



**SANTA MARIA PUBLIC AIRPORT DISTRICT
BOARD OF DIRECTORS**

**Thursday
September 22, 2022**

**Administration Building
Airport Boardroom
7:00 P.M.**

**REGULAR MEETING
A G E N D A**

This agenda is prepared and posted pursuant to the requirements of the California Government Code Section 54954.2. By listing a topic on this agenda, the Santa Maria Public Airport District has expressed its intent to discuss and act on each item. The Santa Maria Public Airport District welcomes orderly participation at its meetings from all members of the public. This includes assistance under the Americans with Disabilities Act to provide an equally effective opportunity for individuals with a disability to participate in and benefit from District activities. To request assistance with disability accommodation, please call (805) 922-1726. Notification at least 48 hours prior to the meeting would enable the Santa Maria Public Airport District to make reasonable arrangements to ensure accessibility to this meeting.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL: Engel, Brown, Rafferty, Adams, Baskett

- 1. MINUTES OF THE REGULAR MEETING HELD SEPTEMBER 8, 2022.**
- 2. COMMITTEE REPORT(S):**
 - a) AVIATION SUPPORT & PLANNING (Standing or Ad Hoc)
 - b) ADMINISTRATION & FINANCIAL (Standing or Ad Hoc)
 - c) MARKETING & PROMOTIONS (Standing or Ad Hoc)
 - d) CITY & COUNTY LIAISON
 - e) STATE & FEDERAL LIAISON
 - f) VANDENBERG LIAISON
 - g) BUSINESS PARK COMMITTEE (Ad Hoc)
- 3. GENERAL MANAGER'S REPORT**
- 4. MANAGER OF FINANCE & ADMINISTRATION REPORT**
 - a) Demand Register
 - b) Budget to Actual
 - c) Financial Statements
 - d) Budget Deviations
- 5. DISTRICT COUNSEL'S REPORT. (Joshua George and Natalie Frye Laacke)**

6. **PUBLIC SESSION:** Statements from the floor will be heard during public session. Request to Speak forms are provided for those wishing to address the board. After completing the form, please give it to the Clerk. Requests requiring board action will be referred to staff and brought on the next appropriate agenda. Members of the public are cordially invited to speak on agenda items as they occur. Staff reports covering agenda items are available for review in the offices of the General Manager on the Tuesday prior to each meeting. The Board will establish time limit for receipt of testimony. The board reserves the right to establish further time limits for receipt of testimony.
7. **PUBLIC HEARING: HEARING REGARDING ANTICIPATED ENERGY COST SAVINGS AND OTHER BENEFITS FOR BOARD AND PUBLIC FEEDBACK.**
8. **RESOLUTION 917. A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SANTA MARIA PUBLIC AIRPORT DISTRICT MAKING FINDINGS OF ENERGY SAVINGS AND DETERMINING OTHER MATTERS IN CONNECTION WITH ENERGY SERVICE AGREEMENTS.**
9. **AUTHORIZATION FOR THE GENERAL MANAGER TO EXECUTE THE ENERGY SERVICE AGREEMENTS BETWEEN THE DISTRICT AND FFP BTM SOLAR, LLC.**
10. **AUTHORIZATION FOR THE GENERAL MANAGER TO EXECUTE THE INTERCONNECTION APPLICATIONS UPON DISTRICT COUNSEL REVIEW AND APPROVAL.**
11. **AUTHORIZATION FOR ONE STAFF MEMBER AND 3 COMMUNITY MEMBERS TO ATTEND A HEADQUARTER MEETING WITH SKYWEST AIRLINES TO BE HELD DECEMBER 5TH, 2022, IN SAINT GEORGE, UTAH.**
12. **AUTHORIZATION FOR THE PRESIDENT AND SECRETARY TO EXECUTE THE EMPLOYMENT CONTRACT FOR THE INTERIM GENERAL MANAGER.**
13. **AUTHORIZATION FOR THE GENERAL MANAGER TO EXECUTE THE SERVICE AGREEMENT FOR EXECUTIVE SEARCH SERVICES BETWEEN THE DISTRICT AND ADK CONSULTING, INC.**
14. **DISCUSSION AND DIRECTION TO STAFF REGARDING SIGNATURE AUTHORITY ON AIRPORT BANK ACCOUNTS WITH PACIFIC PREMIER BANK.**
15. **AUTHORIZATION FOR TWO STAFF MEMBERS AND ONE COMMUNITY MEMBER TO ATTEND THE ICAS CONFERENCE TO BE HELD DECEMBER 12-15, 2022, IN LAS VEGAS, NV.**
16. **CLOSED SESSION.** The Board will hold a Closed Session to discuss the following item(s):
 - a) **Conference with Real Property Negotiators (Chris Hastert, Tom Ross, and District Counsel) Re: APN 111-231-09, APN 111-231-11, APN 111-231-17, APN 111-292-027 (Gov. Code Section 54956.8)**
 - b) **Conference with Real Property Negotiators (Chris Hastert, and District Counsel) Re: 3455 Skyway Drive, Santa Maria, CA 93455 (Gov. Code Section 54956.8)**
 - c) **Significant exposure to litigation pursuant to Gov. Code Section 54956.9(b): One Case.**

