any such government.

"Host" means Purchaser.

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

"Installation Work" means the construction and installation of the System and the start-up, testing and acceptance (but not the operation and maintenance) thereof, all performed by or for Provider at the Premises.

"Invoice Date" has the meaning set forth in Section 6.2.

"kWh Rate" means the price per kWh set forth in Schedule 2 of the Special Conditions.

"Liens" has the meaning set forth in Section 7.1(e).

"Local Electric Utility" means the local electric distribution owner and operator providing electric distribution and interconnection services to Purchaser at the Premises.

"Losses" means all losses, liabilities, claims, demands, suits, causes of action, judgments, awards, damages, cleanup and remedial obligations, interest, fines, fees, penalties, costs and expenses (including all attorneys' fees and other costs and expenses incurred in defending any such claims or other matters or in asserting or enforcing any indemnity obligation).

"Option Price" has the meaning set forth in Section 2.3.

"Party" or "Parties" has the meaning set forth in the preamble hereof.

"Person" means an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, firm, or other entity, or a Governmental Authority.

"Premises" means the premises described in Schedule 1 of the Special Conditions. For the avoidance of doubt, the Premises includes the entirety of any structures and underlying real property located at the address described in Schedule 1 of the Special Conditions.

"Provider" has the meaning set forth in the Special Conditions.

"Provider Default" has the meaning set forth in Section 11.1(a).

"Purchase Date" means such Business Day that occurs on the date that is ninety one (91) days after each successive annual anniversary of the Commercial Operation Date, provided, however, that no Purchase Date shall occur prior to such date that is five (5) years and ninety one (91) days after the Commercial Operation Date.

"Purchaser" has the meaning set forth in the Special Conditions.

"Purchaser Default" has the meaning set forth in Section 11.2(a).

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

"Representative" has the meaning set forth in Section 15.1.

"Security Agreement" has the meaning set forth in Section 8.2.

"Solar Incentives" means any accelerated depreciation, installation or production-based incentives, investment tax credits and subsidies including, but not limited to, the subsidies in Schedule 2 of the Special Conditions and all other solar or renewable energy subsidies and incentives.

"Solar Insolation" or "Insolation" means the amount of solar kWh per square meter falling on a particular location, as specified by Provider.

"Solar Power & Services Agreement" means the Solar Power & Services Agreement (including the Schedules and Exhibits attached thereto) and these General Conditions (including the Exhibits attached hereto) to the extent incorporated therein.

"Solar Services" means the supply of electrical energy output from the System, including any Environmental Attributes, and any associated reductions in Purchaser's peak demand from its Local Electric Utility.

"Solar Services Payment" has the meaning set forth in Section 6.1.

"Special Conditions" means the Solar Power and Services Agreement, excluding these General Conditions.

"Stated Rate" means a rate per annum equal to the lesser of (a) the "prime rate" (as reported in The Wall Street Journal) plus two percent (2%) and (b) the maximum rate allowed by Applicable Law.

"System" means the integrated assembly of photovoltaic panels, mounting assemblies, inverters, converters, metering, lighting fixtures, transformers, ballasts, disconnects, combiners, switches, wiring devices and wiring, more specifically described in Schedule 1 of the Special Conditions.

"System Operations" means the Provider's operation, maintenance and repair of the System performed in accordance the requirements herein.

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

"Transfer Time" has the meaning set forth in Section 4.3(a).

1.2 Interpretation. The captions or headings in these General Conditions are strictly for convenience and shall not be considered in interpreting the Agreement. Words in the Agreement that impart the singular connotation shall be interpreted as plural, and words that impart the plural connotation shall be interpreted as singular, as the identity of the parties or objects referred to may require. The words "include", "includes", and "including" mean include, includes, and including "without limitation" and "without limitation by specification." The words "hereof", "herein", and "hereunder" and words of similar import refer to the Agreement as a whole and not to any particular provision of the Agreement. Except as the context otherwise indicates, all references to "Articles" and "Sections" refer to Articles and Sections of these General Conditions.

## 2. TERM AND TERMINATION.

2.1 Term. The term of the Agreement shall commence on the Effective Date and shall continue for twenty (20) years from the Commercial Operations Date ("Initial Term"), unless and until terminated earlier pursuant to the provisions of the Agreement. After the Initial Term, the Agreement shall automatically renew for an additional five (5) year term (a "Renewal Term"), unless a written notice of non-renewal is given by either Party to the other Party at least one hundred and eighty (180) days prior to the expiration of the Initial Term or then applicable Renewal Term. The Initial Term and the subsequent Renewal Term, if any, are referred to collectively as the "Term." During any Renewal Term, either Party may, subject to Section 2.3, terminate the Agreement upon one hundred and eighty (180) days' prior written notice to the other Party.

2.2 Early Termination. Purchaser may terminate the Agreement prior to any applicable Expiration Date for any reason upon thirty (30) days' prior written notice. In such event, Purchaser shall pay, as liquidated damages, the Early Termination Fee set forth on Schedule 3, Column 1 of the Special Conditions, and Provider shall cause the System to be disconnected and removed from the Premises. Upon Purchaser's payment to Provider of the Early Termination Fee, the Agreement shall terminate automatically.

2.3 Purchase Option. On any Purchase Date, so long as a Purchaser Default shall not have occurred and be continuing, Purchaser has the option to purchase the System for a purchase price (the "Option Price") equal to the greater of (a) the Fair Market Value of the System as of the Purchase Date, or (b) the Early Termination Fee as of the Purchase Date, as specified in Schedule 3, Column 2 of the Special Conditions. To exercise its purchase option, Purchaser shall, not less than one hundred and eighty (180) days prior to the proposed Purchase Date, provide written notice to Provider of Purchaser's intent to exercise its option to purchase the System on such Purchase Date. Within thirty (30) days of receipt of Purchaser's notice, Provider shall specify the Option Price, and Purchaser shall then have a period of thirty (30) days after notification to confirm or retract its decision to exercise the purchase option or, if the Option Price is equal to the Fair Market Value of the System, to dispute the determination of the Fair Market Value of the System. In the event Purchaser confirms its exercise of the purchase option in writing to Provider (whether before or after any determination of the Fair Market Value determined pursuant to Section 2.4), (i) the Parties shall promptly execute all documents necessary to (A) cause title to the System to pass to Purchaser on the Purchase Date, free and clear of

any Liens, and (B) assign all vendor warranties for the System to Purchaser, and (ii) Purchaser shall pay the Option Price to Provider on the Purchase Date, such payment to be made in accordance with any previous written instructions delivered to Purchaser by Provider or Provider's Financing Party, as applicable, for payments under the Agreement. Upon execution of the documents and payment of the Option Price, in each case as described in the preceding sentence, the Agreement shall terminate automatically. For the avoidance of doubt, payment of the Option Price shall be in lieu of and instead of any payments as described in Section 2.2 hereof. In the event Purchaser retracts its exercise of, or does not timely confirm, the purchase option, the provisions of the Agreement shall be applicable as if the Purchaser had not exercised any option to purchase the System.

2.4 Determination of Fair Market Value. If the Option Price indicated by Provider in accordance with Section 2.3 is equal to the Fair Market Value (as determined by Provider) and Purchaser disputes such stated Fair Market Value within thirty (30) days of receipt of such notice from Provider, then the Parties shall mutually select an independent appraiser with experience and expertise in the solar photovoltaic industry. Such appraiser shall act reasonably and in good faith to determine Fair Market Value and shall set forth such determination in a written opinion delivered to the Parties. The valuation made by the appraiser shall be binding upon the Parties in the absence of fraud or manifest error. The costs of the appraisal shall be borne by Purchaser if such appraisal results in a value equal or greater than the value provided by Provider pursuant to Section 2.3; otherwise, the Parties shall equally share such cost.

2.5 Removal of System at Expiration. Subject to Purchaser's exercise of its purchase option under Section 2.3, upon the expiration or earlier termination of the Agreement, Provider shall, at Provider's expense, remove all of its tangible property comprising the System from the Premises on a mutually convenient date but in no case later than sixty (60) days after the Expiration Date. The Premises shall be returned to its original condition, except for System mounting pads or other support structures and ordinary wear and tear. If the System is to be located on a roof, then in no case shall Provider's removal of the System affect the integrity of Purchaser's roof, which shall be as leak proof as it was prior to removal of System (other than ordinary wear and tear). For purposes of Provider's removal of the System, Purchaser's covenants pursuant to Section 7.2 shall remain in effect until the date of actual removal of the System. Provider shall leave the Premises in neat and clean order. If Provider fails to remove or

commence substantial efforts to remove the System by such agreed upon date, Purchaser shall have the right, at its option, to remove the System to a public warehouse and restore the Premises to its original condition (other than System mounting pads or other support structures and ordinary wear and tear) at Provider's reasonable cost.

2.6 Conditions of the Agreement. In the event that any of the following events or circumstances occur prior to the Commercial Operation Date, Provider may (at its sole discretion) terminate the Agreement, in which case neither Party shall have any liability to the other except for any such liabilities that may have accrued prior to such termination:

(a) The Provider determines that the Premises, as is, is insufficient to accommodate the System.

(b) There exist site conditions (including environmental conditions) or construction requirements that were not known as of the Effective Date and that could reasonably be expected to materially increase the cost of Installation Work or would adversely affect the electricity production from the System as designed.

(c) There is a material adverse change in the regulatory environment, incentive program or federal or state tax code (including the expiration of any incentive program or tax incentives in effect as of the Effective Date) that could reasonably be expected to adversely affect the economics of the installation for Provider and its investors.

(d) Provider is unable to obtain financing for the System on terms and conditions satisfactory to it.

(e) Provider has not received a fully executed (i) license in the form of Exhibit A of these General Conditions from the owner of the Premises, and (ii) a release or acknowledgement from any mortgagee of the Premise, if required by Provider's Financing Party, to establish the priority of its security interest in the System, and (iii) such other documentation or as may be reasonably requested by Provider to evidence Purchaser's ability to meet its obligations under Section 7.2(d)(ii) to ensure that Provider will have access to the Premises throughout the Term.

(f) There has been a material adverse change in the rights of Purchaser to occupy the Premises or Provider to construct the System on the Premises.

(g) Purchaser has not received evidence reasonably satisfactory to it that interconnection services

will be available with respect to energy generated by the System.

(h) Purchaser has determined that there are easements, CCRs or other liens or encumbrances that would materially impair or prevent the installation, operation, maintenance or removal of the System.

(i) There has been a material adverse change in Purchaser's credit-worthiness.

2.7 Purchaser's Right of Termination. In the event that Purchaser has not received evidence reasonably satisfactory to it that any "Anticipated Rebate, or Subsidy" anticipated to be received by Purchaser, as set forth in Schedule 1 to the Special Conditions, will be available with respect to energy generated by the System prior to the Commercial Operation Date, Purchaser may (at its sole discretion) terminate the Agreement, in which case neither Party shall have any liability to the other except for any such liabilities that may have accrued prior to such termination.

### 3. PURCHASER CONSTRUCTION, INSTALLATION AND TESTING OF SYSTEM.

3.1 Installation Work. Provider will cause the System to be designed, engineered, installed and constructed substantially in accordance with Schedule 1 of the Special Conditions and Applicable Law. At its request, Purchaser shall have the right to review all construction plans and designs, including engineering evaluations of the impact of the System. Provider shall perform the Installation Work at the Premises between the hours of 7:00 a.m. and 7:00 p.m. in a manner that minimizes inconvenience to and interference with the use of the Premises to the extent commercially practical.

3.2 Approvals; Permits. Purchaser shall assist Provider in obtaining all necessary approvals and permits including but not limited to those related to the Local Electric Utility, any Governmental Authority, and any waivers, approvals or releases required pursuant to any applicable CCR.

#### 3.3 System Acceptance Testing

(a) Provider shall conduct testing of the System in accordance with such methods, acts, guidelines, standards and criteria reasonably accepted or followed by photovoltaic solar system integrators in the United States.

(b) If the results of such testing indicate that the System is capable of generating electric energy

for four (4) continuous hours, using such instruments and meters as have been installed for such purposes, and the System has been approved for interconnected operation by the Local Electric Utility, then Provider shall send a written notice to Purchaser to that effect, and the date of such notice shall be the "Commercial Operation Date."

#### 4. SYSTEM OPERATIONS.

4.1 Provider as Owner and Operator. The System will be owned by Provider or Provider's Financing Party and will be operated and maintained and, as necessary, repaired by Provider at its sole cost and expense; provided, that any repair or maintenance costs incurred by Provider as a result of Purchaser's negligence or breach of its obligations hereunder shall be reimbursed by Purchaser.

4.2 Metering. Provider shall install and maintain a utility grade kilowatt-hour (kWh) meter for the measurement of electrical energy provided by the System and may, at its election, install a utility grade kilowatt-hour (kWh) meter for the measurement of electrical energy delivered by the Local Electric Utility and consumed by Host at the Premises.

#### 4.3 System Disruptions.

(a) Substitution of Premises. If, for reasons other than Provider's breach of its obligations hereunder, Provider ceases to have access rights to the Premises as necessary to operate the System prior to the Expiration Date, then Purchaser shall either (i) provide Provider with a mutually agreeable substitute premises in a location with similar Solar Insolation, or (ii) terminate the Agreement pursuant to Section 2.2. Purchaser shall provide at least one hundred and eighty (180) days' written notice prior to the date on which it desires to effect such substitution. In connection with such substitution, Purchaser and Provider shall amend the Agreement to specify the substitute premises. Purchaser shall also provide any new owner, lessor, or mortgagee consents or releases required by Provider's Financing Party in connection with the substitute Premises. If Purchaser is unable to obtain such consents and releases for a substitute Premises, the substitution shall not be allowed and Purchaser shall terminate the Agreement pursuant to Section 2.2. Purchaser shall pay all costs associated with relocation of the System including all costs and expenses incurred by or on behalf of Provider in connection with removal of the System from the existing Premises and repair or maintenance of the Premises, if applicable, and installation and testing of the System at such substitute premises and all applicable interconnection fees and expenses at the substitute

premises, as well as costs of new title search and other out of pocket expenses connected to preserving and refiling the security interest of Provider's Financing Party in the System. Provider shall make commercially reasonable efforts to remove all of its tangible property comprising the System from the vacated Premises prior to the termination of Purchaser's rights to use such Premises. Upon removal of the tangible property comprising the System from the Premises, the Premises shall be returned to its original condition, except for incidental hardware or other support structures and ordinary wear and tear. If the System is to be located on a roof, then in no case shall Provider's removal of the System affect the integrity of the roof of the Premises, which shall be as leak proof as it was prior to removal of System. In connection with any substitution of Premises, Purchaser shall continue to make all payments for the Solar Services, and Purchaser shall reimburse Provider for any lost revenue during any transfer or construction time period (the "Transfer Time"), including any lost revenue associated with Solar Services Payments, and any reduced Solar Incentives during the Transfer Time. For the purpose of calculating Solar Services Payments and lost revenue for such Transfer Time, Solar Services shall be deemed to have been produced at the average rate over the preceding twelve (12) months (or, if the substitution occurs within the first twelve (12) months of operation, the average over such period of operation).

(b) Roof Repair and Other System Disruptions. In the event that (x) the owner or lessee of the Premises repairs the Premises' roof for any reason not directly related to damage caused by the System, and such repair requires the partial or complete temporary disassembly or movement of the System, or (y) any act or omission of Purchaser or Purchaser's employees, Affiliates, agents or subcontractors (collectively, a "Purchaser Act") results in a disruption or outage in System production, then, in either case, Purchaser shall (i) pay Provider for all work required by Provider to disassemble or move the System and (ii) continue to make all payments for the Solar Services during such period of System disruption (the "Disruption Period"), and (iii) reimburse Provider for any other lost revenue during the Disruption Period, including any lost revenue associated with any reduced Solar Incentives during the Disruption Period. For the purpose of calculating Solar Services Payments and lost revenue during such Disruption Period, Solar Services shall be deemed to have been produced at (i) the average rate over the same daily period during the preceding year(s) of the Term or, (ii) if the disruption occurs within the first twelve (12) months of operation, the average over such period of operation. For the avoidance of doubt, in the event of a Disruption Period, Provider and Purchaser shall work together, and also with any third party owner or lessee of



the Premises if necessary, to minimize losses to each Party during any Disruption Period to the greatest extent reasonably possible. Purchaser shall provide Provider with thirty (30) days prior written notice pursuant to Section 14 of these General Conditions if a scheduled roof repair is to occur. Provider agrees to start System removal as necessary to accommodate the scheduled roof repair on the thirty first (31) day following Provider's receipt of such notice, and Provider further agrees to reinstall the System on the repaired roof as soon as reasonably possible once the scheduled roof repair is completed.

## 5. DELIVERY OF SOLAR SERVICES.

5.1 Purchase Requirement. Purchaser agrees to purchase one hundred percent (100%) of the Solar Services generated by the System and made available by Provider to Purchaser during each relevant month of the Term. While the Solar Services are calculated and billed on a per kWh basis as set forth in Schedule 2 of the Special Conditions, they represent a package of services and benefits, including reduction in the Purchaser's peak demand from the Local Electric Utility.

5.2 Estimated Annual Production. The annual estimate of Solar Services with respect to the System for any given year as determined pursuant to this Section shall be the "Estimated Annual Production." The Estimated Annual Production for each year of the Initial Term is set as forth in Schedule 4 of the Special Conditions.

5.3 Environmental Attributes and Solar Incentives. Purchaser's purchase of Solar Services does include Environmental Attributes, but does not include Solar Incentives which shall be owned by Provider or Provider's Financing Party for the duration of the System's operating life. Purchaser disclaims any right to Solar Incentives based upon the installation of the System at the Premises, and shall, at the request of Provider, execute any document or agreement reasonably necessary to fulfill the intent of this Section 5.3.

5.4 Title to System. Throughout the duration of the Agreement, Provider or Provider's Financing Party shall be the legal and beneficial owner of the System at all times, and the System shall remain the personal property of Provider or Provider's Financing Party and shall not attach to or be deemed a part of, or fixture to, the Premises. The System shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code. Purchaser covenants that it will use reasonable

commercial efforts to place all parties having an interest in or lien upon the real property comprising the Premises on notice of the ownership of the System and the legal status or classification of the System as personal property. If there is any mortgage or fixture filing against the Premises which could reasonably be construed as attaching to the System as a fixture of the Premises, Purchaser shall provide, at Provider's request, a disclaimer or release from such lien holder. If Purchaser is the fee owner of the Premises, Purchaser consents to the filing by Provider, on behalf of Purchaser, of a disclaimer of the System as a fixture of the Premises in the office where real estate records are customarily filed in the jurisdiction of the Premises. If Purchaser is not the fee owner, Purchaser will, at Provider's request, use commercially reasonable efforts to obtain such consent from such owner.

## 6. PRICE AND PAYMENT.

6.1 Consideration. Purchaser shall pay to Provider a monthly payment (the "Solar Services Payment") for the Solar Services generated by the System during each calendar month of the Term equal to the product of (x) Actual Monthly Production for the System for the relevant month multiplied by (y) the kWh Rate. In the event that Host is a municipality or other Governmental Authority, if sufficient funds to provide for payment(s) owed by Purchaser under this Agreement are not appropriated, the Purchaser may terminate this Agreement upon notice in writing to Provider in accordance with the terms of Section 2.2, including, without limitation, the payment to Provider of the Early Termination Fee.

6.2 Invoice. Provider shall invoice Purchaser on or about the first day of each month (each, an "Invoice Date"), commencing on the first Invoice Date to occur after the Commercial Operation Date, for the Solar Services Payment in respect of the immediately preceding month. The last invoice shall include production only through the Expiration Date of this Agreement.

6.3 Time of Payment. Purchaser shall pay all undisputed amounts due hereunder within fifteen (15) days after the date of the applicable Invoice Date.

6.4 Method of Payment. Purchaser shall make all payments under the Agreement by electronic funds transfer in immediately available funds to the account designated by Provider from time to time. All payments that are not paid when due shall bear interest accruing from the date becoming past due until paid in full at a rate equal to the Stated Rate. All payments made

hereunder shall be non-refundable, be made free and clear of any tax, levy, assessment, duties or other charges and not subject to reduction, withholding, set-off, or adjustment of any kind.