d) Conference with Legal Counsel-Existing Litigation pursuant to Paragraph (1) of subdivision (d) of Section 54956.9-SMPAD v. Baskett, Santa Barbara Superior Court Case No. 20CV04444.

e) Conference with Legal Counsel-Existing Litigation pursuant to Paragraph (1) of subdivision (d) of Section 54956.9-Baskett v. SMPAD, Santa Barbara Superior Court Case No. 21CV04183.

17. DIRECTORS' COMMENTS.

18. ADJOURNMENT.

MINUTES OF THE REGULAR BOARD
MEETING OF THE BOARD OF DIRECTORS
OF THE SANTA MARIA PUBLIC AIRPORT
DISTRICT HELD SEPTEMBER 8, 2022

The Board of Directors of the Santa Maria Public Airport District held a Regular Meeting at the regular meeting place at 7:00 p.m. Present were Directors Brown, Rafferty, Adams, and Baskett. General Manager Hastert, Manager of Finance & Administration Reade, and District Counsel George. Director Engel was absent.

1. MINUTES OF THE REGULAR MEETING HELD August 25, 2022. Director Rafferty made a Motion to approve the minutes of the regular meeting held August 25, 2022. Director Baskett Seconded and it was carried by a 3-0 vote. Director Adams abstained.
2. COMMITTEE REPORT(S):
 - a) AVIATION SUPPORT & PLANNING (Standing or Ad Hoc) – No meeting scheduled.
 - b) ADMINISTRATION & FINANCIAL (Standing or Ad Hoc) – No meeting scheduled.
 - c) MARKETING & PROMOTIONS (Standing or Ad Hoc) – No meeting scheduled.
 - d) CITY & COUNTY LIAISON – No meeting scheduled.
 - e) STATE & FEDERAL LIAISON – No meeting scheduled.
 - f) VANDENBERG LIAISON – No meeting scheduled.
 - g) BUSINESS PARK COMMITTEE (Ad Hoc) – No meeting scheduled.
3. GENERAL MANAGER'S REPORT. Mr. Hastert notified the board of upcoming meetings which include a US Fish & Wildlife visit to discuss a potential research project, the cargo operators to discuss new parking spaces, ArtCraft Paint, and a Planes of Fame site visit. He briefed the Board on meetings he attended which included G3, SBCAG, and the Chamber Award Ceremony.
4. The Manager of Finance & Administration presented the Demand Register to the Board for review and approval.
 - a) Demand Register. The Demand Register, covering warrants 070675 through 070697 in the amount of \$105,242.20 was recommended for approval as presented. Director Baskett made a Motion to accept the Demand Register as presented. Director Rafferty Seconded and it was carried by a 4-0 vote.
5. DISTRICT COUNSEL'S REPORT. Nothing to report.
6. PUBLIC SESSION: Statements from the floor will be heard during public session. Request to Speak forms are provided for those wishing to address the board. After completing the form, please give it to the Clerk. Requests requiring board action will be referred to staff and brought on the next appropriate agenda. Members of the public are cordially invited to speak on agenda items as they occur. Staff reports covering agenda

items are available for review in the offices of the General Manager on the Tuesday prior to each meeting. The Board has established a five-minute time limit for receipt of testimony. The board reserves the right to establish further time limits for receipt of testimony.

No one requested to speak.