6.5 Disputed Payments. If a *bona fide* dispute arises with respect to any invoice, Purchaser shall not be deemed in default under the Agreement and the Parties shall not suspend the performance of their respective obligations hereunder, including payment of undisputed amounts owed hereunder. If an amount disputed by Purchaser is subsequently deemed to have been due pursuant to the applicable invoice, interest shall accrue at the Stated Rate on such amount from the date becoming past due under such invoice until the date paid.

## 7. GENERAL COVENANTS.

7.1 Provider's Covenants. Provider covenants and agrees to the following:

(a) Notice of Damage or Emergency. Provider shall (x) promptly notify Purchaser if it becomes aware of any damage to or loss of the use of the System or that could reasonably be expected to adversely affect the System, (y) immediately notify Purchaser it becomes aware of any event or circumstance that poses an imminent risk to human health, the environment, the System or the Premises.

(b) System Condition. Provider shall take all actions reasonably necessary to ensure that the System is capable of providing Solar Services at a commercially reasonable continuous rate.

(c) Governmental Approvals. While providing the Installation Work, Solar Services, and System Operations, Provider shall obtain and maintain and secure all Governmental Approvals required to be obtained and maintained and secured by Provider and to enable Provider to perform such obligations.

(d) Health and Safety. Provider shall take all necessary and reasonable safety precautions with respect to providing the Installation Work, Solar Services, and System Operations that shall comply with all Applicable Laws pertaining to the health and safety of persons and real and personal property.

(e) Liens. Other than a Financing Party's security interest in or ownership of the System, Provider shall not directly or indirectly cause, create, incur, assume or suffer to exist any mortgage, pledge, lien (including mechanics', labor or materialman's lien), charge, security interest, encumbrance or claim of any

nature ("Liens") on or with respect to the Premises or any interest therein, in each case to the extent such Lien arises from or is related to Provider's performance or non-performance of its obligations hereunder. If Provider breaches its obligations under this Section, it shall (i) immediately notify Purchaser in writing, (ii) promptly cause such Lien to be discharged and released of record without cost to Purchaser, and (iii) defend and indemnify Purchaser against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing such Lien.

(f) The Provider shall comply with City of Santa Fe Minimum Wage, Article 28-1-SFCC 1987, as well as any subsequent changes to such article throughout the term of this contract.

(g) NON-DISCRIMINATION: During the term of this Agreement, Contractor shall not discriminate against any employee or applicant for an employment position to be used in the performance of services by Contractor hereunder, on the basis of ethnicity, race, age, religion, creed, color, national origin, ancestry, sex, gender, sexual orientation, physical or mental disability, medical condition, or citizenship status.

7.2 Purchaser's Covenants. Purchaser covenants and agrees as follows:

(a) Notice of Damage or Emergency. Purchaser shall (x) promptly notify Provider if it becomes aware of any damage to or loss of the use of the System or that could reasonably be expected to adversely affect the System, (y) immediately notify Provider it becomes aware of any event or circumstance that poses an imminent risk to human health, the environment, the System or the Premises.

(b) Liens. Purchaser shall not directly or indirectly cause, create, incur, assume or suffer to exist any Liens on or with respect to the System or any interest therein. If Purchaser breaches its obligations under this Section, it shall immediately notify Provider in writing, shall promptly cause such Lien to be discharged and released of record without cost to Provider, and shall indemnify Provider against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing such Lien.

(c) Consents and Approvals. Purchaser shall ensure that any authorizations required of Purchaser

under this Agreement are provided in a timely manner. To the extent that only Purchaser is authorized to request, obtain or issue any necessary approvals, permits, rebates or other financial incentives, Purchaser shall cooperate with Provider to obtain such approvals, permits, rebates or other financial incentives.

(d) Access to Premises, Grant of License.

Purchaser hereby grants to Provider a commercial license coterminous with the Term, containing all the rights necessary for Provider to use and occupy portions of the Premises for the installation, operation and maintenance of the System pursuant to the terms of this Agreement, including ingress and egress rights to the Premises for Provider and its employees, contractors and subcontractors and access to electrical panels and conduits to interconnect or disconnect the System with the Premises' electrical wiring.

(i) Regardless of whether Purchaser is owner of the Premises or leases the Premises from a landlord, Purchaser hereby covenants that (x) Provider shall have access to the Premises and System during the Term of this Agreement and for so long as needed after termination to remove the System pursuant to the applicable provisions herein, and (y) neither Purchaser nor Purchaser's landlord will interfere or handle any Provider equipment or the System without written authorization from Provider; provided, however, that Purchaser and Purchaser's landlord shall at all times have access to and the right to observe the Installation Work or System removal.

(ii) If Purchaser is a lessee of the Premises, Purchaser further covenants that it shall deliver to Provider, a license from Purchaser's landlord in substantially the form attached hereto as Exhibit A of these General Conditions.

(e) Temporary storage space during installation or removal. Purchaser shall use commercially reasonable efforts to obtain an agreement for sufficient space at the Premises for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during the Installation Work, System Operations or System removal, and access for rigging and material handling.

(f) Sunlight Easements. Purchaser will take all reasonable actions as necessary to prevent other buildings, structures or flora from overshadowing or otherwise blocking access of sunlight to the System, including but not limited to such actions as may be

reasonably necessary to obtain a solar access easement for such purpose.

8. REPRESENTATIONS & WARRANTIES.

8.1 Representations and Warranties Relating to Agreement Validity. In addition to any other representations and warranties contained in the Agreement, each Party represents and warrants to the other as of the Effective Date that:

(a) it is duly organized and validly existing and in good standing in the jurisdiction of its organization;

(b) it has the full right and authority to enter into, execute, deliver, and perform its obligations under the Agreement;

(c) it has taken all requisite corporate or other action to approve the execution, delivery, and performance of the Agreement;

(d) the Agreement constitutes its legal, valid and binding obligation enforceable against such Party in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, and other similar laws now or hereafter in effect relating to creditors' rights generally;

(e) there is no litigation, action, proceeding or investigation pending or, to the best of its knowledge, threatened before any court or other Governmental Authority by, against, affecting or involving any of its business or assets that could reasonably be expected to adversely affect its ability to carry out the transactions contemplated herein; and

(f) its execution and performance of the Agreement and the transactions contemplated hereby do not constitute a breach of any term or provision of, or a default under, (i) any contract or agreement to which it or any of its Affiliates is a party or by which it or any of its Affiliates or its or their property is bound, (ii) its organizational documents, or (iii) any Applicable Laws.

8.2 Representations Regarding Security Interest. Purchaser has been advised that part of the collateral securing the financial arrangements for the System may be the granting of a first priority perfected security interest (the "Security Interest") in the System to a Financing Party. In connection therewith, Purchaser represents and warrants as follows:

(a) To Purchaser's knowledge, the granting of the Security Interest will not violate any term or condition of any covenant, restriction, lien, financing agreement, or security agreement affecting the Premises.

(b) Purchaser is aware of no existing lease, mortgage, security interest or other interest in or lien upon the Premises that could attach to the System as an interest adverse to Provider's Financing Party's Security Interest therein.

(c) To Purchaser's knowledge, there exists no event or condition which constitutes a default, or would, with the giving of notice or lapse of time, constitute a default under this Agreement.

Any Financing Party shall be an intended third-party beneficiary of this Section 8.2.

**8.3 EXCLUSION OF WARRANTIES.** EXCEPT AS EXPRESSLY SET FORTH IN SECTIONS 3.1, 4.1, AND 7.1 AND THIS SECTION 8, THE INSTALLATION WORK, SYSTEM OPERATIONS, AND SOLAR SERVICES PROVIDED BY PROVIDER TO PURCHASER PURSUANT TO THIS AGREEMENT SHALL BE "AS-IS WHERE-IS." NO OTHER WARRANTY TO PURCHASER OR ANY OTHER PERSON, WHETHER EXPRESS, IMPLIED OR STATUTORY, IS MADE AS TO THE INSTALLATION, DESIGN, DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS, USEFUL LIFE, FUTURE ECONOMIC VIABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE OF THE SYSTEM, THE SOLAR SERVICES OR ANY OTHER SERVICE PROVIDED HEREUNDER OR DESCRIBED HEREIN, OR AS TO ANY OTHER MATTER, ALL OF WHICH ARE EXPRESSLY DISCLAIMED BY PROVIDER.

## **9. TAXES AND GOVERNMENTAL FEES.**

**9.1 Purchaser Obligations.** Purchaser shall reimburse and pay for any documented taxes, fees or charges imposed or authorized by any Governmental Authority and paid by Provider due to Provider's sale of the Solar Services to Purchaser (other than income taxes imposed upon Provider). Provider shall notify Purchaser in writing with a detailed statement of such amounts, which shall be invoiced by Provider and payable by Purchaser. Purchaser shall timely report, make filings for, and pay any and all sales, use, income, gross receipts or other taxes, and any and all franchise fees or similar fees assessed against it due to its purchase of the Solar Services. This Section 9.1 excludes taxes specified in Section 9.2.

**9.2 Provider Obligations.** Subject to Section 9.1 above, Provider shall be responsible for all income, gross receipts, ad valorem, personal property or real property or other similar taxes and any and all franchise fees or similar fees assessed against it due to its ownership of the System. Provider shall not be obligated for any taxes payable by or assessed against Purchaser based on or related to Purchaser's overall income or revenues.

## **10. FORCE MAJEURE.**

**10.1 Definition.** "Force Majeure Event" means any act or event that prevents the affected Party from performing its obligations in accordance with the Agreement, if such act or event is beyond the reasonable control, and not the result of the fault or negligence, of the affected Party and such Party had been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums). Subject to the foregoing conditions, "Force Majeure Event" shall include without limitation the following acts or events: (i) natural phenomena, such as storms, hurricanes, floods, lightning, volcanic eruptions and earthquakes; (ii) explosions or fires arising from lightning or other causes unrelated to the acts or omissions of the Party seeking to be excused from performance; (iii) acts of war or public disorders, civil disturbances, riots, insurrection, sabotage, epidemic, terrorist acts, or rebellion; (iv) strikes or labor disputes (except strikes or labor disputes caused solely by employees of the Provider or as a result of such party's failure to comply with a collective bargaining agreement); (v) action by a Governmental Authority, including a moratorium on any activities related to the Agreement; and (vi) the inability for one of the Parties, despite its reasonable efforts, to obtain, in a timely manner, any Governmental Approval necessary to enable the affected Party to fulfill its obligations in accordance with the Agreement, provided that the delay or non-obtaining of such Governmental Approval is not attributable to the Party in question and that such Party has exercised its reasonable efforts to obtain such Permit. A Force Majeure Event shall not be based on the economic hardship of either Party.

**10.2 Excused Performance.** Except as otherwise specifically provided in the Agreement, neither Party shall be considered in breach of the Agreement or liable for any delay or failure to comply with the Agreement (other than the failure to pay amounts due hereunder), if and to the extent that such delay or failure is attributable to the occurrence of a Force Majeure Event; provided that the Party claiming relief under this Section 10 shall immediately (i) notify the other Party in

writing of the existence of the Force Majeure Event, (ii) exercise all reasonable efforts necessary to minimize delay caused by such Force Majeure Event, (iii) notify the other Party in writing of the cessation or termination of said Force Majeure Event and (iv) resume performance of its obligations hereunder as soon as practicable thereafter; provided, however, that Purchaser shall not be excused from making any payments and paying any unpaid amounts due in respect of Solar Services delivered to Purchaser prior to the Force Majeure Event performance interruption.

10.3 Termination in Consequence of Force Majeure Event. If a Force Majeure Event shall have occurred that has affected Provider's performance of its obligations hereunder and that has continued for a continuous period of one hundred eighty (180) days, then Purchaser shall be entitled to terminate the Agreement upon ninety (90) days' prior written notice to Provider. If at the end of such ninety (90) day period such Force Majeure Event shall still continue, the Agreement shall automatically terminate. Upon such termination for a Force Majeure Event, neither Party shall have any liability to the other (other than any such liabilities that have accrued prior to such termination), and the provisions of Section 2.2 (Early Termination) shall be inapplicable.

## 11. DEFAULT.

### 11.1 Provider Defaults and Purchaser Remedies.

(a) Provider Defaults. The following events shall be defaults with respect to Provider (each, a "Provider Default"):

(i) A Bankruptcy Event shall have occurred with respect to Provider;

(ii) Provider fails to pay Purchaser any undisputed amount owed under the Agreement within thirty (30) days from receipt of notice from Purchaser of such past due amount; and

(iii) Provider breaches any material term of the Agreement and (A) if such breach can be cured within thirty (30) days after Purchaser's written notice of such breach and Provider fails to so cure, or (B) Provider fails to commence and pursue a cure within such thirty (30) day period if a longer cure period is needed.

(b) Purchaser's Remedies. If a Provider Default described in Section 11.1(a) has occurred and is

continuing, in addition to other remedies expressly provided herein, and subject to Section 12, Purchaser may terminate the Agreement and exercise any other remedy it may have at law or equity or under the Agreement.

(c) No Early Termination Fee. Section 2.2 of the Agreement shall not apply to any termination of the Agreement by Purchaser pursuant to this Section 11.1.

### 11.2 Purchaser Defaults and Provider's Remedies.

(a) Purchaser Default. The following events shall be defaults with respect to Purchaser (each, a "Purchaser Default"):

(i) A Bankruptcy Event shall have occurred with respect to Purchaser;

(ii) Purchaser breaches any material term of the Agreement if (A) such breach can be cured within thirty (30) days after Provider's notice of such breach and Purchaser fails to so cure, or (B) Purchaser fails to commence and pursue said cure within such thirty (30) day period if a longer cure period is needed; and

(iii) Purchaser fails to pay Provider any undisputed amount due Provider under the Agreement within thirty (30) days from receipt of notice from Provider of such past due amount.

(b) Provider's Remedies. If a Purchaser Default described in Sections 11.2(a) has occurred and is continuing, in addition to other remedies expressly provided herein, and subject to Section 12, Provider may terminate this Agreement and upon such termination, (A) Provider shall be entitled to receive from Purchaser the Early Termination Fee pursuant to Section 2.2, and (B) Provider may exercise any other remedy it may have at law or equity or under the Agreement.

11.3 Removal of System. Upon any termination of the Agreement pursuant to this Section 11, Provider will remove the System pursuant to Section 2.5 hereof, absent any purchase of the System by Purchaser pursuant to Section 2.2 hereof.

## 12. LIMITATIONS OF LIABILITY.

12.1 Except as expressly provided herein, neither Party shall be liable to the other Party for any special, punitive, exemplary, indirect, or consequential

damages, losses or damages for lost revenue or lost profits, whether foreseeable or not, arising out of, or in connection with the Agreement.

12.2 A Party's maximum liability to the other Party under the Agreement, shall be limited to the aggregate Estimated Remaining Payments as of the date of the events giving rise to such liability, provided, however, the limits of liability under this Section 12.2 shall not apply with respect to (i) indemnity obligations hereunder in respect of personal injury, intellectual property infringement claims and (iii) any obligation of Purchaser to pay Solar Service Payments or the Early Termination Fee. Notwithstanding anything to the contrary contained herein, nothing in this agreement shall be deemed a waiver of the limitations on Purchaser's liability pursuant to the New Mexico Tort Claims Act.

### 13. ASSIGNMENT.

13.1 Assignment by Provider. Provider shall not sell, transfer or assign (collectively, an "Assignment") the Agreement or any interest therein, without the prior written consent of Purchaser, which shall not be unreasonably withheld, conditioned or delayed; provided, however, that, without the prior consent of Purchaser, Provider may within one hundred (100) days of the respective Commercial Operation Date (i) assign this Agreement to a wholly-owned subsidiary of Sun Edison LLC; (ii) assign this Agreement as collateral security in connection with any financing of the System (including, without limitation, pursuant to a sale-leaseback transaction). In the event that Provider identifies such secured Financing Party in Schedule 5 of the Special Conditions, or in a subsequent notice to Purchaser, then Purchaser shall comply with the provisions set forth in Exhibit B of these General Terms and Conditions. Any Financing Party shall be an intended third-party beneficiary of this Section 13.1. Any assignment by Provider without any required prior written consent of Provider shall not release Purchaser of its obligations hereunder.

13.2. Acknowledgment of Collateral Assignment. In the event that Provider identifies a secured Financing Party in Schedule 5 of the Special Conditions, or in a subsequent notice to Purchaser, then Purchaser hereby:

(a) acknowledges the collateral assignment by Provider to the Financing Party, of Provider's right, title and interest in, to and under the Agreement, as consented to under Section 13.1 of the Agreement.

(b) acknowledges that the Financing Party as such collateral assignee shall be entitled to exercise any and all rights of lenders generally with respect to the Provider's interests in this Agreement.

(c) acknowledges that it has been advised that Provider has granted a first priority perfected security interest in the System to the Financing Party and that the Financing Party has relied upon the characterization of the System as personal property, as agreed in this Agreement in accepting such security interest as collateral for its financing of the System.

Any Financing Party shall be an intended third-party beneficiary of this Section 13.2.

13.3 Assignment by Purchaser. Purchaser shall not assign the Agreement or any interest therein, without Provider's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Any assignment by Purchaser without the prior written consent of Provider shall not release Purchaser of its obligations hereunder.

### 14. NOTICES.

14.1 Notice Addresses. Unless otherwise provided in the Agreement, all notices and communications concerning the Agreement shall be in writing and addressed to the other Party (or Financing Party, as the case may be) at the addresses set forth in Schedule 5 of the Special Conditions, or at such other address as may be designated in writing to the other Party from time to time.

14.2 Notice. Unless otherwise provided herein, any notice provided for in the Agreement shall be hand delivered, sent by registered or certified U.S. Mail, postage prepaid, or by commercial overnight delivery service, or transmitted by facsimile and shall be deemed delivered to the addressee or its office when received at the address for notice specified above when hand delivered, upon confirmation of sending when sent by facsimile (if sent during normal business hours or the next Business Day if sent at any other time), on the Business Day after being sent when sent by overnight delivery service (Saturdays, Sundays and legal holidays excluded), or five (5) Business Days after deposit in the mail when sent by U.S. mail.

14.3 Address for Invoices. All invoices under the Agreement shall be sent to the address provided by Purchaser. Invoices shall be sent by regular first class mail postage prepaid.

## 15. CONFIDENTIALITY.

15.1 Confidentiality Obligation. If either Party provides confidential information, including business plans, strategies, financial information, proprietary, patented, licensed, copyrighted or trademarked information, and/or technical information regarding the financing, design, operation and maintenance of the System or of Purchaser's business ("Confidential Information") to the other or, if in the course of performing under the Agreement or negotiating the Agreement a Party learns Confidential Information regarding the facilities or plans of the other, the receiving Party shall (a) protect the Confidential Information from disclosure to third parties with the same degree of care accorded its own confidential and proprietary information, and (b) refrain from using such Confidential Information, except in the negotiation and performance of the Agreement. Notwithstanding the above, a Party may provide such Confidential Information to its officers, directors, members, managers, employees, agents, contractors and consultants, and Affiliates, lenders, and potential assignees of the Agreement or acquirers of Provider or its Affiliates (provided and on condition that such potential assignees be bound by a written agreement restricting use and disclosure of Confidential Information) (collectively, "Representatives"), in each case whose access is reasonably necessary. Each such recipient of Confidential Information shall be informed by the Party disclosing Confidential Information of its confidential nature and shall be directed to treat such information confidentially and shall agree to abide by these provisions. In any event, each Party shall be liable (with respect to the other Party) for any breach of this provision by any entity to whom that Party improperly discloses Confidential Information. The terms of the Agreement (but not its execution or existence) shall be considered Confidential Information for purposes of this Article, except as set forth in Section 15.3. All Confidential Information shall remain the property of the disclosing Party and shall be returned to the disclosing Party or destroyed after the receiving Party's need for it has expired or upon the request of the disclosing Party. Provided, however, that in no event shall Purchaser be required to take any action pursuant to this Agreement that is prohibited by the New Mexico Inspection of Public Records Act.