7. Authorization for the President and Secretary to execute the Second Amendment of Ground Lease between the District and Martin Testa, DBA Testa Catering. Director Rafferty made a Motion to approve for two years. Director Adams Seconded and it was carried by a 4-0 vote.
8. Authorization for the President and Secretary to execute the Service Agreement between the District and Thomas R. Widroe for Consulting Services. Director Baskett made a Motion to approve. Director Rafferty Seconded and it was carried by a 4-0 vote.
9. Discussion and direction to staff regarding general airport security. Vice President Brown asked the General Manager to approach Guadalupe PD and Bomar Security and remind them to stay diligent during perimeter checks.
10. CLOSED SESSION. At 7:10 p.m. the Board went into Closed Session to discuss the following item(s):
 - a) Conference with Real Property Negotiators (Chris Hastert, Tom Ross, and District Counsel) Re: APN 111-231-09, APN 111-231-11, APN 111-231-17, APN 111-292-027 (Gov. Code Section 54956.8)
 - b) Conference with Real Property Negotiators (Chris Hastert and District Counsel) Re: 3455 Skyway Drive, Santa Maria, CA 93455 (Gov. Code Section 54956.8).
 - c) Significant exposure to litigation pursuant to Gov. Code Section 54956.9(b): One Case
 - d) Conference with Legal Counsel-Existing Litigation pursuant to Paragraph (1) of subdivision (d) of Section 54956.9-SMPAD v. Baskett, Santa Barbara Superior Court Case No. 20CV04444.
 - e) Conference with Legal Counsel-Existing Litigation pursuant to Paragraph (1) of subdivision (d) of Section 54956.9-Baskett v. SMPAD, Santa Barbara Superior Court Case No. 21CV04183.

At 7:28 pm., the Board and staff reconvened to Open Public Session.

No reportable actions.

11. DIRECTORS' COMMENTS: Directors Rafferty and Brown had no comment.

Director Adams expressed his happiness being back at the meetings.

Director Baskett asked for an update on the solar project and asked if there were any recent incidents to be aware of.

12. ADJOURNMENT. Vice President Brown asked for a Motion to adjourn to a Regular Meeting to be held on September 22, 2022, at 7:00 p.m. at the regular meeting place. Director Adams made that Motion, Director Rafferty Seconded and it was carried by a 4-0 vote.

ORDER OF ADJOURNMENT

This Regular Meeting of the Board of Directors of the Santa Maria Public Airport District is hereby adjourned at 7:29 p.m. on September 8, 2022.

Carl Engel, President

Hugh Rafferty, Secretary

**DEMAND REGISTER
SANTA MARIA PUBLIC AIRPORT DISTRICT**

Full consideration has been received by the Santa Maria Public Airport District for each demand, numbers 070698 to 070742 and electronic payments on Pacific Premier Bank and in the total amount of \$139,678.14

CHRIS HASTERT
GENERAL MANAGER

DATE

The undersigned certifies that the attached register of audited demands of the Santa Maria Public Airport District for each demand, numbers 070698 to 070742 and electronic payments on Pacific Premier Bank in the total amount of \$139,678.14 has been approved as being in conformity with the budget approved by the Santa Maria Public Airport District and funds are available for their payment.

VERONEKA READE
MANAGER OF FINANCE AND ADMINISTRATION

DATE

THE BOARD OF DIRECTORS OF THE SANTA MARIA PUBLIC AIRPORT DISTRICT APPROVED PAYMENT OF THE ATTACHED WARRANTS AT THE MEETING OF SEPTEMBER 22, 2022.