15.2 Permitted Disclosures. Notwithstanding any other provision herein, neither Party shall be required to hold confidential any information that:

(a) becomes publicly available other than through the receiving Party;

(b) is required to be disclosed by a Governmental Authority, under Applicable Law, including without limitation pursuant to the New Mexico Inspection of Public Records Act, or pursuant to a validly issued subpoena or required filing, but a receiving Party subject to any such requirement shall promptly notify the disclosing Party of such requirement;

(c) is independently developed by the receiving Party; or

(d) becomes available to the receiving Party without restriction from a third party under no obligation of confidentiality.

15.3 Goodwill and Publicity. Neither Party shall use the name, trade name, service mark, or trademark of the other Party in any promotional or advertising material without the prior written consent of such other Party. The Parties shall coordinate and cooperate with each other when making public announcements related to the execution and existence of the Agreement, and each Party shall have the right to promptly review, comment upon, and approve any publicity materials, press releases, or other public statements by the other Party that refer to, or that describe any aspect of, the Agreement; provided that no such publicity releases or other public statements (except for filings or other statements or releases as may be required by Applicable Law) shall be made by either Party without the prior written consent of the other Party. At no time will either Party acquire any rights whatsoever to any trademark, trade name, service mark, logo or other intellectual property right belonging to the other Party. Notwithstanding the foregoing, Purchaser agrees that Provider may, at its sole discretion, take photographs of the installation process of the System and/or the completed System, and Provider shall be permitted to use such images (regardless of media) in its marketing efforts, including but not limited to use in brochures, advertisements, websites and news outlet or press release articles. The images shall not include any identifying information without Purchaser permission and the installation site shall not be disclosed beyond the type of establishment (such as "Retail Store," "Distribution Center," or such other general terms), the city and state.

15.4 Enforcement of Confidentiality Obligation. Subject to Purchaser's obligations arising under the New Mexico Inspection of Public Records Act, each Party agrees that the disclosing Party would be irreparably injured by a breach of this Article by the receiving Party or its Representatives or other Person to whom the receiving Party discloses Confidential Information of the disclosing Party and that the

disclosing Party may be entitled to equitable relief, including injunctive relief and specific performance, in the event of any breach of the provisions of this Article. To the fullest extent permitted by Applicable Law, such remedies shall not be deemed to be the exclusive remedies for a breach of this Article, but shall be in addition to all other remedies available at law or in equity.

16. [RESERVED].

17. INSURANCE.

17.1 Purchaser shall maintain the following insurance coverages in full force and effect throughout the Term either through insurance policies or acceptable self-insured retentions: (a) Workers' Compensation Insurance as may be from time to time required under applicable federal and state law, and (b) automobile insurance with commercially reasonable coverages and limits. Additionally, Provider shall carry adequate property loss insurance on the System which need not be covered by the Purchaser's property coverage. The amount and terms of insurance coverage will be determined at Provider's sole discretion.

17.2 Nothing in this Agreement shall be deemed a waiver of the limitations on Purchaser's liability pursuant to the New Mexico Tort Claims Act.

17.3 Provider, at its own cost and expense, shall carry and maintain in full force and effect during the term of this Agreement, comprehensive general liability insurance covering bodily injury and property damage liability, in a form and with an insurance company reasonably acceptable to Purchaser, with limits of coverage in the maximum amount which Purchaser could be held liable under the New Mexico Tort Claims Act for each person injured and for each accident resulting in damage to property, such maximum liability amount not to exceed \$750,000 per occurrence pursuant to N.M.S.A. § 41-4-19 (2009) as may be amended. Such insurance shall provide that Purchaser is named as an additional insured and that Purchaser is notified no less than 30 days in advance of cancellation for any reason. Provider shall furnish Purchaser with a copy of a certificate of insurance as a condition prior to performing services under this Agreement. Provider shall also obtain and maintain workers' compensation insurance, required by law, to provide coverage for Contractor's employees throughout the term of this Agreement, and Contractor shall provide Purchaser with evidence of its compliance with such requirement.

17.4 Certificates of Insurance. Purchaser, upon request, shall furnish current certificates evidencing that the insurance required under Section 17.1 is being maintained. Purchaser's insurance policy provided hereunder shall contain a provision whereby the insured agrees to give the other Party thirty (30) days' written notice before the insurance is cancelled or materially altered.

17.5 Additional Insureds. Purchaser's insurance policy shall be written on an occurrence basis and shall include the other Party as an additional insured as its interest may appear.

17.6 Insurer Qualifications. All insurance maintained hereunder shall be maintained with companies either rated no less than A- as to Policy Holder's Rating in the current edition of Best's Insurance Guide (or with an association of companies each of the members of which are so rated) or having a parent company's debt to policyholder surplus ratio of 1:1.

18. MISCELLANEOUS.

18.1 Integration; Exhibits. The Agreement, together with the Exhibits and Schedules attached thereto and hereto, constitute the entire agreement and understanding between Provider and Purchaser with respect to the subject matter thereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect. The Exhibits and Schedules attached thereto and hereto are integral parts hereof and are made a part of the Agreement by reference. In the event of a conflict between the provisions of these General Conditions and any applicable Special Conditions, the provisions of the Special Conditions shall prevail.

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

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

18.4 Cumulative Remedies. Except as set forth to the contrary herein, any right or remedy of Provider or Purchaser shall be cumulative and without



prejudice to any other right or remedy, whether contained herein or not.

18.5 Sovereign Immunity. Purchaser acknowledges that each Solar Power & Services Agreement and these General Conditions shall constitute a "valid written contract" under Applicable Law. Subject to the limitations set forth in Section 12 of this Agreement, to the extent permitted by Applicable Law, Purchaser hereby waives any defense of sovereign immunity that Purchaser might otherwise have in connection with any action taken by Provider to enforce its contractual rights against Purchaser under this Agreement. For the avoidance of doubt, nothing in this Section 18.5 shall be deemed a waiver of the limitations on Purchaser's liability pursuant to the New Mexico Tort Claims Act.

18.6 Limited Effect of Waiver. The failure of Provider or Purchaser to enforce any of the provisions of the Agreement, or the waiver thereof, shall not be construed as a general waiver or relinquishment on its part of any such provision, in any other instance or of any other provision in any instance.

18.6 Survival. The obligations under Sections 2.2 (Early Termination), 2.5 (Removal of System), Section 7.1(d) (Provider Covenant), Sections 7.2(d), (e), (f) and (g) (Purchaser Covenants), Section 8.3 (Exclusion of Warranties), Article 9 (Taxes and Governmental Fees), Article 12 (Limitation of Liability), Article 14 (Notices), Article 15 (Confidentiality), Article 18 (Miscellaneous), or pursuant to other provisions of this Agreement that, by their sense and context, are intended to survive termination of this Agreement shall survive the expiration or termination of this Agreement for any reason.

18.7 Governing Law. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of New Mexico. The Parties agree that the courts of the State of New Mexico and the Federal Courts sitting therein shall have jurisdiction over any action or proceeding arising under the Agreement to the fullest extent permitted by Applicable Law. The Parties waive to the fullest extent permitted by Applicable Law any objection it may have to the laying of venue of any action or proceeding under this Agreement any courts described in this Section 18.7.

18.8 Severability. If any term, covenant or condition in the Agreement shall, to any extent, be invalid or unenforceable in any respect under Applicable Law, the remainder of the Agreement shall not be affected thereby, and each term, covenant or condition of the Agreement shall be valid and enforceable to the

fullest extent permitted by Applicable Law and, if appropriate, such invalid or unenforceable provision shall be modified or replaced to give effect to the underlying intent of the Parties and to the intended economic benefits of the Parties.

18.9 Relation of the Parties. The relationship between Provider and Purchaser shall not be that of partners, agents, or joint ventures for one another, and nothing contained in the Agreement shall be deemed to constitute a partnership or agency agreement between them for any purposes, including federal income tax purposes. Provider and Purchaser, in performing any of their obligations hereunder, shall be independent contractors or independent parties and shall discharge their contractual obligations at their own risk.

18.10 Successors and Assigns. This Agreement and the rights and obligations under the Agreement shall be binding upon and shall inure to the benefit of Provider and Purchaser and their respective successors and permitted assigns.

18.11 Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument

18.12 [RESERVED].

18.13 [RESERVED].

18.14 Liquidated Damages Not Penalty. Purchaser acknowledges that the Early Termination Fee constitutes liquidated damages, and not penalties, in lieu of Provider's actual damages resulting from the early termination of the Agreement. Purchaser further acknowledges that Provider's actual damages may be impractical and difficult to accurately ascertain, and in accordance with Purchaser's rights and obligations under the Agreement, the Early Termination Fee constitutes fair and reasonable damages to be borne by Purchaser in lieu of Provider's actual damages.

*[Remainder of page intentionally left blank.]*

These General Terms and Conditions are witnessed and acknowledged by SunEdison and Party B below. For the avoidance of doubt, neither SunEdison nor Party B shall have any obligations or liability resulting from its witnessing and acknowledging these General Terms and Conditions.

"SUNEDISON": SUNEDISON ORIGINATION2, LLC

By: Sun Edison LLC, its manager,

City of Santa Fe Business Registration #:

CRS #:

By:

Name:

Title:

Date:

LEGAL DEPT.

Approved as to Form

Initials:

Date:

"PARTY B": CITY OF SANTA FE, NEW MEXICO

By:

Name:

Date:

Attest:

Name:

Title:

Approved as to Form

By:

Name:

Title:

Approved:

By:

Name:

Title:

**Exhibit A**  
**of General Conditions**

[PURCHASER'S LETTERHEAD]

[Landlord's Address]  
Attn: Authorized Representative

Re: Proposed Solar Power Installation at [Address of Premises]

Lease dated [ ] between [PURCHASER] and [LANDLORD] (the "Lease")

Dear Authorized Representative:

As has been discussed with you, [PURCHASER] and an affiliate of SunEdison Origination2, LLC ("SunEdison") have entered into a Solar Power & Services Agreement, pursuant to which SunEdison will install, finance, operate, and maintain a solar photovoltaic system at the above-referenced premises which [PURCHASER] leases from you pursuant to the Lease. By signing below and returning this letter to us, you confirm that:

1. The solar photovoltaic system and the renewable energy (including environmental credits and related attributes) produced by the system are personal property, and shall not be considered the property (personal or otherwise) of [LANDLORD] upon installation of the system at the premises.
2. SunEdison or its designee (including finance providers) shall have the right without cost to access the premises in order to install, operate, inspect, maintain, and remove the solar photovoltaic system. [LANDLORD] will not charge Purchaser or Provider any rent for such right to access the premises.
3. [LANDLORD] has been advised that the finance providers for the solar photovoltaic system have a first priority perfected security interest in the system. SunEdison and the finance providers for the solar photovoltaic system (including any system lessor or other lender) are intended beneficiaries of [LANDLORD]'s agreements in this letter.
4. [LANDLORD] will not take any action inconsistent with the foregoing.

We thank you for your consideration of this opportunity and we look forward to working with you in our environmental campaign to increase the utilization of clean, renewal energy resources.

Very truly yours,

[PURCHASER]

By: \_\_\_\_\_  
Name:  
Title: Authorized Representative

Acknowledged and agreed by:

[LANDLORD]  
By: \_\_\_\_\_  
Name:  
Title: Authorized Representative

**Exhibit B**  
**of General Conditions**

**Certain Agreements for the Benefit of the Financing Parties**

Purchaser acknowledges that Provider will be financing the installation of the System either through a lessor, lender or with financing accommodations from one or more financial institutions and that the Provider may sell or assign the System and/or may secure the Provider's obligations by, among other collateral, a pledge or collateral assignment of this Agreement and a first security interest in the System. In order to facilitate such necessary sale, conveyance, or financing, and with respect to any such financial institutions of which Provider has notified Purchaser in writing Purchaser agrees as follows:

(a) **Consent to Collateral Assignment.** Purchaser consents to either the sale or conveyance to a lessor or the collateral assignment by Provider to the a lender that has provided financing of the System, of the Provider's right, title and interest in and to this Agreement.

(b) **Notices of Default.** Purchaser will deliver to the Financing Party, concurrently with delivery thereof to Provider, a copy of each notice of default given by Purchaser under the Agreement, inclusive of a reasonable description of Provider default. No such notice will be effective absent delivery to the Financing Party. Purchaser will not mutually agree with Provider to terminate the Agreement without the written consent of the Financing Party.

(c) **Rights Upon Event of Default.** Notwithstanding any contrary term of this Agreement:

i. The Financing Party, as collateral assignee, shall be entitled to exercise, in the place and stead of Provider, any and all rights and remedies of Provider under this Agreement in accordance with the terms of this Agreement and only in the event of Provider's or Host's default, the Financing Party shall also be entitled to exercise all rights and remedies of secured parties generally with respect to this Agreement and the System.

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

iii. Upon the exercise of remedies under its security interest in the System, including any sale thereof by the Financing Party, whether by judicial proceeding or under any power of sale contained therein, or any conveyance from Provider to the Financing Party (or any assignee of the Financing Party) in lieu thereof, the Financing Party shall give notice to Host of the transferee or assignee of this Agreement. Any such exercise of remedies shall not constitute a default under this Agreement.

iv. Upon any rejection or other termination of this Agreement pursuant to any process undertaken with respect to Provider under the United States Bankruptcy Code, at the request of the Financing Party made within ninety (90) days of such termination or rejection, Host shall enter into a new agreement with the Financing Party or its assignee having the same terms and conditions as this Agreement.

(d) **Right to Cure.**

i. Purchaser will not exercise any right to terminate or suspend this Agreement unless it shall have given the Financing Party prior written notice by sending notice to the Financing Party (at the address provided by Provider) of its intent to terminate or suspend this Agreement, specifying the condition giving rise to such right, and the Financing Party shall not have caused to be cured the condition giving rise to the right of termination or suspension within thirty (30) days after such notice or (if longer) the periods provided for in this Agreement. The

Parties respective obligations will otherwise remain in effect during any cure period; provided that if such Provider default reasonably cannot be cured by the Financing Party within such period and the Financing Party commences and continuously pursues cure of such default within such period, such period for cure will be extended for a reasonable period of time under the circumstances, such period not to exceed additional ninety (90) days.

ii. If the Financing Party (including any purchaser or transferee), pursuant to an exercise of remedies by the Financing Party, shall acquire title to or control of Provider's assets and shall, within the time periods described in Sub-section (c)(i). above, cure all defaults under this Agreement existing as of the date of such change in title or control in the manner required by this Agreement and which are capable of cure by a third person or entity, then such person or entity shall no longer be in default under this Agreement, and this Agreement shall continue in full force and effect.

\*\*\*

## SOLAR POWER & SERVICES AGREEMENT

This Solar Power & Services Agreement is made and entered into as of this 24<sup>th</sup> day of June, 2009 (the "Effective Date"), between SunEdison Origination2, LLC, a Delaware limited liability company ("Provider"), and the City of Santa Fe, a New Mexico municipal corporation, ("Purchaser"); and, together with Provider, each, a "Party" and together, the "Parties").

### WITNESSETH:

WHEREAS, Purchaser desires that Provider install and operate a solar photovoltaic system at the Premises (as hereafter defined) for the purpose of providing Solar Services (as hereafter defined), and Provider is willing to do the same;

WHEREAS, Provider and The City of Santa Fe ("Purchaser") acknowledged those certain General Terms and Conditions dated as of     , 2009 ("General Conditions"), which are incorporated by reference as set forth herein;

WHEREAS, the terms and conditions of this Solar Power & Services Agreement, excluding the General Conditions incorporated herein, constitute the "Special Conditions" referred to in the General Conditions.

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

1. Incorporation of General Conditions. The General Conditions are incorporated herein as Exhibit 1, without exception.
2. Schedules. The following Schedules hereto are the respective Schedules to the Special Conditions referenced in the General Conditions:

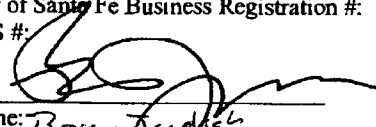
Schedule 1	Description of the Premises & System
Schedule 2	kWh Rate
Schedule 3	Early Termination Fee
Schedule 4	Estimated Annual Production
Schedule 5	Notice Information

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

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

**SUNEDISON ORIGATION2, LLC**

By: SUN EDISON LLC, its manager,  
City of Santa Fe Business Registration #:  
CRS #:

By:   
Name: Brian Sanchez  
Title: General Manager  
Date: 7/16/09

LEGAL DEPT.

Approved as to Form:

Initials: FB

Date: 7-8-09

**THE CITY OF SANTA FE**

By: David Cozz  
Name: DAVID COSS, MAYOR  
Date: 6/25/09

Attest: Yolanda Y. Vigil  
Name: YOLANDA Y. VIGIL  
Title: CITY CLERK  
certified 6/24/09

Approved as to Form:

By:   
Name: FRANK D. KATZ  
Title: CITY ATTORNEY

Approved:

By: David N. Millican  
Name: DAVID N. MILLICAN,  
Title: DIRECTOR, FINANCE  
DEPARTMENT

## **SCHEDULES**

### **I. Schedule 1: Description of Premises and System**

**Solar System Premises:** City of Santa Fe Airport  
121 Aviation Drive  
Santa Fe, New Mexico 87507

**Anticipated Rebate or Subsidy** All Provider Solar Incentives (as defined in the General Conditions).  
Additionally, Purchaser anticipates an \$0.15 / kWh REC subsidy from  
PNM paid per kWh annually to Purchaser through end of the term.

**Solar System Size:** 75 kW (DC)

**Scope:** Design and supply grid-interconnected, ground mounted solar electric  
(PV) systems.

**Module:** Evergreen-190-SL or equivalent

**Inverter:** IEEE 1547 qualified

### **II. Schedule 2 -- kWh Rate**

The kWh Rate with respect to the System under the Agreement is as stated in the following schedule:

Year	Energy & Demand Value*	Environmental Attributes	kWh Rate
1	\$ 0.0850	\$ 0.150	\$ 0.2350
2	\$ 0.0850	\$ 0.150	\$ 0.2350
3	\$ 0.0850	\$ 0.150	\$ 0.2350
4	\$ 0.0850	\$ 0.150	\$ 0.2350
5	\$ 0.0850	\$ 0.150	\$ 0.2350
6	\$ 0.0850	\$ 0.150	\$ 0.2350
7	\$ 0.0850	\$ 0.150	\$ 0.2350
8	\$ 0.0850	\$ 0.150	\$ 0.2350
9	\$ 0.0850	\$ 0.150	\$ 0.2350
10	\$ 0.0850	\$ 0.150	\$ 0.2350
11	\$ 0.0850	\$ 0.150	\$ 0.2350
12	\$ 0.0850	\$ 0.150	\$ 0.2350
13	\$ 0.0850	\$ 0.150	\$ 0.2350
14	\$ 0.0850	\$ 0.150	\$ 0.2350
15	\$ 0.0850	\$ 0.150	\$ 0.2350
16	\$ 0.0850	\$ 0.150	\$ 0.2350
17	\$ 0.0850	\$ 0.150	\$ 0.2350
18	\$ 0.0850	\$ 0.150	\$ 0.2350
19	\$ 0.0850	\$ 0.150	\$ 0.2350
20	\$ 0.0850	\$ 0.150	\$ 0.2350

\*Calculated based on the year 1 kWh rate multiplied by 0% inflation factor each year.