HUGH RAFFERTY
SECRETARY

Santa Maria Public Airport District

Demand Register

Check Number	Check Date	Vendor Name	Check Amount	Description
* 70698	9/21/2022	Adams, Chuck	\$100.00	Director's Fees
* 70699	9/21/2022	Adamski Moroski	\$4,368.50	Legal Counsel Services
* 70700	9/21/2022	Advantage Answering Plus	\$323.36	Answering Service
* 70701	9/21/2022	AT&T	\$352.53	Telephone Service
* 70702	9/21/2022	Bartlett, Pringle & Wolf	\$98.00	Computer Support Services - Acumatica
* 70703	9/21/2022	Bomar Security & Investigation	\$4,686.90	Security Service
* 70704	9/21/2022	Boyer's Diesel	\$1,623.25	Vehicle Maintenance
* 70705	9/21/2022	Brayton's Power Wash & Sweep	\$950.00	Street Sweeping/Concrete Cleaning
* 70706	9/21/2022	Brown, Steve	\$600.00	Director's Fees
* 70707	9/21/2022	Cal-Coast Machinery, Inc	\$1,331.24	Vehicle Maintenance
* 70708	9/21/2022	Carquest Auto Parts	\$248.30	Vehicle Maintenance
* 70709	9/21/2022	City of Santa Maria	\$975.68	Construction Meter Fees
* 70710	9/21/2022	Clark Pest Control	\$2,788.00	Weed/Wildlife Abatement
* 70711	9/21/2022	Comcast Business	\$2,205.77	Internet Service
* 70712	9/21/2022	Comcast Business	\$1,250.88	Cable/Internet/Digital Voice
* 70713	9/21/2022	Costco Wholesale Membership	\$180.00	Costco Membership Renewal
* 70714	9/21/2022	De Lage Landen	\$102.18	Copier
* 70715	9/21/2022	Earthbound Electric, Inc	\$860.00	Lighting Maintenance - Terminal Area
* 70716	9/21/2022	Engel, Carl Jr.	\$600.00	Director's Fees
* 70717	9/21/2022	Farm Supply Company	\$279.64	Airfest - Misc Expenses
* 70718	9/21/2022	Frontier Communications	\$1,018.73	Telephone Service
* 70719	9/21/2022	Grainger	\$414.32	Shop Supplies
* 70720	9/21/2022	Groveman Hiete LLP	\$10,498.00	Legal Counsel Services
* 70721	9/21/2022	Hastert, Chris	\$760.42	Conferences Mileage Reimb. (Feb - August 2022)
* 70722	9/21/2022	J B Dewar, Inc	\$2,339.97	Unleaded/Diesel Fuel
* 70723	9/21/2022	J.D. Humann Landscape Contr.	\$5,068.54	Landscaping - Terminal
* 70724	9/21/2022	McMaster-Carr	\$1,243.00	Shop Supplies/Vehicle Maintenance
* 70725	9/21/2022	Napa Auto Parts	\$78.28	Vehicle Maintenance
* 70726	9/21/2022	Quadient Leasing USA, Inc.	\$440.67	Postage Machine Lease
* 70727	9/21/2022	Outdoor Supply Hardware	\$246.75	Shop Supplies
* 70728	9/21/2022	Ponek Appraisal	\$6,000.00	Appraisal Report Fees
* 70729	9/21/2022	Rafferty, Hugh	\$300.00	Director's Fees
* 70730	9/21/2022	Rafferty, Hugh - Reimbursement	\$1,502.10	CSDA Annual Conference - Reimbursement
* 70731	9/21/2022	Reasonable Radio	\$585.49	Vehicle Maintenance
* 70732	9/21/2022	ROKLIN Systems Incorporated	\$997.78	Pavement Maintenance - Landing Area
* 70733	9/21/2022	Safety-Kleen	\$220.00	Building Maintenance - Hangar Area
* 70734	9/21/2022	San Luis Powerhouse	\$675.00	Generator Maintenance

Santa Maria Public Airport District

Demand Register

Check Number	Check Date	Vendor Name	Check Amount	Description
* 70735	9/21/2022	Sign Creations	\$478.50	Signs - Terminal
* 70736	9/21/2022	SM Valley Chamber of Commerce	\$8,500.00	Chairman Membership
* 70737	9/21/2022	Sousa Tire Service, LLC	\$539.90	Vehicle Maintenance - Tires
* 70738	9/21/2022	Verizon Wireless	\$953.51	Mobile Devices
* 70739	9/21/2022	VTC Enterprises	\$70.00	Trash - Paper Recycling
* 70740	9/21/2022	WageWorks	\$100.00	Cafeteria Plan - Admin Fee
* 70741	9/21/2022	Baskett, David	\$300.00	Director's Fees
* 70742	9/21/2022	Digital West	\$950.65	Network Services - Terminal
		Subtotal	<u>\$68,205.84</u>	
ACH	9/6/2022	Ready Refresh	\$207.62	Water Delivery
ACH	9/8/2022	Collective Communications	\$7,500.00	Consulting Services
ACH	9/9/2022	Ready Refresh	\$74.44	Water Delivery
ACH	9/9/2022	Umpqua Bank	\$835.96	Credit Card Fees
ACH	9/12/2022	Umpqua Bank	\$1,672.26	Business Travel...
ACH	9/12/2022	CalPers	\$14,233.15	Employee Health Insurance
ACH	9/13/2022	Pacific Premier Bank	\$37.46	Bank Fees/Analysis Activity
ACH	9/13/2022	CalPers	\$6,150.48	Employee Retirement
ACH	9/13/2022	Empower Retirement	\$5,005.36	Employee Paid Retirement
ACH	9/15/2022	Paychex	\$28,322.05	Payroll
ACH	9/16/2022	Paychex	\$191.04	Paychex Invoice
ACH	9/16/2022	Paychex	\$6,714.38	Payroll Taxes
ACH	9/19/2022	PG&E	\$528.10	Terminal/Hangar/Admin Electricity
		Subtotal	<u>\$71,472.30</u>	
		Total	<u><u>\$139,678.14</u></u>	

Santa Maria Public Airport District

Budget vs. Actual - YTD

As of August 31, 2022

	<u>YTD</u>	<u>YTD BUD</u>	<u>VARIANCE</u>	<u>% VARIANCE</u>
61000-Landing fees	2,435.16	15,000.00	(12,564.84)	(83.8 %)
61100-Tiedowns	4,188.00	4,516.70	(328.70)	(7.3 %)
61200-Fuel Flowage Fees	5,988.90	13,766.70	(7,777.80)	(56.5 %)
62000-T-Hangar	71,997.00	72,800.00	(803.00)	(1.1 %)
62100-Corporate Hangar	48,014.00	47,000.00	1,014.00	2.2 %
62200-Owner Build Hangar	3,298.00	3,300.00	(2.00)	(.1 %)
63000-T-Hangar Storage	5,408.00	5,433.30	(25.30)	(.5 %)
64100-Main Hangar	21,792.00	21,783.30	8.70	.0 %
64200-Commercial Aviation	69,311.17	61,550.00	7,761.17	12.6 %
64300-Land Lease - Commercial Aviation	16,422.00	28,450.00	(12,028.00)	(42.3 %)
65000-Car Rental	21,989.54	29,883.30	(7,893.76)	(26.4 %)
65100-Terminal Space Lease	27,133.54	26,700.00	433.54	1.6 %
66100-Agricultural Lease	170,946.38	178,950.00	(8,003.62)	(4.5 %)
66200-Non Aviation Land Leases	69,165.16	55,800.00	13,365.16	24.0 %
66300-Cell Tower Lease	10,100.00	10,233.30	(133.30)	(1.3 %)
66400-Mobile Home Parks	77,590.79	85,192.70	(7,601.91)	(8.9 %)
67000-Administrative Income	2,834.00	7,466.70	(4,632.70)	(62.0 %)
67200-Cares Grant	216,129.58	36,666.70	179,462.88	489.4 %
67205-BIL Grant	0.00	113,333.30	(113,333.30)	(100.0 %)
67210-Leo Reimbursement	0.00	2,150.00	(2,150.00)	(100.0 %)
68100-Airfest Ticket Sales	18,562.94	46,666.70	(28,103.76)	(60.2 %)
68150-Airfest Vendor Revenue	0.00	1,333.30	(1,333.30)	(100.0 %)
68200-Airfest Sponsorship	84,400.00	30,000.00	54,400.00	181.3 %
69100-Interest and Investment Earnings	0.00	4,066.70	(4,066.70)	(100.0 %)
69110-AIP Reimbursement	0.00	1,502,433.30	(1,502,433.30)	(100.0 %)
69120-PFC Revenue	0.00	12,166.70	(12,166.70)	(100.0 %)
69200-Tax Revenues	0.00	325,416.70	(325,416.70)	(100.0 %)
Total Income	947,706.16	2,742,059.40	(1,794,353.24)	(65.4 %)
80000-G&A	966.53	2,315.00	(1,348.47)	(58.2 %)
80001-MHP - Maintenance	5,461.93	2,143.30	3,318.63	154.8 %
80002-MHP - MHP Liability Insurance	0.00	1,293.30	(1,293.30)	(100.0 %)
80003-MHP - Property Management	10,827.12	4,700.00	6,127.12	130.4 %
80004-MHP - Salaries/ Employee Related Expenses	9,098.33	18,086.80	(8,988.47)	(49.7 %)
80005-MHP - Utilities	16,738.75	28,870.00	(12,131.25)	(42.0 %)
80100-Salaries- Administration	58,006.14	78,383.30	(20,377.16)	(26.0 %)
80101-Salaries - Maintenance & Operations	54,132.93	78,583.30	(24,450.37)	(31.1 %)
80102-Employee Benefits - Other	6,654.19	10,916.70	(4,262.51)	(39.0 %)
80104-Employee Benefits - Medical	13,984.17	42,250.00	(28,265.83)	(66.9 %)
80105-Medicare Tax	1,171.86	2,350.00	(1,178.14)	(50.1 %)
80106-PERS Retirement	0.00	48,050.00	(48,050.00)	(100.0 %)
81000-ARFF Services	0.00	150,000.00	(150,000.00)	(100.0 %)
81100-Electricity	34,098.23	31,166.70	2,931.53	9.4 %
81200-Natural Gas	191.36	1,883.30	(1,691.94)	(89.8 %)
81300-Water	14,744.21	12,150.00	2,594.21	21.4 %
81600-Communications	1,274.96	12,283.40	(11,008.44)	(89.6 %)
81601-Communications - Alarm	2,496.37	2,216.70	279.67	12.6 %
81602-Communications - Wireless	1,574.76	3,200.00	(1,625.24)	(50.8 %)
81603-Communications - Access Control	103.57	166.70	(63.13)	(37.9 %)
82400-Supplies Office	1,687.78	10,833.30	(9,145.52)	(84.4 %)
82410-Supplies Shop	5,509.85	7,000.00	(1,490.15)	(21.3 %)
82500-Fuel Expense	11,220.62	7,333.30	3,887.32	53.0 %
83000-Maintenance - Misc	275.00	2,816.70	(2,541.70)	(90.2 %)
83001-Maintenance - Lighting	1,010.96	3,750.00	(2,739.04)	(73.0 %)
83002-Maintenance - Generator	0.00	875.00	(875.00)	(100.0 %)
83003-Maintenance - Pavement	6,742.25	7,433.30	(691.05)	(9.3 %)
83004-Maintenance - Weed/Wildlife	7,023.23	8,545.00	(1,521.77)	(17.8 %)
83005-Maintenance - Fencing & Gates	536.18	2,833.30	(2,297.12)	(81.1 %)
83006-Maintenance - Building	7,418.09	15,000.10	(7,582.01)	(50.5 %)