### III. Schedule 3 – Early Termination Fee

The Early Termination Fee with respect to the System under the Agreement shall be calculated in accordance with the following:

Early Termination Occurs in Year:	Column 1 Early Termination Fee where Host does not take Title (\$/Wdc including costs of removal)	Purchase Date Occurs on: (Each "Anniversary" below shall refer to the anniversary of the Commercial Operation Date, as such definition is modified in Section 3.3(c) of the Agreement)	Column 2 Early Termination Fee where Host takes Title (\$/Wdc, does not include costs of removal)
1*	\$ 8.29		
2	\$ 7.37		
3	\$ 6.79		
4	\$ 6.17		
5	\$ 5.47		
6	\$ 4.77		
7	\$ 4.70	91st day following 5th Anniversary	\$ 4.27
8	\$ 4.62	91st day following 6th Anniversary	\$ 4.20
9	\$ 4.53	91st day following 7th Anniversary	\$ 4.12
10	\$ 4.43	91st day following 8th Anniversary	\$ 4.03
11	\$ 4.33	91st day following 9th Anniversary	\$ 3.93
12	\$ 4.21	91st day following 10th Anniversary	\$ 3.83
13	\$ 4.08	91st day following 11th Anniversary	\$ 3.71
14	\$ 3.85	91st day following 12th Anniversary	\$ 3.58
15	\$ 3.61	91st day following 13th Anniversary	\$ 3.35
16	\$ 3.35	91st day following 14th Anniversary	\$ 3.11
17	\$ 3.08	91st day following 15th Anniversary	\$ 2.85
18	\$ 2.80	91st day following 16th Anniversary	\$ 2.58
19	\$ 2.51	91st day following 17th Anniversary	\$ 2.30
20	\$ 2.20	91st day following 18th Anniversary	\$ 2.01
		91st day following 19th Anniversary	\$ 1.70

At Expiration (the end of the Initial Term), the amount in Column 1 shall be deemed to be zero (0).

\*Includes Early Termination prior to the Commercial Operation Date.

#### **IV. Schedule 4 – Estimated Annual Production**

Estimated Annual Production commencing on the Commercial Operation Date with respect to System under the Agreement shall be as follows:

Year	Estimated Production (kWh)
1	163,500
2	162,192
3	160,894
4	159,607
5	158,330
6	157,064
7	155,807
8	154,561
9	153,324
10	152,098
11	150,881
12	149,674
13	148,477
14	147,289
15	146,110
16	144,942
17	143,782
18	142,632
19	141,491
20	140,359

The values set forth in this table are estimates (and not guarantees), of approximately how many kWhs are expected to be generated annually by the System.

**V. Schedule 5 – Notice Information**

**Purchaser:**

City of Santa Fe  
P.O. Box 909  
200 Lincoln Avenue  
Santa Fe, NM 87504  
Attention: City Energy Specialist

**Provider:**

SunEdison Origination 2 LLC  
c/o Sun Edison LLC  
12500 Baltimore Avenue  
Beltsville, MD 20705  
1-800-786-3347

*With a copy to*

General Counsel  
12500 Baltimore Avenue  
Beltsville, MD 20705-6375  
Tel. (443) 909-7200  
Fax (443) 909-7121

**Financing Party:**

[To be provided by Provider when known]



TOTAL SYSTEM DESCRIPTION	
MODULE TYPE	FS270 (70W)
QUANTITY	2181 MODULES
SYSTEM SIZE (DC)	150 KW DC
SYSTEM SIZE (AC)	135 KW AC
INVERTER	SATCON PVS-135
TILT ANGLE	20°
AREA	1.1 ACRES

THIS DRAWING IS THE PROPERTY OF SUNEDISON, LLC. THIS INFORMATION IS CONFIDENTIAL AND IS TO BE USED ONLY IN CONNECTION WITH WORK DESCRIBED BY SUNEDISON, LLC. NO PART IS TO BE DISCLOSED TO OTHERS WITHOUT WRITTEN PERMISSION FROM SUNEDISON, LLC.

PROJECT NUMBER  
NM-09-0001

TITLE  
CONCEPTUAL LAYOUT  
AIRPORT

SCALE

A.1

SHEET NO.

**Sun Edison**  
12500 BALTIMORE AVE.  
BELTSVILLE, MD 20705  
(443) 909-7200  
(C), 2006 SUN EDISON, LLC AND ITS  
AFFILIATES, ALL RIGHT RESERVED

SOLAR ELECTRIC SYSTEM CLIENT:  
CITY OF SANTA FE  
ADDRESS 1  
ADDRESS 2

DATE	06/07/2009
DRAWN	ST
REVISIONS	

### SOLAR POWER & SERVICES AGREEMENT

This Solar Power & Services Agreement is made and entered into as of this 24<sup>th</sup> day of June, 2009 (the "Effective Date"), between SunEdison Origination2, LLC, a Delaware limited liability company ("Provider"), and the City of Santa Fe, a New Mexico municipal corporation, ("Purchaser"); and, together with Provider, each, a "Party" and together, the "Parties").

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WHEREAS, Provider and The City of Santa Fe ("Purchaser") acknowledged those certain General Terms and Conditions dated as of     , 2009 ("General Conditions"), which are incorporated by reference as set forth herein;

WHEREAS, the terms and conditions of this Solar Power & Services Agreement, excluding the General Conditions incorporated herein, constitute the "Special Conditions" referred to in the General Conditions.

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1. Incorporation of General Conditions. The General Conditions are incorporated herein as Exhibit 1, without exception.

2. Schedules. The following Schedules hereto are the respective Schedules to the Special Conditions referenced in the General Conditions:

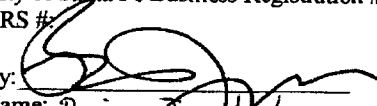
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3. Amendments. This Agreement may only be amended, modified or supplemented by an instrument in writing executed by duly authorized representatives of Provider and Purchaser.

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

**SUNEDISON ORIGINATION2, LLC**

By: SUN EDISON LLC, its manager,  
City of Santa Fe Business Registration #:  
CRS #:


By:   
Name: Brian Seculski  
Title: General Manager  
Date: 7/10/09

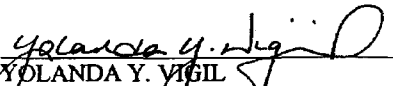
**LEGAL DEPT.**

Approved as to Form:

Initials: DSB  
Date: 7-8-09

**THE CITY OF SANTA FE**


By:   
Name: DAVID COSS, MAYOR  
Date: 6/25/09

Attest:   
Name: YOLANDA Y. VIGIL  
Title: CITY CLERK  
certfy 6/24/09

Approved as to Form:

By:   
Name: FRANK D. KATZ  
Title: CITY ATTORNEY

Approved:

By:   
Name: DAVID N. MILLICAN,  
Title: DIRECTOR, FINANCE  
DEPARTMENT

## SCHEDULES

### **I. Schedule 1: Description of Premises and System**

**Solar System Premises:** City of Santa Fe Convention Center  
201 W. Marcy Street  
Santa Fe, New Mexico 87507

**Anticipated Rebate or Subsidy** All Provider Solar Incentives (as defined in the General Conditions).  
Additionally, Purchaser anticipates an \$0.15 / kWh REC subsidy from  
PNM paid per kWh annually to Purchaser through end of the term.

**Solar System Size:** 96 kW (DC)

**Scope:** Design and supply grid-interconnected, roof-top solar electric (PV)  
systems.

**Module:** Evergreen-190-SL or equivalent

**Inverter:** IEEE 1547 qualified

### **II. Schedule 2 -- kWh Rate**

The kWh Rate with respect to the System under the Agreement is as stated in the following schedule:

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7	\$ 0.0840	\$ 0.150	\$ 0.2340
8	\$ 0.0840	\$ 0.150	\$ 0.2340
9	\$ 0.0840	\$ 0.150	\$ 0.2340
10	\$ 0.0840	\$ 0.150	\$ 0.2340
11	\$ 0.0840	\$ 0.150	\$ 0.2340
12	\$ 0.0840	\$ 0.150	\$ 0.2340
13	\$ 0.0840	\$ 0.150	\$ 0.2340
14	\$ 0.0840	\$ 0.150	\$ 0.2340
15	\$ 0.0840	\$ 0.150	\$ 0.2340
16	\$ 0.0840	\$ 0.150	\$ 0.2340
17	\$ 0.0840	\$ 0.150	\$ 0.2340
18	\$ 0.0840	\$ 0.150	\$ 0.2340
19	\$ 0.0840	\$ 0.150	\$ 0.2340
20	\$ 0.0840	\$ 0.150	\$ 0.2340

[\*Calculated based on the year 1 Energy and Demand Value multiplied by 0% inflation factor each year.]

### III. Schedule 3 – Early Termination Fee

The Early Termination Fee with respect to the System under the Agreement shall be calculated in accordance with the following:

Early Termination Occurs in Year:	Column 1 Early Termination Fee where Host does not take Title (\$/Wdc including costs of removal)	Purchase Date Occurs on: (Each "Anniversary" below shall refer to the anniversary of the Commercial Operation Date, as such definition is modified in Section 3.3(c) of the Agreement)	Column 2 Early Termination Fee where Host takes Title (\$/Wdc, does not include costs of removal)
1*	\$ 7.30		
2	\$ 6.49		
3	\$ 5.97		
4	\$ 5.43		
5	\$ 4.82		
6	\$ 4.19		
7	\$ 4.13		
8	\$ 4.05		
9	\$ 3.97		
10	\$ 3.89		
11	\$ 3.80		
12	\$ 3.70		
13	\$ 3.58		
14	\$ 3.38		
15	\$ 3.17		
16	\$ 2.95		
17	\$ 2.71		
18	\$ 2.47		
19	\$ 2.21		
20	\$ 1.93		
		91st day following 5th Anniversary	\$ 3.69
		91st day following 6th Anniversary	\$ 3.63
		91st day following 7th Anniversary	\$ 3.55
		91st day following 8th Anniversary	\$ 3.47
		91st day following 9th Anniversary	\$ 3.39
		91st day following 10th Anniversary	\$ 3.30
		91st day following 11th Anniversary	\$ 3.20
		91st day following 12th Anniversary	\$ 3.08
		91st day following 13th Anniversary	\$ 2.88
		91st day following 14th Anniversary	\$ 2.67
		91st day following 15th Anniversary	\$ 2.45
		91st day following 16th Anniversary	\$ 2.21
		91st day following 17th Anniversary	\$ 1.97
		91st day following 18th Anniversary	\$ 1.71
		91st day following 19th Anniversary	\$ 1.43

At Expiration (the end of the Initial Term), the amount in Column 1 shall be deemed to be zero (0).

\*Includes Early Termination prior to the Commercial Operation Date.



#### **IV. Schedule 4 – Estimated Annual Production**

Estimated Annual Production commencing on the Commercial Operation Date with respect to System under the Agreement shall be as follows:

Year	Estimated Production (kWh)
1	171,648
2	170,275
3	168,913
4	167,561
5	166,221
6	164,891
7	163,572
8	162,263
9	160,965
10	159,678
11	158,400
12	157,133
13	155,876
14	154,629
15	153,392
16	152,165
17	150,947
18	149,740
19	148,542
20	147,354

The values set forth in this table are estimates (and not guarantees), of approximately how many kWhs are expected to be generated annually by the System.

**V. Schedule 5 – Notice Information**

**Purchaser:**

City of Santa Fe  
P.O. Box 909  
200 Lincoln Avenue  
Santa Fe, NM 87504  
Attention: City Energy Specialist

**Provider:**

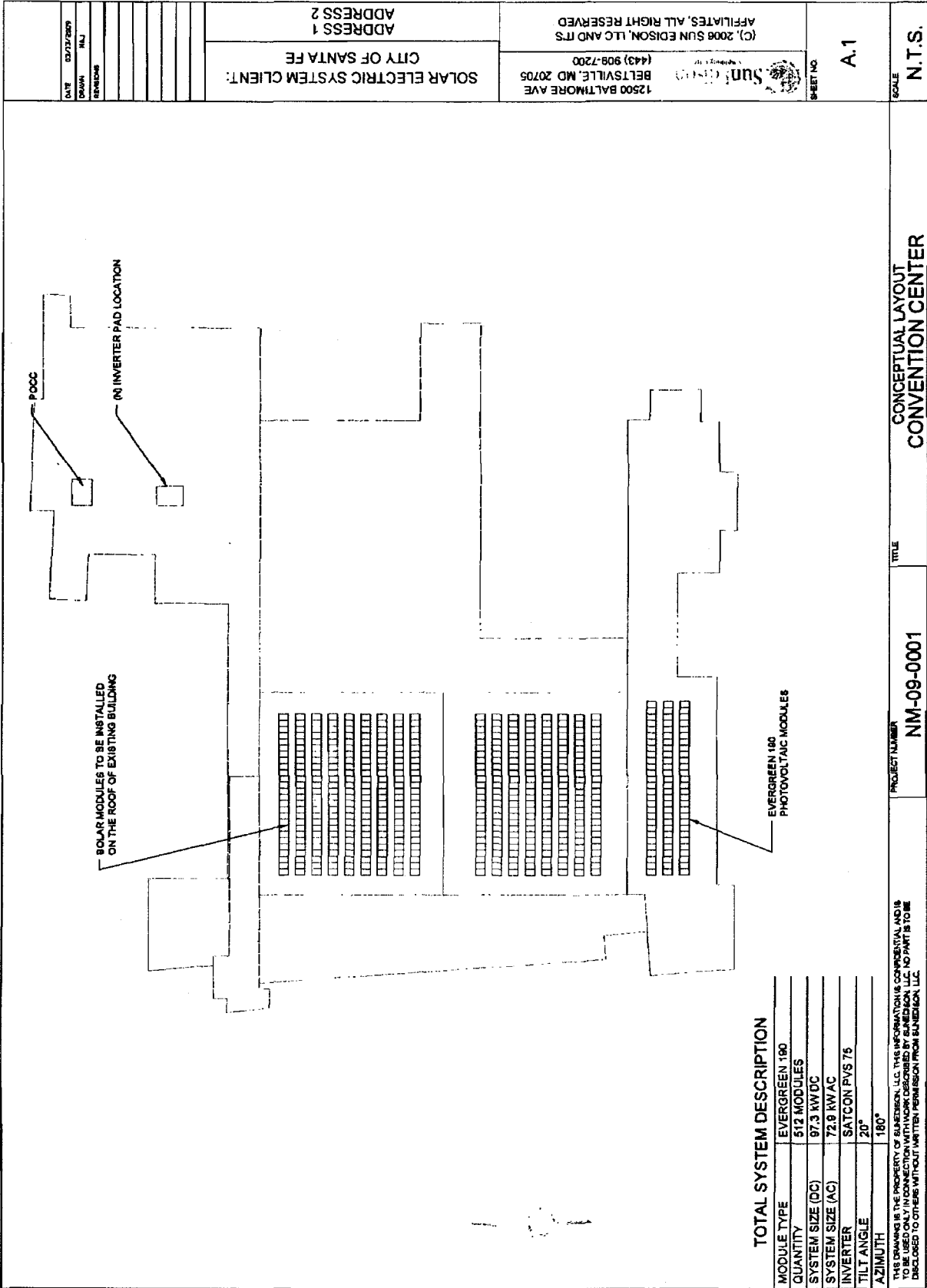
SunEdison Origination<sup>2</sup> LLC  
c/o Sun Edison LLC  
12500 Baltimore Avenue  
Beltsville, MD 20705  
1-800-786-3347

*With a copy to*

General Counsel  
12500 Baltimore Avenue  
Beltsville, MD 20705-6375  
Tel. (443) 909-7200  
Fax (443) 909-7121

**Financing Party:**

[To be provided by Provider when known]



### SOLAR POWER & SERVICES AGREEMENT

This Solar Power & Services Agreement is made and entered into as of this 24<sup>th</sup> day of June, 2009 (the "Effective Date"), between SunEdison Origination2, LLC, a Delaware limited liability company ("Provider"), and the City of Santa Fe, a New Mexico municipal corporation, ("Purchaser"); and, together with Provider, each, a "Party" and together, the "Parties").

#### **WITNESSETH:**

WHEREAS, Purchaser desires that Provider install and operate a solar photovoltaic system at the Premises (as hereafter defined) for the purpose of providing Solar Services (as hereafter defined), and Provider is willing to do the same;

WHEREAS, Provider and The City of Santa Fe ("Purchaser") acknowledged those certain General Terms and Conditions dated as of \_\_\_\_, 2009 ("General Conditions"), which are incorporated by reference as set forth herein;

WHEREAS, the terms and conditions of this Solar Power & Services Agreement, excluding the General Conditions incorporated herein, constitute the "Special Conditions" referred to in the General Conditions.

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

1. Incorporation of General Conditions. The General Conditions are incorporated herein as Exhibit 1, without exception.

2. Schedules. The following Schedules hereto are the respective Schedules to the Special Conditions referenced in the General Conditions:

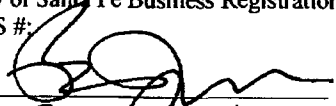
Schedule 1	Description of the Premises & System
Schedule 2	kWh Rate
Schedule 3	Early Termination Fee
Schedule 4	Estimated Annual Production
Schedule 5	Notice Information

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

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

**SUNEDISON ORIGATION2, LLC**

By: SUN EDISON LLC, its manager,  
City of Santa Fe Business Registration #:  
CRS #:

By:   
Name: Brina Jacobich  
Title: General Manager  
Date: 7/8/09

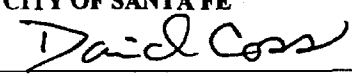
**LEGAL DEPT.**

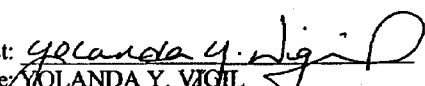
Approved as to Form

Initials: BSK

Date: 7-8-09

**THE CITY OF SANTA FE**


By:   
Name: DAVID COSS, MAYOR  
Date: 6/25/09

Attest:   
Name: YOLANDA Y. VIGIL  
Title: CITY CLERK comty 6/24/09

Approved as to Form:

By:   
Name: FRANK D. KATZ  
Title: CITY ATTORNEY

Approved:

By:   
Name: DAVID N. MILLICAN,  
Title: DIRECTOR, FINANCE  
DEPARTMENT

## **SCHEDULES**

### **I. Schedule 1: Description of Premises and System**

**Solar System Premises:** City of Santa Fe Fort Marcy Complex  
490 Washington Ave.  
Santa Fe, New Mexico 87507

**Anticipated Rebate or Subsidy** All Provider Solar Incentives (as defined in the General Conditions).  
Additionally, Purchaser anticipates an \$0.15 / kWh REC subsidy from  
PNM paid per kWh annually to Purchaser through end of the term.

**Solar System Size:** 48 kW (DC)

**Scope:** Design and supply grid-interconnected, roof-top solar electric (PV)  
systems.

**Module:** Evergreen-190-SL or equivalent

**Inverter:** IEEE 1547 qualified

### **II. Schedule 2 -- kWh Rate**

The kWh Rate with respect to the System under the Agreement is as stated in the following schedule:

Year	Energy & Demand Value*	Environmental Attributes	kWh Rate
1	\$ 0.0830	\$ 0.150	\$ 0.2330
2	\$ 0.0830	\$ 0.150	\$ 0.2330
3	\$ 0.0830	\$ 0.150	\$ 0.2330
4	\$ 0.0830	\$ 0.150	\$ 0.2330
5	\$ 0.0830	\$ 0.150	\$ 0.2330
6	\$ 0.0830	\$ 0.150	\$ 0.2330
7	\$ 0.0830	\$ 0.150	\$ 0.2330
8	\$ 0.0830	\$ 0.150	\$ 0.2330
9	\$ 0.0830	\$ 0.150	\$ 0.2330
10	\$ 0.0830	\$ 0.150	\$ 0.2330
11	\$ 0.0830	\$ 0.150	\$ 0.2330
12	\$ 0.0830	\$ 0.150	\$ 0.2330
13	\$ 0.0830	\$ 0.150	\$ 0.2330
14	\$ 0.0830	\$ 0.150	\$ 0.2330
15	\$ 0.0830	\$ 0.150	\$ 0.2330
16	\$ 0.0830	\$ 0.150	\$ 0.2330
17	\$ 0.0830	\$ 0.150	\$ 0.2330
18	\$ 0.0830	\$ 0.150	\$ 0.2330
19	\$ 0.0830	\$ 0.150	\$ 0.2330
20	\$ 0.0830	\$ 0.150	\$ 0.2330

[\*Calculated based on the year 1 Energy and Demand Value multiplied by 0% inflation factor each year.]