83007-Maintenance - Fire Alarm	1,077.99	3,750.00	(2,672.01)	(71.3 %)
83008-Maintenance - Drainage	76.38	1,250.00	(1,173.62)	(93.9 %)
83100-Signs	3,702.87	3,833.30	(130.43)	(3.4 %)
84000-Equipment Lease	1,277.42	1,650.00	(372.58)	(22.6 %)
84500-Janitorial	20,992.00	20,983.40	8.60	.0 %
84700-Landscaping	10,399.55	10,583.40	(183.85)	(1.7 %)
85000-Vehicle Maintenance	3,495.17	6,666.70	(3,171.53)	(47.6 %)
85400-Dues and Membership	6,902.00	11,900.00	(4,998.00)	(42.0 %)
86000-Advertising	8,145.00	45,000.00	(36,855.00)	(81.9 %)
86001-Consulting - Admin	62,537.04	61,733.30	803.74	1.3 %
86002-Consulting Professional	35,334.43	48,064.20	(12,729.77)	(26.5 %)
86003-Consulting - Legal	6,665.90	18,750.00	(12,084.10)	(64.4 %)
86004-Consulting - Security	42,906.74	71,466.70	(28,559.96)	(40.0 %)
86005-Bank Fees	0.00	4,166.70	(4,166.70)	(100.0 %)
86200-Insurance	0.00	58,416.70	(58,416.70)	(100.0 %)
86500-Permits	0.00	1,883.30	(1,883.30)	(100.0 %)
86600-Education and Recognition	1,796.00	3,566.70	(1,770.70)	(49.6 %)
86700-Business Travel	1,397.44	13,950.00	(12,552.56)	(90.0 %)
86800-Fire Fighting Training	0.00	7,916.70	(7,916.70)	(100.0 %)
86900-Election Expense	0.00	8,333.30	(8,333.30)	(100.0 %)
87010-Real Estate Commission	108,234.27	0.00	108,234.27	.0 %
87025-Rent Credit	1,736.00	0.00	1,736.00	.0 %
88001-Airfest Expense - Performers	0.00	22,033.30	(22,033.30)	(100.0 %)
88002-Airfest Expense - Gala/VIP Tent	0.00	14,566.70	(14,566.70)	(100.0 %)
88003-Airfest Expense Insurance	0.00	1,083.30	(1,083.30)	(100.0 %)
88004-Airfest Marketing	472.95	11,218.30	(10,745.35)	(95.8 %)
88005-Airfest Expense - Lodging	0.00	10,583.30	(10,583.30)	(100.0 %)
88007-Airfest Expense - Rental Cars	0.00	1,100.00	(1,100.00)	(100.0 %)
88008-Airfest Expense - Safety & Security	15,944.09	14,533.30	1,410.79	9.7 %
88009-Airfest Expenses- Miscellaneous	6,024.52	1,916.70	4,107.82	214.3 %
	<hr/>	<hr/>	<hr/>	<hr/>
Total Expenses	612,067.13	1,078,327.80	(466,260.67)	(43.2 %)
	<hr/>	<hr/>	<hr/>	<hr/>
Net Income	335,639.03	1,663,731.60	(1,328,092.57)	(22.2 %)
	<hr/>	<hr/>	<hr/>	<hr/>