### III. Schedule 3 – Early Termination Fee

The Early Termination Fee with respect to the System under the Agreement shall be calculated in accordance with the following:

Early Termination Occurs in Year:	Column 1 Early Termination Fee where Host does not take Title (\$/Wdc including costs of removal)	Purchase Date Occurs on: (Each "Anniversary" below shall refer to the anniversary of the Commercial Operation Date, as such definition is modified in Section 3.3(c) of the Agreement)	Column 2 Early Termination Fee where Host takes Title (\$/Wdc, does not include costs of removal)
1*	\$ 7.55		
2	\$ 6.71		
3	\$ 6.18		
4	\$ 5.61		
5	\$ 4.98		
6	\$ 4.33	91st day following 5th Anniversary	\$ 3.83
7	\$ 4.26	91st day following 6th Anniversary	\$ 3.76
8	\$ 4.19	91st day following 7th Anniversary	\$ 3.69
9	\$ 4.11	91st day following 8th Anniversary	\$ 3.61
10	\$ 4.02	91st day following 9th Anniversary	\$ 3.52
11	\$ 3.93	91st day following 10th Anniversary	\$ 3.43
12	\$ 3.82	91st day following 11th Anniversary	\$ 3.32
13	\$ 3.70	91st day following 12th Anniversary	\$ 3.20
14	\$ 3.49	91st day following 13th Anniversary	\$ 2.99
15	\$ 3.27	91st day following 14th Anniversary	\$ 2.77
16	\$ 3.04	91st day following 15th Anniversary	\$ 2.54
17	\$ 2.80	91st day following 16th Anniversary	\$ 2.30
18	\$ 2.55	91st day following 17th Anniversary	\$ 2.05
19	\$ 2.28	91st day following 18th Anniversary	\$ 1.78
20	\$ 2.00	91st day following 19th Anniversary	\$ 1.50

At Expiration (the end of the Initial Term), the amount in Column 1 shall be deemed to be zero (0).

\*Includes Early Termination prior to the Commercial Operation Date.

#### **IV. Schedule 4 – Estimated Annual Production**

Estimated Annual Production commencing on the Commercial Operation Date with respect to System under the Agreement shall be as follows:

Year	Estimated Production (kWh)
1	84,384
2	83,709
3	83,039
4	82,375
5	81,716
6	81,062
7	80,414
8	79,770
9	79,132
10	78,499
11	77,871
12	77,248
13	76,630
14	76,017
15	75,409
16	74,806
17	74,207
18	73,614
19	73,025
20	72,441

The values set forth in this table are estimates (and not guarantees), of approximately how many kWhs are expected to be generated annually by the System.



**V. Schedule 5 – Notice Information**

**Purchaser:**

City of Santa Fe  
P.O. Box 909  
200 Lincoln Avenue  
Santa Fe, NM 87504  
Attention: City Energy Specialist

**Provider:**

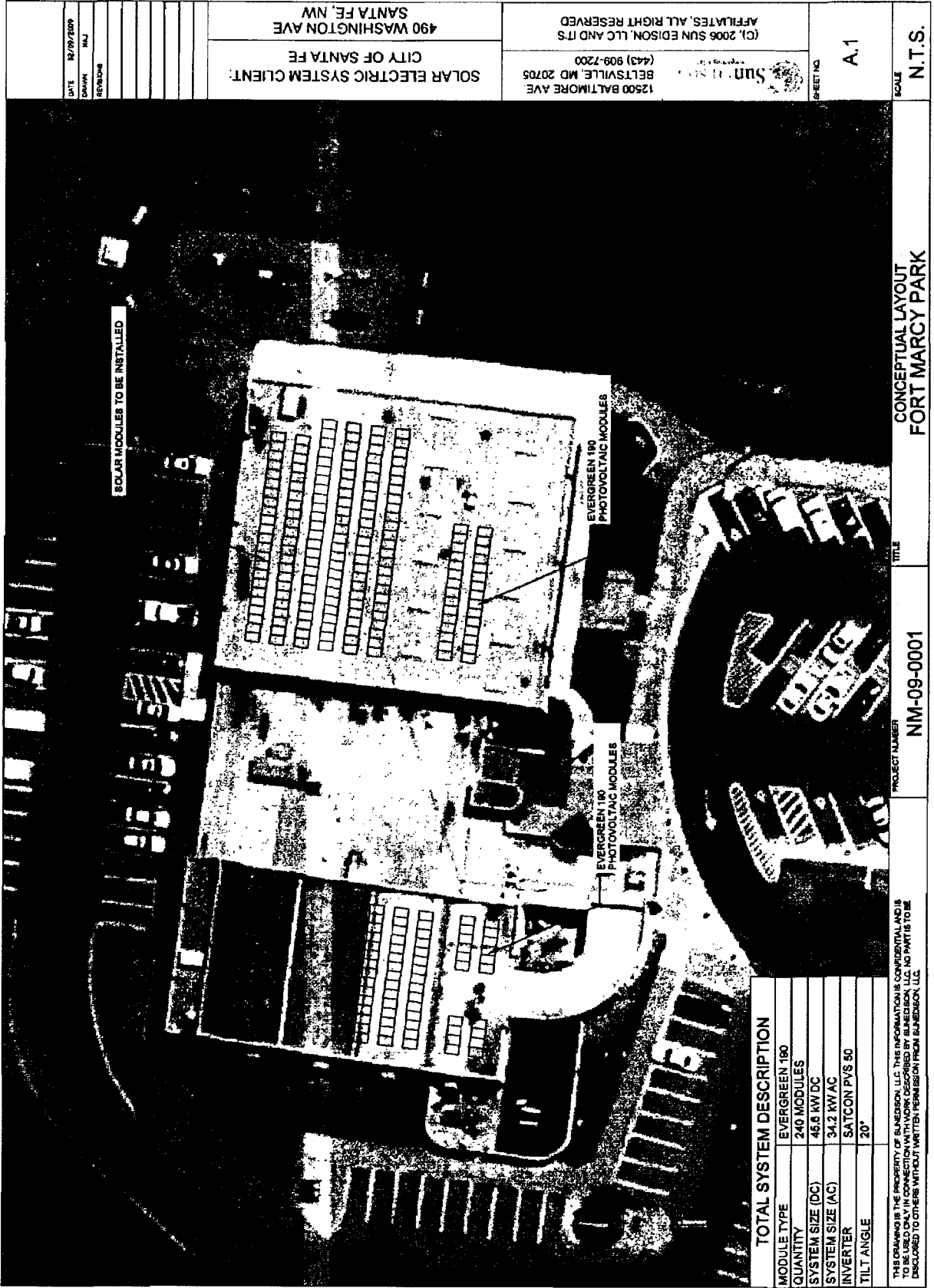
SunEdison Origination<sup>2</sup>, LLC  
c/o Sun Edison LLC  
12500 Baltimore Avenue  
Beltsville, MD 20705  
1-800-786-3347

*With a copy to*

General Counsel  
12500 Baltimore Avenue  
Beltsville, MD 20705-6375  
Tel. (443) 909-7200  
Fax (443) 909-7121

**Financing Party:**

[To be provided by Provider when known]



TOTAL SYSTEM DESCRIPTION	
MODULE TYPE	EVERGREEN 180
QUANTITY	240 MODULES
SYSTEM SIZE (DC)	46.6 KW DC
SYSTEM SIZE (AC)	34.2 KW AC
INVERTER	SATCON PVS 90
TILT ANGLE	20°

THIS DRAWING IS THE PROPERTY OF BLANDESON, LLC. THE INFORMATION IS CONFIDENTIAL AND IS NOT TO BE DISCLOSED TO OTHERS WITHOUT WRITTEN PERMISSION FROM BLANDESON, LLC.

PROJECT NUMBER  
NM-09-0001

TITLE  
CONCEPTUAL LAYOUT  
FORT MARCY PARK

SCALE  
N.T.S.

SHEET NO.  
A.1

12500 BALTIMORE AVE  
BELTSVILLE, MD 20705  
(443) 909-7200  
Sun Energy, LLC  
(C), 2006 SUN EDISON, LLC AND ITS  
AFFILIATES, ALL RIGHT RESERVED

SOLAR ELECTRIC SYSTEM CLIENT:  
CITY OF SANTA FE  
490 WASHINGTON AVE  
SANTA FE, NM

DATE	12/07/2009
DRAWN	HAL
REVISION	

### SOLAR POWER & SERVICES AGREEMENT

This Solar Power & Services Agreement is made and entered into as of this 24th day of June, 2009 (the "Effective Date"), between SunEdison Origination2, LLC, a Delaware limited liability company ("Provider"), and the City of Santa Fe, a New Mexico municipal corporation, ("Purchaser"); and, together with Provider, each, a "Party" and together, the "Parties").

#### **WITNESSETH:**

WHEREAS, Purchaser desires that Provider install and operate a solar photovoltaic system at the Premises (as hereafter defined) for the purpose of providing Solar Services (as hereafter defined), and Provider is willing to do the same;

WHEREAS, Provider and The City of Santa Fe ("Purchaser") acknowledged those certain General Terms and Conditions dated as of \_\_\_\_, 2009 ("General Conditions"), which are incorporated by reference as set forth herein;

WHEREAS, the terms and conditions of this Solar Power & Services Agreement, excluding the General Conditions incorporated herein, constitute the "Special Conditions" referred to in the General Conditions.

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

1. Incorporation of General Conditions. The General Conditions are incorporated herein as Exhibit 1, without exception.

2. Schedules. The following Schedules hereto are the respective Schedules to the Special Conditions referenced in the General Conditions:

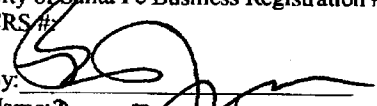
Schedule 1	Description of the Premises & System
Schedule 2	kWh Rate
Schedule 3	Early Termination Fee
Schedule 4	Estimated Annual Production
Schedule 5	Notice Information

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

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

**SUNEDISON ORINATION2, LLC**

By: SUN EDISON LLC, its manager  
City of Santa Fe Business Registration #:  
CRS #:

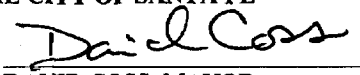
By:   
Name: Devin S. [unclear]  
Title: General Manager  
Date: 7/10/09

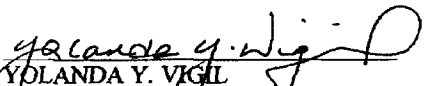
**LEGAL DEPT.**

Approved as to Form:  
Initials: RSB

Date: 7-8-09

**THE CITY OF SANTA FE**


By:   
Name: DAVID COSS, MAYOR  
Date: 6/25/09

Attest:   
Name: YOLANDA Y. VIGIL  
Title: CITY CLERK  
Comptroller 6/24/09

Approved as to Form:

By:   
Name: FRANK D. KATZ  
Title: CITY ATTORNEY

Approved:

By:   
Name: DAVID N. MILLICAN,  
Title: DIRECTOR, FINANCE  
DEPARTMENT

## SCHEDULES

### **I. Schedule 1: Description of Premises and System**

**Solar System Premises:** City of Santa Fe LaFarge Library  
1730 Llano St.  
Santa Fe, New Mexico 87507

**Anticipated Rebate or Subsidy** All Provider Solar Incentives (as defined in the General Conditions).  
Additionally, Purchaser anticipates an \$0.15 / kWh REC subsidy from  
PNM paid per kWh annually to Purchaser through end of the term.

**Solar System Size:** 42 kW (DC)

**Scope:** Design and supply grid-interconnected, roof-top solar electric (PV)  
systems.

**Module:** Evergreen-190-SL or equivalent

**Inverter:** IEEE 1547 qualified

### **II. Schedule 2 -- kWh Rate**

The kWh Rate with respect to the System under the Agreement is as stated in the following schedule:

Year	Energy & Demand Value*	Environmental Attributes	kWh Rate
1	\$ 0.0830	\$ 0.150	\$ 0.2330
2	\$ 0.0830	\$ 0.150	\$ 0.2330
3	\$ 0.0830	\$ 0.150	\$ 0.2330
4	\$ 0.0830	\$ 0.150	\$ 0.2330
5	\$ 0.0830	\$ 0.150	\$ 0.2330
6	\$ 0.0830	\$ 0.150	\$ 0.2330
7	\$ 0.0830	\$ 0.150	\$ 0.2330
8	\$ 0.0830	\$ 0.150	\$ 0.2330
9	\$ 0.0830	\$ 0.150	\$ 0.2330
10	\$ 0.0830	\$ 0.150	\$ 0.2330
11	\$ 0.0830	\$ 0.150	\$ 0.2330
12	\$ 0.0830	\$ 0.150	\$ 0.2330
13	\$ 0.0830	\$ 0.150	\$ 0.2330
14	\$ 0.0830	\$ 0.150	\$ 0.2330
15	\$ 0.0830	\$ 0.150	\$ 0.2330
16	\$ 0.0830	\$ 0.150	\$ 0.2330
17	\$ 0.0830	\$ 0.150	\$ 0.2330
18	\$ 0.0830	\$ 0.150	\$ 0.2330
19	\$ 0.0830	\$ 0.150	\$ 0.2330
20	\$ 0.0830	\$ 0.150	\$ 0.2330

[\*Calculated based on the year 1 Energy and Demand Value multiplied by 0% inflation factor each year.]

### III. Schedule 3 – Early Termination Fee

The Early Termination Fee with respect to the System under the Agreement shall be calculated in accordance with the following:

Early Termination Occurs in Year:	Column 1 Early Termination Fee where Host does not take Title (\$/Wdc including costs of removal)	Purchase Date Occurs on: (Each "Anniversary" below shall refer to the anniversary of the Commercial Operation Date, as such definition is modified in Section 3.3(c) of the Agreement)	Column 2 Early Termination Fee where Host takes Title (\$/Wdc, does not include costs of removal)
1*	\$ 7.69		
2	\$ 6.84		
3	\$ 6.29		
4	\$ 5.72		
5	\$ 5.07		
6	\$ 4.42	91st day following 5th Anniversary	\$ 3.92
7	\$ 4.35	91st day following 6th Anniversary	\$ 3.85
8	\$ 4.27	91st day following 7th Anniversary	\$ 3.77
9	\$ 4.19	91st day following 8th Anniversary	\$ 3.69
10	\$ 4.10	91st day following 9th Anniversary	\$ 3.60
11	\$ 4.00	91st day following 10th Anniversary	\$ 3.50
12	\$ 3.90	91st day following 11th Anniversary	\$ 3.40
13	\$ 3.77	91st day following 12th Anniversary	\$ 3.27
14	\$ 3.56	91st day following 13th Anniversary	\$ 3.06
15	\$ 3.34	91st day following 14th Anniversary	\$ 2.84
16	\$ 3.10	91st day following 15th Anniversary	\$ 2.60
17	\$ 2.85	91st day following 16th Anniversary	\$ 2.35
18	\$ 2.59	91st day following 17th Anniversary	\$ 2.09
19	\$ 2.32	91st day following 18th Anniversary	\$ 1.82
20	\$ 2.03	91st day following 19th Anniversary	\$ 1.53

At Expiration (the end of the Initial Term), the amount in Column 1 shall be deemed to be zero (0).

\*Includes Early Termination prior to the Commercial Operation Date.

#### **IV. Schedule 4 – Estimated Annual Production**

Estimated Annual Production commencing on the Commercial Operation Date with respect to System under the Agreement shall be as follows:

Year	Estimated Production (kWh)
1	73,794
2	73,204
3	72,618
4	72,037
5	71,461
6	70,889
7	70,322
8	69,759
9	69,201
10	68,648
11	68,099
12	67,554
13	67,013
14	66,477
15	65,945
16	65,418
17	64,894
18	64,375
19	63,860
20	63,349

The values set forth in this table are estimates (and not guarantees), of approximately how many kWhs are expected to be generated annually by the System.

**V. Schedule 5 – Notice Information**

**Purchaser:**

City of Santa Fe  
P.O. Box 909  
200 Lincoln Avenue  
Santa Fe, NM 87504  
Attention: City Energy Specialist

**Provider:**

SunEdison Origination<sup>2</sup>, LLC  
c/o Sun Edison LLC  
12500 Baltimore Avenue  
Beltsville, MD 20705  
1-800-786-3347

*With a copy to*

General Counsel  
12500 Baltimore Avenue  
Beltsville, MD 20705-6375  
Tel. (443) 909-7200  
Fax (443) 909-7121

**Financing Party:**

[To be provided by Provider when known]





### SOLAR POWER & SERVICES AGREEMENT

This Solar Power & Services Agreement is made and entered into as of this 24<sup>th</sup> day of June, 2009 (the "Effective Date"), between SunEdison Origination2, LLC, a Delaware limited liability company ("Provider"), and the City of Santa Fe, a New Mexico municipal corporation, ("Purchaser"); and, together with Provider, each, a "Party" and together, the "Parties").

#### **WITNESSETH:**

WHEREAS, Purchaser desires that Provider install and operate a solar photovoltaic system at the Premises (as hereafter defined) for the purpose of providing Solar Services (as hereafter defined), and Provider is willing to do the same;

WHEREAS, Provider and The City of Santa Fe ("Purchaser") acknowledged those certain General Terms and Conditions dated as of \_\_\_\_\_, 2009 ("General Conditions"), which are incorporated by reference as set forth herein;

WHEREAS, the terms and conditions of this Solar Power & Services Agreement, excluding the General Conditions incorporated herein, constitute the "Special Conditions" referred to in the General Conditions.

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

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2. Schedules. The following Schedules hereto are the respective Schedules to the Special Conditions referenced in the General Conditions:

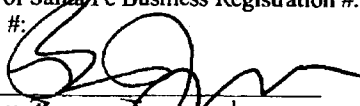
Schedule 1	Description of the Premises & System
Schedule 2	kWh Rate
Schedule 3	Early Termination Fee
Schedule 4	Estimated Annual Production
Schedule 5	Notice Information

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

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

**SUNEDISON ORINATION2, LLC**

By: SUN EDISON LLC: *ts manager*  
City of Santa Fe Business Registration #:  
CRS #:

By:   
Name: *Brian Bruchich*  
Title: *General Manager*  
Date: *7/10/09*

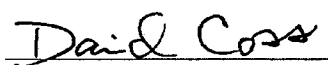
**LEGAL DEPT.**

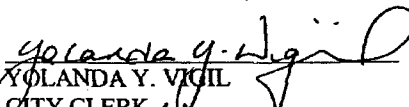
Approved as to Form

Initials: *RSB*

Date: *7-8-09*

**THE CITY OF SANTA FE**

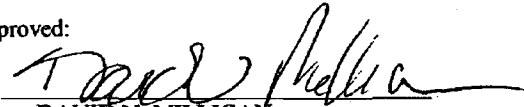
By:   
Name: DAVID COSS, MAYOR  
Date: *6/25/09*

Attest:   
Name: YOLANDA Y. VIGIL  
Title: CITY CLERK  
*certfy 6/24/09*

Approved as to Form:

By:   
Name: FRANK D. KATZ  
Title: CITY ATTORNEY

Approved:

By:   
Name: DAVID N. MILLICAN,  
Title: DIRECTOR, FINANCE  
DEPARTMENT

## SCHEDULES

### **I. Schedule 1: Description of Premises and System**

**Solar System Premises:** City of Santa Fe Police Station  
2515 Camino Entrada  
Santa Fe, New Mexico 87507

**Anticipated Rebate or Subsidy** All Provider Solar Incentives (as defined in the General Conditions).  
Additionally, Purchaser anticipates an \$0.15 / kWh REC subsidy from  
PNM paid per kWh annually to Purchaser through end of the term.