Current Assets:

Cash and cash equivalents	6,519,357
Restricted - cash and cash equivalents	3,006,458
Certificate-of-deposit	8,000
Accounts receivable - customers and tenants, net	39,805
Prepaid expenses and deposits	366,548
	<hr/>
Total current assets	9,940,168

Non-current assets:

Note receivable	164,355
Interest Receivable	8,965
Capital assets, not being depreciated	6,479,480
Depreciable capital assets	20,446,873
Deferred other post-employment benefits outflows	77,902
Deferred pension outflows	445,936
	<hr/>
Total non-current assets	27,623,512

Total assets	<hr/> 37,563,679
--------------	---------------------

Current Liabilities:

Accounts payable and accrued expenses	28,820
Accrued wages and related payables	26,259
Unearned Revenue (customer prepaid)	0
Hangar and other deposits	113,410
Long-term liabilities - due in one year:	
Compensated absences	43,605
Land improvements payable	18,869
	<hr/>
Total current liabilities	230,963

Long-term liabilities - due in more than one year

Compensated absences	130,815
Land improvements payable	106,922
Total other post-employment benefits liability	373,325
Net pension liability	2,056,379
Deferred pension inflows	92,912
	<hr/>
Total long term liabilities	2,760,353

Total Liabilities	<hr/> 2,991,316
-------------------	-----------------

Net position:

Retained Earnings	34,236,724
Change in Net Position	335,639
	<hr/>
Total net position	34,572,363

Total liabilities and net position	<hr/> 37,563,679
------------------------------------	---------------------

Santa Maria Public Airport District

Profit & Loss

As of August 31, 2022

	YTD	PTD	PTD AVG	% AVG/PTD
Revenues from Operations				
Landing Area				
Landing fees and tiedowns	6,623.16	2,094.00	3,311.58	158.1 %
Fuel flowage fees	5,988.90	0.00	2,994.45	
Subtotal	12,612.06	2,094.00	6,306.03	301.1 %
Hangar area				
T-Hangar	71,997.00	35,840.00	35,998.50	100.4 %
Corporate T-Hangars	48,014.00	24,007.00	24,007.00	100.0 %
T-Hangar Storage Units	5,408.00	2,710.00	2,704.00	99.8 %
Owner Build Hangars	3,298.00	1,649.00	1,649.00	100.0 %
Subtotal	128,717.00	64,206.00	64,358.50	100.2 %
Main hangar and F.B.O. area				
Main Hangar	21,792.00	10,896.00	10,896.00	100.0 %
Commercial Hangars	69,311.17	36,895.76	34,655.59	93.9 %
Land Leases	16,422.00	8,211.00	8,211.00	100.0 %
Subtotal	107,525.17	56,002.76	53,762.59	96.0 %
Terminal Area				
Car Rental and Ground Transportation	21,989.54	4,985.00	10,994.77	220.6 %
Terminal Space Lease	27,133.54	13,728.63	13,566.77	98.8 %
TSA LEO Reimbursement	0.00	0.00	0.00	
Subtotal	49,123.08	18,713.63	24,561.54	131.2 %
Revenue generating land				
Land Lease Recreational	69,165.16	35,132.58	34,582.58	98.4 %
Agricultural Leases	170,946.38	85,473.19	85,473.19	100.0 %
Airport Business Park - on Agriculture B&P Cell Tower	10,100.00	5,050.00	5,050.00	100.0 %
Airport Hotel	2,834.00	1,190.00	1,417.00	119.1 %
Airport Mobile Home Park - on Agriculture B&P Administrative	77,590.79	31,000.00	38,795.39	125.1 %
Subtotal	330,636.33	157,845.77	165,318.16	104.7 %
Airfest				
Airfest Ticket Sales	18,562.94	11,990.36	9,281.47	77.4 %
Airfest Sponsorship	84,400.00	74,900.00	42,200.00	56.3 %
Subtotal	102,962.94	86,890.36	51,481.47	59.2 %
Administrative				
Badging Income			0.00	
Miscellaneous Income			0.00	
Plans and Specs	0.00	0.00	0.00	
Cares Grant Revenue	216,129.58	216,129.58	108,064.79	50.0 %
Subtotal	216,129.58	216,129.58	108,064.79	50.0 %
Total Revenue from operations	947,706.16	601,882.10	473,853.08	78.7 %
			0.00	