**Solar System Size:** 188 kW (DC)

**Scope:** Design and supply grid-interconnected, ground mounted solar electric  
(PV) systems.

**Module:** Evergreen-190-SL or equivalent

**Inverter:** IEEE 1547 qualified

### **II. Schedule 2 -- kWh Rate**

The kWh Rate with respect to the System under the Agreement is as stated in the following schedule:

Year	Energy & Demand Value*	Environmental Attributes	kWh Rate
1	\$ 0.0800	\$ 0.150	\$ 0.2300
2	\$ 0.0800	\$ 0.150	\$ 0.2300
3	\$ 0.0800	\$ 0.150	\$ 0.2300
4	\$ 0.0800	\$ 0.150	\$ 0.2300
5	\$ 0.0800	\$ 0.150	\$ 0.2300
6	\$ 0.0800	\$ 0.150	\$ 0.2300
7	\$ 0.0800	\$ 0.150	\$ 0.2300
8	\$ 0.0800	\$ 0.150	\$ 0.2300
9	\$ 0.0800	\$ 0.150	\$ 0.2300
10	\$ 0.0800	\$ 0.150	\$ 0.2300
11	\$ 0.0800	\$ 0.150	\$ 0.2300
12	\$ 0.0800	\$ 0.150	\$ 0.2300
13	\$ 0.0800	\$ 0.150	\$ 0.2300
14	\$ 0.0800	\$ 0.150	\$ 0.2300
15	\$ 0.0800	\$ 0.150	\$ 0.2300
16	\$ 0.0800	\$ 0.150	\$ 0.2300
17	\$ 0.0800	\$ 0.150	\$ 0.2300
18	\$ 0.0800	\$ 0.150	\$ 0.2300
19	\$ 0.0800	\$ 0.150	\$ 0.2300
20	\$ 0.0800	\$ 0.150	\$ 0.2300

[\*Calculated based on the year 1 Energy and Demand Value multiplied by 0% inflation factor each year.]

### III. Schedule 3 – Early Termination Fee

The Early Termination Fee with respect to the System under the Agreement shall be calculated in accordance with the following:

Early Termination Occurs in Year:	Column 1 Early Termination Fee where Host does not take Title (\$/Wdc including costs of removal)	Purchase Date Occurs on: (Each "Anniversary" below shall refer to the anniversary of the Commercial Operation Date, as such definition is modified in Section 3.3(c) of the Agreement)	Column 2 Early Termination Fee where Host takes Title (\$/Wdc, does not include costs of removal)
1*	\$ 8.13		
2	\$ 7.23		
3	\$ 6.66		
4	\$ 6.05		
5	\$ 5.37		
6	\$ 4.67		
7	\$ 4.60	91st day following 5th Anniversary	\$ 4.17
8	\$ 4.52	91st day following 6th Anniversary	\$ 4.10
9	\$ 4.43	91st day following 7th Anniversary	\$ 4.02
10	\$ 4.34	91st day following 8th Anniversary	\$ 3.93
11	\$ 4.23	91st day following 9th Anniversary	\$ 3.84
12	\$ 4.12	91st day following 10th Anniversary	\$ 3.73
13	\$ 3.99	91st day following 11th Anniversary	\$ 3.62
14	\$ 3.77	91st day following 12th Anniversary	\$ 3.49
15	\$ 3.53	91st day following 13th Anniversary	\$ 3.27
16	\$ 3.28	91st day following 14th Anniversary	\$ 3.03
17	\$ 3.02	91st day following 15th Anniversary	\$ 2.78
18	\$ 2.75	91st day following 16th Anniversary	\$ 2.52
19	\$ 2.46	91st day following 17th Anniversary	\$ 2.25
20	\$ 2.15	91st day following 18th Anniversary	\$ 1.96
		91st day following 19th Anniversary	\$ 1.65

At Expiration (the end of the Initial Term), the amount in Column 1 shall be deemed to be zero (0).

\*Includes Early Termination prior to the Commercial Operation Date.

#### **IV. Schedule 4 – Estimated Annual Production**

Estimated Annual Production commencing on the Commercial Operation Date with respect to System under the Agreement shall be as follows:

Year	Estimated Production (kWh)
1	411,401
2	408,110
3	404,845
4	401,606
5	398,393
6	395,206
7	392,045
8	388,908
9	385,797
10	382,711
11	379,649
12	376,612
13	373,599
14	370,610
15	367,645
16	364,704
17	361,786
18	358,892
19	356,021
20	353,173

The values set forth in this table are estimates (and not guarantees), of approximately how many kWhs are expected to be generated annually by the System.

**V. Schedule 5 – Notice Information**

**Purchaser:**

City of Santa Fe  
P.O. Box 909  
200 Lincoln Avenue  
Santa Fe, NM 87504  
Attention: City Energy Specialist

**Provider:**

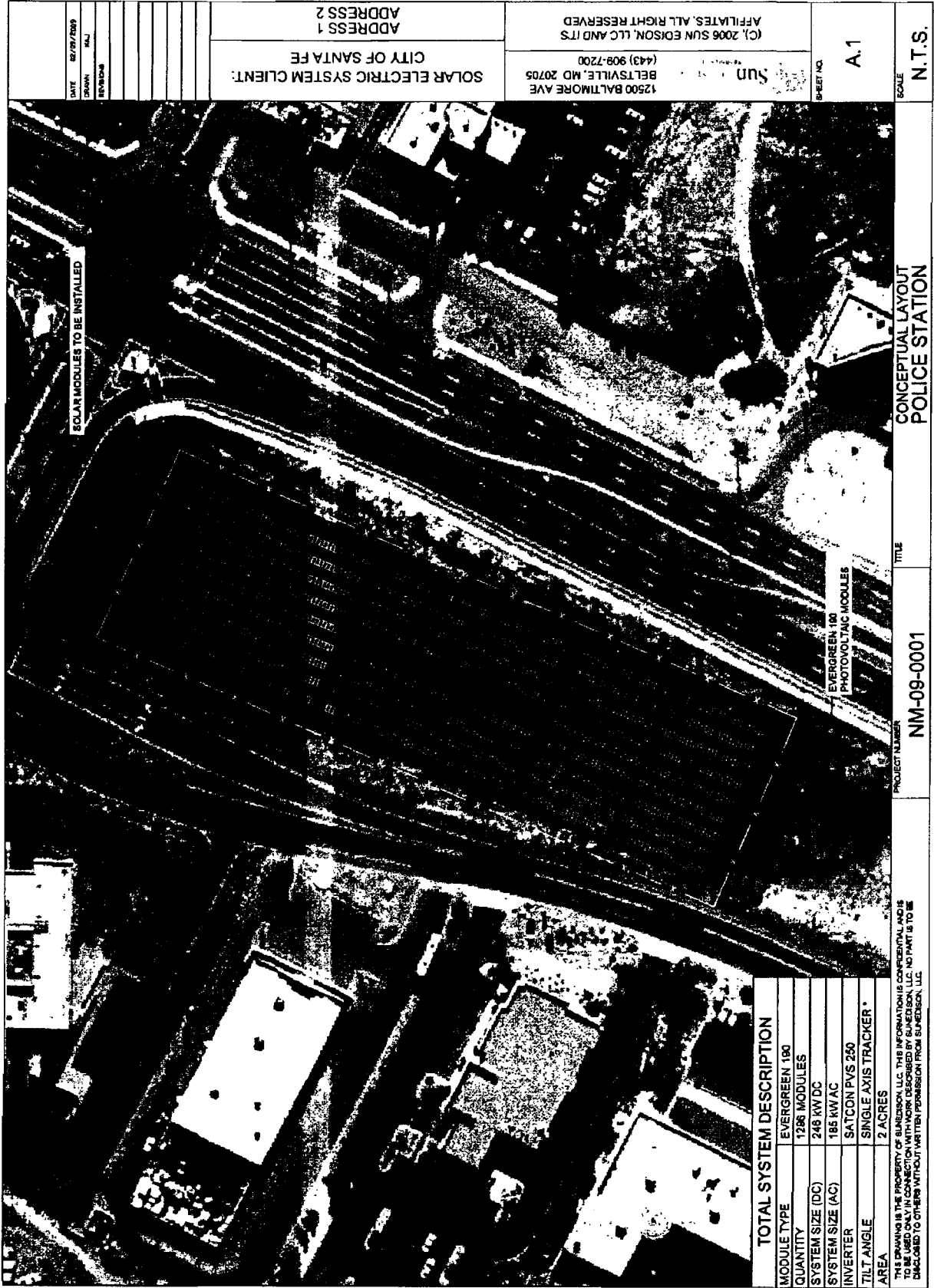
SunEdison Origination 2, LLC  
c/o Sun Edison LLC  
12500 Baltimore Avenue  
Beltsville, MD 20705  
1-800-786-3347

*With a copy to*

General Counsel  
12500 Baltimore Avenue  
Beltsville, MD 20705-6375  
Tel. (443) 909-7200  
Fax (443) 909-7121

**Financing Party:**

[To be provided by Provider when known]



TOTAL SYSTEM DESCRIPTION	
MODULE TYPE	EVERGREEN 100
QUANTITY	1286 MODULES
SYSTEM SIZE (DC)	248 KW DC
SYSTEM SIZE (AC)	185 KW AC
INVERTER	SATCON PVS 250
TILT ANGLE	SINGLE AXIS TRACKER *
AREA	2 ACRES

THIS DRAWING IS THE PROPERTY OF SUNEDISON, LLC. THIS INFORMATION IS CONFIDENTIAL AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION FROM SUNEDISON, LLC.

PROJECT NUMBER  
**NM-09-0001**

TITLE  
**CONCEPTUAL LAYOUT  
POLICE STATION**

SCALE  
**N.T.S.**

SHEET NO.  
**A.1**

**Sun**  
12500 BALTIMORE AVE  
BELTSVILLE, MD 20705  
(443) 909-7200  
(C) 2006 SUN EDISON, LLC AND ITS  
AFFILIATES. ALL RIGHT RESERVED

**SOLAR ELECTRIC SYSTEM CLIENT:**  
**CITY OF SANTA FE**  
**ADDRESS 1**  
**ADDRESS 2**

DATE	02/07/2009
DRAWN	HAL
EXTENDING	



### SOLAR POWER & SERVICES AGREEMENT

This Solar Power & Services Agreement is made and entered into as of this 24th day of June, 2009 (the "Effective Date"), between SunEdison Origination2, LLC, a Delaware limited liability company ("Provider"), and the City of Santa Fe, a New Mexico municipal corporation, ("Purchaser"); and, together with Provider, each, a "Party" and together, the "Parties").

#### **WITNESSETH:**

WHEREAS, Purchaser desires that Provider install and operate a solar photovoltaic system at the Premises (as hereafter defined) for the purpose of providing Solar Services (as hereafter defined), and Provider is willing to do the same;

WHEREAS, Provider and The City of Santa Fe ("Purchaser") acknowledged those certain General Terms and Conditions dated as of \_\_\_\_\_, 2009 ("General Conditions"), which are incorporated by reference as set forth herein;

WHEREAS, the terms and conditions of this Solar Power & Services Agreement, excluding the General Conditions incorporated herein, constitute the "Special Conditions" referred to in the General Conditions.

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

1. Incorporation of General Conditions. The General Conditions are incorporated herein as Exhibit 1, without exception.

2. Schedules. The following Schedules hereto are the respective Schedules to the Special Conditions referenced in the General Conditions:

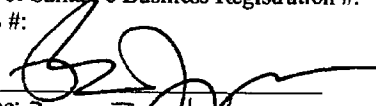
Schedule 1	Description of the Premises & System
Schedule 2	kWh Rate
Schedule 3	Early Termination Fee
Schedule 4	Estimated Annual Production
Schedule 5	Notice Information

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

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

**SUNEDISON ORINATION2, LLC**

By: SUN EDISON LLC, *its manager*  
City of Santa Fe Business Registration #:  
CRS #:

By:   
Name: *Brian J. J. J.*  
Title: *General Manager*  
Date: *7/10/09*

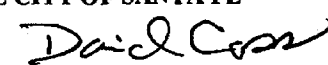
**LEGAL DEPT.**

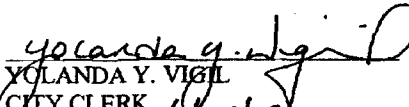
Approved as to Form:

Initials: *JSB*

Date: *7-8-09*

**THE CITY OF SANTA FE**

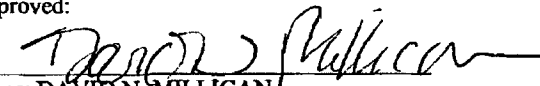
By:   
Name: DAVID COSS, MAYOR  
Date: *6/25/09*

Attest:   
Name: YOLANDA Y. VIGIL  
Title: CITY CLERK  
*certifying 6/24/09*

Approved as to Form:

By:   
Name: FRANK D. KATZ  
Title: CITY ATTORNEY

Approved:

By:   
Name: DAVID N. MILLICAN,  
Title: DIRECTOR, FINANCE  
DEPARTMENT

## SCHEDULES

### **I. Schedule 1: Description of Premises and System**

**Solar System Premises:** City of Santa Fe Salvador Perez Center  
601 Alta Vista Way  
Santa Fe, New Mexico 87507

**Anticipated Rebate or Subsidy** All Provider Solar Incentives (as defined in the General Conditions).  
Additionally, Purchaser anticipates an \$0.15 / kWh REC subsidy from  
PNM paid per kWh annually to Purchaser through end of the term.

**Solar System Size:** 48 kW (DC)

**Scope:** Design and supply grid-interconnected, roof-top solar electric (PV)  
systems.

**Module:** Evergreen-190-SL or equivalent

**Inverter:** IEEE 1547 qualified

### **II. Schedule 2 -- kWh Rate**

The kWh Rate with respect to the System under the Agreement is as stated in the following schedule:

Year	Energy & Demand Value*	Environmental Attributes	kWh Rate
1	\$ 0.0830	\$ 0.150	\$ 0.2330
2	\$ 0.0830	\$ 0.150	\$ 0.2330
3	\$ 0.0830	\$ 0.150	\$ 0.2330
4	\$ 0.0830	\$ 0.150	\$ 0.2330
5	\$ 0.0830	\$ 0.150	\$ 0.2330
6	\$ 0.0830	\$ 0.150	\$ 0.2330
7	\$ 0.0830	\$ 0.150	\$ 0.2330
8	\$ 0.0830	\$ 0.150	\$ 0.2330
9	\$ 0.0830	\$ 0.150	\$ 0.2330
10	\$ 0.0830	\$ 0.150	\$ 0.2330
11	\$ 0.0830	\$ 0.150	\$ 0.2330
12	\$ 0.0830	\$ 0.150	\$ 0.2330
13	\$ 0.0830	\$ 0.150	\$ 0.2330
14	\$ 0.0830	\$ 0.150	\$ 0.2330
15	\$ 0.0830	\$ 0.150	\$ 0.2330
16	\$ 0.0830	\$ 0.150	\$ 0.2330
17	\$ 0.0830	\$ 0.150	\$ 0.2330
18	\$ 0.0830	\$ 0.150	\$ 0.2330
19	\$ 0.0830	\$ 0.150	\$ 0.2330
20	\$ 0.0830	\$ 0.150	\$ 0.2330

[\*Calculated based on the year 1 Energy and Demand Value multiplied by 0% inflation factor each year.]

### III. Schedule 3 – Early Termination Fee

The Early Termination Fee with respect to the System under the Agreement shall be calculated in accordance with the following:

<b>Early Termination Occurs in Year:</b>	<b>Column 1 Early Termination Fee where Host does not take Title (\$/Wdc including costs of removal)</b>	<b>Purchase Date Occurs on: (Each "Anniversary" below shall refer to the anniversary of the Commercial Operation Date, as such definition is modified in Section 3.3(c) of the Agreement)</b>	<b>Column 2 Early Termination Fee where Host takes Title (\$/Wdc, does not include costs of removal)</b>
1*	\$ 7.30		
2	\$ 6.49		
3	\$ 5.97		
4	\$ 5.43		
5	\$ 4.82		
6	\$ 4.19		
7	\$ 4.13	91st day following 5th Anniversary	\$ 3.69
8	\$ 4.05	91st day following 6th Anniversary	\$ 3.63
9	\$ 3.97	91st day following 7th Anniversary	\$ 3.55
10	\$ 3.89	91st day following 8th Anniversary	\$ 3.47
11	\$ 3.80	91st day following 9th Anniversary	\$ 3.39
12	\$ 3.70	91st day following 10th Anniversary	\$ 3.30
13	\$ 3.58	91st day following 11th Anniversary	\$ 3.20
14	\$ 3.38	91st day following 12th Anniversary	\$ 3.08
15	\$ 3.17	91st day following 13th Anniversary	\$ 2.88
16	\$ 2.95	91st day following 14th Anniversary	\$ 2.67
17	\$ 2.71	91st day following 15th Anniversary	\$ 2.45
18	\$ 2.47	91st day following 16th Anniversary	\$ 2.21
19	\$ 2.21	91st day following 17th Anniversary	\$ 1.97
20	\$ 1.93	91st day following 18th Anniversary	\$ 1.71
		91st day following 19th Anniversary	\$ 1.43

At Expiration (the end of the Initial Term), the amount in Column 1 shall be deemed to be zero (0).

\*Includes Early Termination prior to the Commercial Operation Date.

#### **IV. Schedule 4 – Estimated Annual Production**

Estimated Annual Production commencing on the Commercial Operation Date with respect to System under the Agreement shall be as follows:

Year	Estimated Production (kWh)
1	84,000
2	83,328
3	82,661
4	82,000
5	81,344
6	80,693
7	80,048
8	79,407
9	78,772
10	78,142
11	77,517
12	76,897
13	76,282
14	75,671
15	75,066
16	74,465
17	73,870
18	73,279
19	72,692
20	72,111

The values set forth in this table are estimates (and not guarantees), of approximately how many kWhs are expected to be generated annually by the System.

**V. Schedule 5 – Notice Information**

**Purchaser:**

City of Santa Fe  
P.O. Box 909  
200 Lincoln Avenue  
Santa Fe, NM 87504  
Attention: City Energy Specialist

**Provider:**

SunEdison Origination<sup>2</sup> LLC  
c/o Sun Edison LLC  
12500 Baltimore Avenue  
Beltsville, MD 20705  
1-800-786-3347

*With a copy to*

General Counsel  
12500 Baltimore Avenue  
Beltsville, MD 20705-6375  
Tel. (443) 909-7200  
Fax (443) 909-7121

**Financing Party:**

[To be provided by Provider when known]



TOTAL SYSTEM DESCRIPTION	
MODULE TYPE	EVERGREEN 180
QUANTITY	165 MODULES
SYSTEM SIZE (DC)	31 DC KW KW DC
SYSTEM SIZE (AC)	30 AC KW KW AC
INVERTER	SATCON PVS-30
TILT ANGLE	10°
AZIMUTH	195°

THIS DRAWING IS THE PROPERTY OF SUNEDISON, LLC. THIS INFORMATION IS CONFIDENTIAL AND IS TO BE KEPT CONFIDENTIAL WITHIN THE COMPANY AND NOT TO BE DISCLOSED TO OTHERS WITHOUT WRITTEN PERMISSION FROM SUNEDISON, LLC.

PROJECT NUMBER  
NM-09-0009

TITLE  
CONCEPTUAL LAYOUT  
SALVADOR PEREZ CENTER

SCALE  
NTS

SHEET NO.  
###

12500 BALTIMORE AVE.  
BELTSVILLE, MD 20705  
(443) 909-7200  
(C) 2006 SUN EDISON, LLC AND ITS  
AFFILIATES, ALL RIGHT RESERVED

SOLAR ELECTRIC SYSTEM CLIENT:  
CITY OF SANTA FE  
601 ALTA VISTA WAY  
SANTA FE, NM 87505

DATE 4/2/09  
DRAWN BY  
REVISIONS

### SOLAR POWER & SERVICES AGREEMENT

This Solar Power & Services Agreement is made and entered into as of this 24<sup>th</sup> day of June, 2009 (the "Effective Date"), between SunEdison Origination2, LLC, a Delaware limited liability company ("Provider"), and the City of Santa Fe, a New Mexico municipal corporation, ("Purchaser"); and, together with Provider, each, a "Party" and together, the "Parties").

#### **WITNESSETH:**

WHEREAS, Purchaser desires that Provider install and operate a solar photovoltaic system at the Premises (as hereafter defined) for the purpose of providing Solar Services (as hereafter defined), and Provider is willing to do the same;

WHEREAS, Provider and The City of Santa Fe ("Purchaser") acknowledged those certain General Terms and Conditions dated as of \_\_\_\_, 2009 ("General Conditions"), which are incorporated by reference as set forth herein;

WHEREAS, the terms and conditions of this Solar Power & Services Agreement, excluding the General Conditions incorporated herein, constitute the "Special Conditions" referred to in the General Conditions.

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

1. Incorporation of General Conditions. The General Conditions are incorporated herein as Exhibit 1, without exception.
2. Schedules. The following Schedules hereto are the respective Schedules to the Special Conditions referenced in the General Conditions:

Schedule 1	Description of the Premises & System
Schedule 2	kWh Rate
Schedule 3	Early Termination Fee
Schedule 4	Estimated Annual Production
Schedule 5	Notice Information

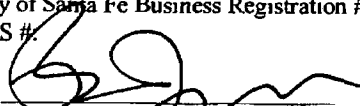
3. Amendments. This Agreement may only be amended, modified or supplemented by an instrument in writing executed by duly authorized representatives of Provider and Purchaser.



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

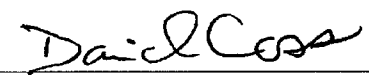
**SUNEDISON ORINATION2, LLC**

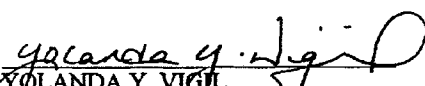
By: SUN EDISON LLC, its manager  
City of Santa Fe Business Registration #:  
CRS #:

By:   
Name: Brian Schellach  
Title: General Manager  
Date: 7/10/09

LEGAL DEPT.  
Approved as to Form  
Initials: SS62  
Date: 7-8-09

**THE CITY OF SANTA FE**

By:   
Name: DAVID COSS, MAYOR  
Date: 6/25/09

Attest:   
Name: YOLANDA Y. VIGIL  
Title: CITY CLERK  
Date: 6/24/09

Approved as to Form:

By:   
Name: FRANK D. KATZ  
Title: CITY ATTORNEY

Approved:

By:   
Name: DAVID N. MILLICAN,  
Title: DIRECTOR, FINANCE  
DEPARTMENT

## SCHEDULES

### **I. Schedule 1: Description of Premises and System**

**Solar System Premises:** City of Santa Fe Transit Division  
2931 Rufina Street  
Santa Fe, New Mexico 87507

**Anticipated Rebate or Subsidy** All Provider Solar Incentives (as defined in the General Conditions).  
Additionally, Purchaser anticipates an \$0.15 / kWh REC subsidy from  
PNM paid per kWh annually to Purchaser through end of the term.

**Solar System Size:** 72 kW (DC)

**Scope:** Design and supply grid-interconnected, roof-top solar electric (PV)  
systems.

**Module:** Evergreen-190-SL or equivalent

**Inverter:** IEEE 1547 qualified

### **II. Schedule 2 - - kWh Rate**

The kWh Rate with respect to the System under the Agreement is as stated in the following schedule:

Year	Energy & Demand Value*	Environmental Attributes	kWh Rate
1	\$ 0.0860	\$ 0.150	\$ 0.2360
2	\$ 0.0860	\$ 0.150	\$ 0.2360
3	\$ 0.0860	\$ 0.150	\$ 0.2360
4	\$ 0.0860	\$ 0.150	\$ 0.2360
5	\$ 0.0860	\$ 0.150	\$ 0.2360
6	\$ 0.0860	\$ 0.150	\$ 0.2360
7	\$ 0.0860	\$ 0.150	\$ 0.2360
8	\$ 0.0860	\$ 0.150	\$ 0.2360
9	\$ 0.0860	\$ 0.150	\$ 0.2360
10	\$ 0.0860	\$ 0.150	\$ 0.2360
11	\$ 0.0860	\$ 0.150	\$ 0.2360
12	\$ 0.0860	\$ 0.150	\$ 0.2360
13	\$ 0.0860	\$ 0.150	\$ 0.2360
14	\$ 0.0860	\$ 0.150	\$ 0.2360
15	\$ 0.0860	\$ 0.150	\$ 0.2360
16	\$ 0.0860	\$ 0.150	\$ 0.2360
17	\$ 0.0860	\$ 0.150	\$ 0.2360
18	\$ 0.0860	\$ 0.150	\$ 0.2360
19	\$ 0.0860	\$ 0.150	\$ 0.2360
20	\$ 0.0860	\$ 0.150	\$ 0.2360

[\*Calculated based on the year 1 Energy and Demand Value multiplied by 0% inflation factor each year.]

### III. Schedule 3 – Early Termination Fee

The Early Termination Fee with respect to the System under the Agreement shall be calculated in accordance with the following:

<b>Early Termination Occurs in Year:</b>	<b>Column 1 Early Termination Fee where Host does not take Title (\$/Wdc including costs of removal)</b>	<b>Purchase Date Occurs on: (Each "Anniversary" below shall refer to the anniversary of the Commercial Operation Date, as such definition is modified in Section 3.3(c) of the Agreement)</b>	<b>Column 2 Early Termination Fee where Host takes Title (\$/Wdc, does not include costs of removal)</b>
1*	\$ 7.55		
2	\$ 6.71		
3	\$ 6.18		
4	\$ 5.61		
5	\$ 4.98		
6	\$ 4.33	91st day following 5th Anniversary	\$ 3.83
7	\$ 4.26	91st day following 6th Anniversary	\$ 3.76
8	\$ 4.19	91st day following 7th Anniversary	\$ 3.69
9	\$ 4.11	91st day following 8th Anniversary	\$ 3.61
10	\$ 4.02	91st day following 9th Anniversary	\$ 3.52
11	\$ 3.93	91st day following 10th Anniversary	\$ 3.43
12	\$ 3.82	91st day following 11th Anniversary	\$ 3.32
13	\$ 3.70	91st day following 12th Anniversary	\$ 3.20
14	\$ 3.49	91st day following 13th Anniversary	\$ 2.99
15	\$ 3.27	91st day following 14th Anniversary	\$ 2.77
16	\$ 3.04	91st day following 15th Anniversary	\$ 2.54
17	\$ 2.80	91st day following 16th Anniversary	\$ 2.30
18	\$ 2.55	91st day following 17th Anniversary	\$ 2.05
19	\$ 2.28	91st day following 18th Anniversary	\$ 1.78
20	\$ 2.00	91st day following 19th Anniversary	\$ 1.50

At Expiration (the end of the Initial Term), the amount in Column 1 shall be deemed to be zero (0).

\*Includes Early Termination prior to the Commercial Operation Date.

#### **IV. Schedule 4 – Estimated Annual Production**

Estimated Annual Production commencing on the Commercial Operation Date with respect to System under the Agreement shall be as follows:

Year	Estimated Production (kWh)
1	134,424
2	133,349
3	132,282
4	131,224
5	130,174
6	129,132
7	128,099
8	127,075
9	126,058
10	125,049
11	124,049
12	123,057
13	122,072
14	121,096
15	120,127
16	119,166
17	118,213
18	117,267
19	116,329
20	115,398


The values set forth in this table are estimates (and not guarantees), of approximately how many kWhs are expected to be generated annually by the System.

**V. Schedule 5 – Notice Information**

**Purchaser:**

City of Santa Fe  
P.O. Box 909  
200 Lincoln Avenue  
Santa Fe, NM 87504  
Attention: City Energy Specialist

**Provider:**

SunEdison Origination  LLC  
c/o Sun Edison LLC  
12500 Baltimore Avenue  
Beltsville, MD 20705  
1-800-786-3347

*With a copy to*

General Counsel  
12500 Baltimore Avenue  
Beltsville, MD 20705-6375  
Tel. (443) 909-7200  
Fax (443) 909-7121

**Financing Party:**

[To be provided by Provider when known]



SOLAR MODULES TO BE INSTALLED  
ON THE ROOF OF EXISTING BUILDING

SUNTECH 200  
PHOTOVOLTAIC MODULES

TOTAL SYSTEM DESCRIPTION	
MODULE TYPE	SUNTECH 200
QUANTITY	196, 166 MODULES
SYSTEM SIZE (DC)	39.33 KW DC
SYSTEM SIZE (AC)	30.30 KW AC
INVERTER	SATCON PVS-30 (2)
TILT ANGLE	10°
AZIMUTH	170°

THIS DRAWING IS THE PROPERTY OF SUNEDISON, LLC. THIS INFORMATION IS CONFIDENTIAL AND IS TO BE USED ONLY IN CONNECTION WITH WORK DESCRIBED BY SUNEDISON, LLC. NO PART IS TO BE DISCLOSED TO OTHERS WITHOUT WRITTEN PERMISSION FROM SUNEDISON, LLC.

PROJECT NUMBER  
NM-09-0008

TITLE  
SANTA FE TRANSIT DEPT

CONCEPTUAL LAYOUT

SCALE  
N.T.S.

SHEET NO.  
A.1

12500 BALTIMORE AVE.  
BELTSVILLE, MD 20705  
(443) 908-7200  
Sun  
AFFILIATES, ALL RIGHT RESERVED  
(C), 2006 SUN EDISON, LLC AND ITS

SOLAR ELECTRIC SYSTEM CLIENT:  
CITY OF SANTA FE  
SILER RD + RUFINA ST  
SANTA FE, NM

DATE	04/04/09
DRAWN	02
REVISIONS	

## SOLAR POWER & SERVICES AGREEMENT

This Solar Power & Services Agreement is made and entered into as of this 24th day of June, 2009 (the "Effective Date"), between SunEdison Origination2, LLC, a Delaware limited liability company ("Provider"), and the City of Santa Fe, a New Mexico municipal corporation, ("Purchaser"); and, together with Provider, each, a "Party" and together, the "Parties").

### WITNESSETH:

WHEREAS, Purchaser desires that Provider install and operate a solar photovoltaic system at the Premises (as hereafter defined) for the purpose of providing Solar Services (as hereafter defined), and Provider is willing to do the same;

WHEREAS, Provider and The City of Santa Fe ("Purchaser") acknowledged those certain General Terms and Conditions dated as of \_\_\_\_, 2009 ("General Conditions"), which are incorporated by reference as set forth herein;

WHEREAS, the terms and conditions of this Solar Power & Services Agreement, excluding the General Conditions incorporated herein, constitute the "Special Conditions" referred to in the General Conditions.

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

1. Incorporation of General Conditions. The General Conditions are incorporated herein as Exhibit 1, without exception.
2. Schedules. The following Schedules hereto are the respective Schedules to the Special Conditions referenced in the General Conditions:


Schedule 1	Description of the Premises & System
Schedule 2	kWh Rate
Schedule 3	Early Termination Fee
Schedule 4	Estimated Annual Production
Schedule 5	Notice Information

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

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

**SUNEDISON ORIGATION2, LLC**

By: SUN EDISON LLC, its manager  
City of Santa Fe Business Registration #:  
CRS #:

By:   
Name: Brian S. Vigil  
Title: General Manager  
Date: 7/10/09

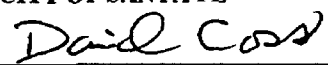
**LEGAL DEPT.**

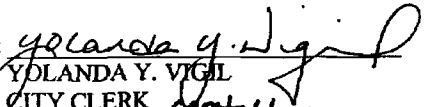
Approved as to Form

Initials: SSG

Date: 7-8-09

**THE CITY OF SANTA FE**

By:   
Name: DAVID COSS, MAYOR  
Date: 6/25/09

Attest:   
Name: YOLANDA Y. VIGIL  
Title: CITY CLERK 6/24/09

Approved as to Form:

By:   
Name: FRANK D. KATZ  
Title: CITY ATTORNEY

Approved:

By:   
Name: DAVID N. MILLICAN,  
Title: DIRECTOR, FINANCE  
DEPARTMENT



## SCHEDULES

### **I. Schedule 1: Description of Premises and System**

**Solar System Premises:** City of Santa Fe Pasco Real Wastewater Treatment Plant  
73 Paseo Real  
Santa Fe, New Mexico 87507

**Anticipated Rebate or Subsidy** All Provider Solar Incentives (as defined in the General Conditions).  
Additionally, Purchaser anticipates an \$0.15 / kWh REC subsidy from  
PNM paid per kWh annually to Purchaser through end of the term.

**Solar System Size:** 1,114 kW (DC)

**Scope:** Design and supply grid-interconnected, ground mounted solar electric  
(PV) systems.

**Module:** Evergreen-190-SL or equivalent

**Inverter:** IEEE 1547 qualified

### **II. Schedule 2 -- kWh Rate**

The kWh Rate with respect to the System under the Agreement is as stated in the following schedule:

Year	Energy & Demand Value*	Environmental Attributes	kWh Rate
1	\$ 0.0658	\$ 0.150	\$ 0.2158
2	\$ 0.0658	\$ 0.150	\$ 0.2158
3	\$ 0.0658	\$ 0.150	\$ 0.2158
4	\$ 0.0658	\$ 0.150	\$ 0.2158
5	\$ 0.0658	\$ 0.150	\$ 0.2158
6	\$ 0.0658	\$ 0.150	\$ 0.2158
7	\$ 0.0658	\$ 0.150	\$ 0.2158
8	\$ 0.0658	\$ 0.150	\$ 0.2158
9	\$ 0.0658	\$ 0.150	\$ 0.2158
10	\$ 0.0658	\$ 0.150	\$ 0.2158
11	\$ 0.0658	\$ 0.150	\$ 0.2158
12	\$ 0.0658	\$ 0.150	\$ 0.2158
13	\$ 0.0658	\$ 0.150	\$ 0.2158
14	\$ 0.0658	\$ 0.150	\$ 0.2158
15	\$ 0.0658	\$ 0.150	\$ 0.2158
16	\$ 0.0658	\$ 0.150	\$ 0.2158
17	\$ 0.0658	\$ 0.150	\$ 0.2158
18	\$ 0.0658	\$ 0.150	\$ 0.2158
19	\$ 0.0658	\$ 0.150	\$ 0.2158
20	\$ 0.0658	\$ 0.150	\$ 0.2158

[\*Calculated based on the year 1 Energy and Demand Value multiplied by 0% inflation factor each year.]

### III. Schedule 3 – Early Termination Fee

The Early Termination Fee with respect to the System under the Agreement shall be calculated in accordance with the following:

Early Termination Occurs in Year:	Column 1 Early Termination Fee where Host does not take Title (\$/Wdc including costs of removal)	Purchase Date Occurs on: (Each "Anniversary" below shall refer to the anniversary of the Commercial Operation Date, as such definition is modified in Section 3.3(c) of the Agreement)	Column 2 Early Termination Fee where Host takes Title (\$/Wdc, does not include costs of removal)
1*	\$ 8.84		
2	\$ 7.87		
3	\$ 7.23		
4	\$ 6.61		
5	\$ 5.87		
6	\$ 5.11		
7	\$ 5.03		
8	\$ 4.96		
9	\$ 4.87		
10	\$ 4.76		
11	\$ 4.70		
12	\$ 4.57		
13	\$ 4.42		
14	\$ 4.18		
15	\$ 3.92		
16	\$ 3.64		
17	\$ 3.34		
18	\$ 3.03		
19	\$ 2.71		
20	\$ 2.37		
		91st day following 5th Anniversary	\$ 4.61
		91st day following 6th Anniversary	\$ 4.53
		91st day following 7th Anniversary	\$ 4.46
		91st day following 8th Anniversary	\$ 4.37
		91st day following 9th Anniversary	\$ 4.26
		91st day following 10th Anniversary	\$ 4.20
		91st day following 11th Anniversary	\$ 4.07
		91st day following 12th Anniversary	\$ 3.92
		91st day following 13th Anniversary	\$ 3.68
		91st day following 14th Anniversary	\$ 3.42
		91st day following 15th Anniversary	\$ 3.14
		91st day following 16th Anniversary	\$ 2.84
		91st day following 17th Anniversary	\$ 2.53
		91st day following 18th Anniversary	\$ 2.21
		91st day following 19th Anniversary	\$ 1.87

At Expiration (the end of the Initial Term), the amount in Column 1 shall be deemed to be zero (0).

\*Includes Early Termination prior to the Commercial Operation Date.

#### **IV. Schedule 4 – Estimated Annual Production**

Estimated Annual Production commencing on the Commercial Operation Date with respect to System under the Agreement shall be as follows:

Year	Estimated Production (kWh)
1	2,435,204
2	2,415,722
3	2,396,397
4	2,377,225
5	2,358,208
6	2,339,342
7	2,320,627
8	2,302,062
9	2,283,646
10	2,265,377
11	2,247,254
12	2,229,275
13	2,211,441
14	2,193,750
15	2,176,200
16	2,158,790
17	2,141,520
18	2,124,388
19	2,107,393
20	2,090,533

The values set forth in this table are estimates (and not guarantees), of approximately how many kWhs are expected to be generated annually by the System.

**V. Schedule 5 – Notice Information**

**Purchaser:**

City of Santa Fe  
P.O. Box 909  
200 Lincoln Avenue  
Santa Fe, NM 87504  
Attention: City Energy Specialist

**Provider:**

SunEdison Origination<sup>2</sup> LLC  
c/o Sun Edison LLC  
12500 Baltimore Avenue  
Beltsville, MD 20705  
1-800-786-3347

*With a copy to*

General Counsel  
12500 Baltimore Avenue  
Beltsville, MD 20705-6375  
Tel. (443) 909-7200  
Fax (443) 909-7121

**Financing Party:**

[To be provided by Provider when known]



TOTAL SYSTEM DESCRIPTION	
MODULE TYPE	EVERGREEN 180
QUANTITY	6000 MODULES
SYSTEM SIZE (DC)	1140 KW DC
SYSTEM SIZE (AC)	1000 KW AC
INVERTER	(2) SATCON PVS 500
TILT ANGLE	SINGLE AXIS TRACKER
AREA	7.4 ACRES

THIS DRAWING IS THE PROPERTY OF SUNEIDSON, LLC. THIS INFORMATION IS CONFIDENTIAL AND IS TO BE USED ONLY IN CONNECTION WITH WORK DESCRIBED BY SUNEIDSON, LLC. NO PART IS TO BE DISCLOSED TO OTHERS WITHOUT WRITTEN PERMISSION FROM SUNEIDSON, LLC.

PROJECT NUMBER  
NM-09-0006

TITLE  
CONCEPTUAL LAYOUT  
WASTE WATER MANAGEMENT

SCALE

A.1

SHEET NO.



12500 BALTIMORE AVE.  
BELTSVILLE, MD 20705  
(443) 909-7200  
(C) 2006 SUN EDISON, LLC AND ITS  
AFFILIATES, ALL RIGHT RESERVED

SOLAR ELECTRIC SYSTEM CLIENT:  
CITY OF SANTA FE  
73 PASEO REAL  
SANTA FE, NM 87507

DATE	02/07/2009
DRAWN	NO
REVISIONS	

### SOLAR POWER & SERVICES AGREEMENT

This Solar Power & Services Agreement is made and entered into as of this 24<sup>th</sup> day of June, 2009 (the "Effective Date"), between SunEdison Origination2, LLC, a Delaware limited liability company ("Provider"), and the City of Santa Fe, a New Mexico municipal corporation, ("Purchaser"); and, together with Provider, each, a "Party" and together, the "Parties").

#### **WITNESSETH:**

WHEREAS, Purchaser desires that Provider install and operate a solar photovoltaic system at the Premises (as hereafter defined) for the purpose of providing Solar Services (as hereafter defined), and Provider is willing to do the same;

WHEREAS, Provider and The City of Santa Fe ("Purchaser") acknowledged those certain General Terms and Conditions dated as of \_\_\_\_, 2009 ("General Conditions"), which are incorporated by reference as set forth herein;

WHEREAS, the terms and conditions of this Solar Power & Services Agreement, excluding the General Conditions incorporated herein, constitute the "Special Conditions" referred to in the General Conditions.

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1. Incorporation of General Conditions. The General Conditions are incorporated herein as Exhibit 1, without exception.

2. Schedules. The following Schedules hereto are the respective Schedules to the Special Conditions referenced in the General Conditions:

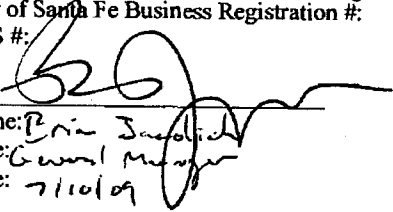
Schedule 1	Description of the Premises & System
Schedule 2	kWh Rate
Schedule 3	Early Termination Fee
Schedule 4	Estimated Annual Production
Schedule 5	Notice Information

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

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

**SUNEDISON ORIGINATION2, LLC**

By: SUN EDISON LLC, its *manager*  
City of Santa Fe Business Registration #:  
CRS #:

By:   
Name: *Brian Jacoblich*  
Title: *General Manager*  
Date: *7/10/09*

LEGAL DEPT.  
Approved as to Form  
Initials: *DSB*  
Date: *7-8-09*

**THE CITY OF SANTA FE**

By: *David Coss*  
Name: DAVID COSS, MAYOR  
Date: *6/25/09*

Attest: *Yolanda Y. Vigil*  
Name: YOLANDA Y. VIGIL  
Title: CITY CLERK  
*cert 6/24/09*

Approved as to Form

By:   
Name: FRANK D. KATZ  
Title: CITY ATTORNEY

Approved:

By: *David N. Millican*  
Name: DAVID N. MILLICAN,  
Title: DIRECTOR, FINANCE  
DEPARTMENT

## SCHEDULES

### **I. Schedule 1: Description of Premises and System**

**Solar System Premises:** City of Santa Fe Paseo Real Wastewater Treatment Plant  
73 Paseo Real  
Santa Fe, New Mexico 87507

**Anticipated Rebate or Subsidy** All Provider Solar Incentives (as defined in the General Conditions).  
Additionally, Purchaser anticipates an \$0.15 / kWh REC subsidy from  
PNM paid per kWh annually to Purchaser through end of the term.

**Solar System Size:** 170 kW (DC)

**Scope:** Design and supply grid-interconnected, ground mounted solar electric  
(PV) systems.

**Module:** Evergreen-190-SL or equivalent

**Inverter:** IEEE 1547 qualified

### **II. Schedule 2 -- kWh Rate**

The kWh Rate with respect to the System under the Agreement is as stated in the following schedule:

Year	Energy & Demand Value*	Environmental Attributes	kWh Rate
1	\$ 0.0730	\$ 0.150	\$ 0.2230
2	\$ 0.0730	\$ 0.150	\$ 0.2230
3	\$ 0.0730	\$ 0.150	\$ 0.2230
4	\$ 0.0730	\$ 0.150	\$ 0.2230
5	\$ 0.0730	\$ 0.150	\$ 0.2230
6	\$ 0.0730	\$ 0.150	\$ 0.2230
7	\$ 0.0730	\$ 0.150	\$ 0.2230
8	\$ 0.0730	\$ 0.150	\$ 0.2230
9	\$ 0.0730	\$ 0.150	\$ 0.2230
10	\$ 0.0730	\$ 0.150	\$ 0.2230
11	\$ 0.0730	\$ 0.150	\$ 0.2230
12	\$ 0.0730	\$ 0.150	\$ 0.2230
13	\$ 0.0730	\$ 0.150	\$ 0.2230
14	\$ 0.0730	\$ 0.150	\$ 0.2230
15	\$ 0.0730	\$ 0.150	\$ 0.2230
16	\$ 0.0730	\$ 0.150	\$ 0.2230
17	\$ 0.0730	\$ 0.150	\$ 0.2230
18	\$ 0.0730	\$ 0.150	\$ 0.2230
19	\$ 0.0730	\$ 0.150	\$ 0.2230
20	\$ 0.0730	\$ 0.150	\$ 0.2230

[\*Calculated based on the year 1 Energy and Demand Value multiplied by 0% inflation factor each year.]



### III. Schedule 3 – Early Termination Fee

The Early Termination Fee with respect to the System under the Agreement shall be calculated in accordance with the following:

<b>Early Termination Occurs in Year:</b>	<b>Column 1 Early Termination Fee where Host does not take Title (\$/Wdc including costs of removal)</b>	<b>Purchase Date Occurs on: (Each "Anniversary" below shall refer to the anniversary of the Commercial Operation Date, as such definition is modified in Section 3.3(c) of the Agreement)</b>	<b>Column 2 Early Termination Fee where Host takes Title (\$/Wdc, does not include costs of removal)</b>
1	\$ 6.71		
2	\$ 5.97		
3	\$ 5.49		
4	\$ 5.00		
5	\$ 4.43		
6	\$ 3.86	91st day following 5th Anniversary	\$ 3.36
7	\$ 3.80	91st day following 6th Anniversary	\$ 3.30
8	\$ 3.73	91st day following 7th Anniversary	\$ 3.23
9	\$ 3.66	91st day following 8th Anniversary	\$ 3.16
10	\$ 3.59	91st day following 9th Anniversary	\$ 3.09
11	\$ 3.50	91st day following 10th Anniversary	\$ 3.00
12	\$ 3.41	91st day following 11th Anniversary	\$ 2.91
13	\$ 3.30	91st day following 12th Anniversary	\$ 2.80
14	\$ 3.12	91st day following 13th Anniversary	\$ 2.62
15	\$ 2.92	91st day following 14th Anniversary	\$ 2.42
16	\$ 2.72	91st day following 15th Anniversary	\$ 2.22
17	\$ 2.50	91st day following 16th Anniversary	\$ 2.00
18	\$ 2.27	91st day following 17th Anniversary	\$ 1.77
19	\$ 2.03	91st day following 18th Anniversary	\$ 1.53
20	\$ 1.78	91st day following 19th Anniversary	\$ 1.28

At Expiration (the end of the Initial Term), the amount in Column 1 shall be deemed to be zero (0).

\*Includes Early Termination prior to the Commercial Operation Date.

#### **IV. Schedule 4 – Estimated Annual Production**

Estimated Annual Production commencing on the Commercial Operation Date with respect to System under the Agreement shall be as follows:

Year	Estimated Production (kWh)
1	302,600
2	300,179
3	297,778
4	295,396
5	293,032
6	290,688
7	288,363
8	286,056
9	283,767
10	281,497
11	279,245
12	277,011
13	274,795
14	272,597
15	270,416
16	268,253
17	266,107
18	263,978
19	261,866
20	259,771

The values set forth in this table are estimates (and not guarantees), of approximately how many kWhs are expected to be generated annually by the System.

**V. Schedule 5 – Notice Information**

**Purchaser:**

City of Santa Fe  
P.O. Box 909  
200 Lincoln Avenue  
Santa Fe, NM 87504  
Attention: City Energy Specialist

**Provider:**

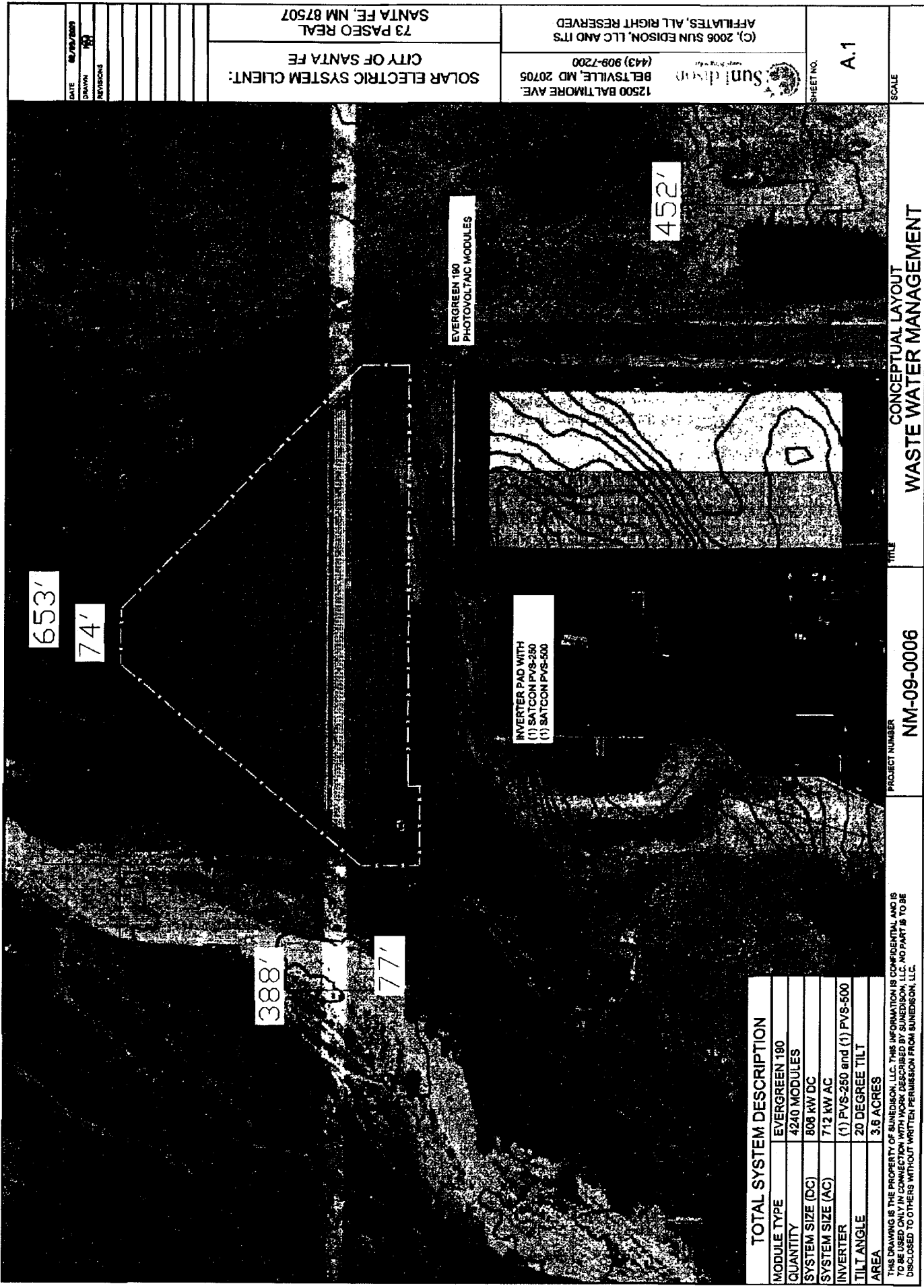
SunEdison Origination<sup>2</sup> LLC  
c/o Sun Edison LLC  
12500 Baltimore Avenue  
Beltsville, MD 20705  
1-800-786-3347

*With a copy to*

General Counsel  
12500 Baltimore Avenue  
Beltsville, MD 20705-6375  
Tel. (443) 909-7200  
Fax (443) 909-7121

**Financing Party:**

[To be provided by Provider when known]



TOTAL SYSTEM DESCRIPTION	
MODULE TYPE	EVERGREEN 180
QUANTITY	4240 MODULES
SYSTEM SIZE (DC)	808 KW DC
SYSTEM SIZE (AC)	712 KW AC
INVERTER	(1) PVS-250 and (1) PVS-500
TILT ANGLE	20 DEGREE TILT
AREA	3.6 ACRES

THIS DRAWING IS THE PROPERTY OF SUNEDISON, LLC. THIS INFORMATION IS CONFIDENTIAL AND IS TO BE USED ONLY IN CONNECTION WITH WORK DESCRIBED BY SUNEDISON, LLC. NO PART IS TO BE DISCLOSED TO OTHERS WITHOUT WRITTEN PERMISSION FROM SUNEDISON, LLC.

PROJECT NUMBER  
NM-09-0006

TITLE  
CONCEPTUAL LAYOUT  
WASTE WATER MANAGEMENT

SCALE

SHEET NO.

A.1

**SunEdison**  
12500 BALTIMORE AVE.  
BELTSVILLE, MD 20705  
(443) 909-7200  
(C), 2006 SUN EDISON, LLC AND ITS  
AFFILIATES, ALL RIGHT RESERVED

SOLAR ELECTRIC SYSTEM CLIENT:  
CITY OF SANTA FE  
73 PASEO REAL  
SANTA FE, NM 87507

DATE: 02/09/2009  
DRAWN: [signature]  
REVISIONS:

# ACORD<sup>TM</sup> CERTIFICATE OF LIABILITY INSURANCE

12/31/2009

DATE (MM/DD/YYYY)

6/26/2009

PRODUCER LOCKTON COMPANIES, LLC  
5847 San Felipe, Suite 320  
Houston TX 77057

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED SUN EDISON LLC  
1304721 12500 BALTIMORE AVENUE  
BELTSVILLE MD 20705

**INSURERS AFFORDING COVERAGE****NAIC #**

INSURER A: National Union Fire Ins Co Pittsburgh PA

19445

INSURER B: Commerce and Industry Insurance Company

19410

INSURER C:

INSURER D:

INSURER E:

**COVERAGES**

MC

THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER AND THE CERTIFICATE HOLDER.

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSUR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A		<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR  \$10MM TOTAL PLCY AGG GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC	GL 2703000	12/31/2008	12/31/2009	EACH OCCURRENCE	\$ 1,000,000
						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 300,000
						MED EXP (Any one person)	\$ 10,000
						PERSONAL & ADV INJURY	\$ 1,000,000
						GENERAL AGGREGATE	\$ 2,000,000
						PRODUCTS - COMP/OP AGG	\$ 2,000,000
A		<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	CA 2703287	12/31/2008	12/31/2009	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
						BODILY INJURY (Per person)	\$ XXXXXXXX
						BODILY INJURY (Per accident)	\$ XXXXXXXX
						PROPERTY DAMAGE (Per accident)	\$ XXXXXXXX
		<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO	NOT APPLICABLE			AUTO ONLY - EA ACCIDENT	\$ XXXXXXXX
						OTHER THAN AUTO ONLY: EA ACC	\$ XXXXXXXX
						AGG	\$ XXXXXXXX
A		<b>EXCESS/UMBRELLA LIABILITY</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  DEDUCTIBLE <input type="checkbox"/> UMBRELLA FORM RETENTION \$	BE 5506685	12/31/2008	12/31/2009	EACH OCCURRENCE	\$ 10,000,000
						AGGREGATE	\$ 10,000,000
							\$ XXXXXXXX
							\$ XXXXXXXX
							\$ XXXXXXXX
B		<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <b>NO</b> If yes, describe under SPECIAL PROVISIONS below OTHER	WC 1590575 (AOS) WC 1590576 (CA)	12/31/2008 12/31/2008	12/31/2009 12/31/2009	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER	
						E.L. EACH ACCIDENT	\$ 1,000,000
						E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
						E.L. DISEASE - POLICY LIMIT	\$ 1,000,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS**

30 DAYS NOTICE OF CANCELLATION \*\*EXCEPT 10 DAYS NOTICE FOR NON-PAYMENT. ADDITIONAL INSURED IN FAVOR OF CITY OF SANTA FE (ON ALL POLICIES EXCEPT WORKERS' COMPENSATION/EL) WHERE AND TO THE EXTENT REQUIRED BY WRITTEN CONTRACT.

**CERTIFICATE HOLDER**

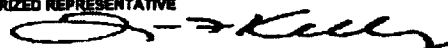
10579634

CITY OF SANTA FE  
200 LINCOLN AVENUE  
SANTA FE NM 87504

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE





# City of Santa Fe, New Mexico

## BUSINESS LICENSE

City Of Santa Fe  
PO BOX 909  
Santa Fe NM, 87504

Official Document  
Please Post

Business Name: SUN EDISON

Location: SF COUNTY

Class: BUSINESS REGISTRATION-STANDARD PSA W/CTY

Control Number: 0054924

License Number: 09-00043096

Issue Date June 24, 2009

Expiration Date December 31, 2009

SUN EDISON  
12500 BALTIMORE AVE  
BELTSVILLE MD 20705

# City of Santa Fe, New Mexico

## memo

Date: June 1, 2009

To: David Millican, Director, Finance Department

Via: Galen Buller, City Manager

CC: Frank D. Katz, City Attorney

From: Nicholas Schiavo, <sup>NSA</sup> Energy Specialist & Kathryn McCormick, <sup>we</sup> Director, Housing & Community Dev. Department

### ITEM & ISSUE

Subject: Renewable energy projects in the form of photovoltaic systems at eight City owned facilities, Approval of contracts with SunEdison Utility Solutions, LLC.

### BACKGROUND & SUMMARY

In response to Resolution 2008-046, *Supporting the Use of Renewable Energy at the City of Santa Fe Wastewater Treatment Plant*, staff published a request for proposals.

Through the City's RFP process SunEdison Utility Solutions, LLC (SunEdison) was selected to submit renewable energy projects into the Public Service Company of New Mexico (PNM) Large Scale Photovoltaic Program. A contract with SunEdison was signed on September 24, 2008 which directed SunEdison to work with City to generate and submit photovoltaic (PV) energy proposals to PNM.

The SunEdison contract was heard and approved at the following meetings:

Finance Committee: September 15, 2008

Public Utilities Committee: September 17, 2008

City Council: September 24, 2008

The structure of the proposals includes the following elements: (1) a 20-year power purchase agreement for the City of Santa Fe to purchase the electricity output of the PV system; (2) the understanding that SunEdison will construct, own, operate and maintain the PV system over the 20 year term; (3) monthly payments from PNM to the City for all Solar Renewable Energy Certificates (RECs) generated; and (4) the understanding that SunEdison will pursue any Federal and state tax credits.

SunEdison on behalf of the City has submitted nine PV project applications into PNM's Large Scale PV program. The systems will be located at the following City facilities: Wastewater Management Division (two systems), Airport, Convention Center, Police Station, Salvador Perez, Fort Marcy, LaFarge Library, and the Transit Division.

The proposed PV systems will provide anywhere from 13 to 93 percent of the energy requirements for the City facilities. The attached spreadsheet shows the facility and the corresponding percentage of energy that will be provided through SunEdison in the form of renewable energy. It should be noted that a low percentage of energy generation from PV is associated with the limited roof and/or ground space at the facility.

PNM's Large Scale PV program is structured as follows: (1) PNM agrees to provide a REC payment of \$0.15 per kWh generated over a 20 year term; (2) the project size is capped at 1 megawatt (MW) AC; (3) energy generation and consumption is netted out on a monthly basis; and (4) REC payments are made only on energy consumed at the project site within the monthly billing cycle.

Renewable energy generation through the use of PV systems at City owned facilities will allow the City to offset 4,001 tons of CO<sub>2</sub> per year. Currently, City operations generate approximately 76,985 tons of CO<sub>2</sub> per year. This project would allow the City to see a 5.2 percent decrease in CO<sub>2</sub> per year. In addition, savings are expected at each participating facility from the outset of system installation and would increase every time PNM raises their rates. Total annual savings is estimated at \$25,000 over the 20-year term.

The Housing & Community Development Department is requesting that the recommendation listed below be heard at the Finance Committee meeting scheduled for June 15, 2009 and at City Council scheduled for June 24, 2009 for approval.

### **RECOMMENDATION**

The Housing & Economic Development Department recommends approval of the attached contracts with SunEdison Utility Solutions, LLC.

#### **Attachments:**

General Terms and Conditions and Individual Facility Contracts  
Power Purchase Agreement Summary Spreadsheet  
Contract with SunEdison

cc: File





# City of Santa Fe, New Mexico

## MEMO

DATE: September 24, 2020

TO: Jarel Lapan Hill, City Manager

VIA: Shannon Jones, Public Utilities Department Director   
SJ

FROM: Michael Dozier, Wastewater Division Director   
MD

**Item and Issue:**

The Public Utilities Department Wastewater Division is seeking approval of a contract releasing SunE as a solar provider and assigning it to TerraForm Power.

**Background and Summary:**

The Public Utilities Department Wastewater Division contracts Solar Services with TerraForm Power and originally contracted with SE Solar.

This contract acknowledges that SE Solar is no longer the solar provider and Terraform Power is now the provider.

**Action Requested:**

Approval of a contract with Public Utilities/Wastewater Division and Terraform Power and releasing SE Solar from its obligations.