Santa Maria Public Airport District

Profit & Loss

As of August 31, 2022

	YTD	PTD	PTD AVG	% AVG/PTD
Operating Expenses:				
Landing Area	22,392.89	6,822.48	11,196.45	164.1 %
Hangar Area	11,618.94	5,850.10	5,809.47	99.3 %
Main hangar and Commercial	11,924.27	5,483.01	5,962.14	108.7 %
Terminal area	76,070.18	29,721.72	38,035.09	128.0 %
Revenue generating land	46,201.40	1,827.68	23,100.70	1263.9 %
Salaries and Benefits	133,949.29	86,481.75	66,974.65	77.4 %
Utilities	12,678.59	6,471.90	6,339.30	98.0 %
Supplies	18,382.64	9,760.19	9,191.32	94.2 %
Maintenance and Repairs	10,478.28	4,081.77	5,239.14	128.4 %
Contractual Services	74,811.64	28,084.07	37,405.82	133.2 %
Real Estate Commission	108,234.27	108,234.27	54,117.14	50.0 %
ARFF Services	0.00	0.00	0.00	
Security Services	42,906.74	7,099.66	21,453.37	302.2 %
Dues and Subscriptions	6,902.00	5,942.00	3,451.00	58.1 %
Advertising	8,145.00	3,570.00	4,072.50	114.1 %
Depreciation	0.00	0.00	0.00	
Insurance	0.00	0.00	0.00	
Business Travel and Entertainment	1,397.44	0.00	698.72	
Rent Credit	1,736.00	868.00	868.00	100.0 %
Air Show Expense	22,441.56	21,602.40	11,220.78	51.9 %
Other Miscellaneous Expense	1,796.00	1,346.00	898.00	66.7 %
Total Expenses	612,067.13	333,247.00	306,033.59	91.8 %
Operating income (loss)	335,639.03	268,635.10	167,819.49	62.5 %
Non-Operating Revenues (Expenses):				
PFC Revenue	0.00	0.00	0.00	
Interest Income	0.00	0.00	0.00	
Tax Revenues	0.00	0.00	0.00	
Total non-operating rev (exp)	0.00	0.00	0.00	
Net Income	335,639.03	268,635.10	167,819.49	62.5 %



MEMORANDUM

Santa Maria Public Airport District

September 22, 2022

TO: Board of Directors

FROM: Manager of Finance and Administration

SUBJECT: Budget Deviation #1 for 2021-2022 Budget

It is recommended that the 2021 - 2022 Budget be amended to include the following changes:

Expenses	Proposed Budget Amount	Current Budget Amount	Increase/ (Decrease)
1.) 86001 Consulting - Admin	\$637,449	\$501,237	\$136,211
2.) 86003 Consulting - Legal	\$129,535	\$62,482	\$67,053
3.) 86004 Consulting - Security	\$411,213	\$383,128	\$28,085
4.) 88002 Airfest Expense - Gala/VIP Tent	\$23,886	\$0	\$23,886
5.) 82500 Fuel Expense	\$34,028	\$22,000	\$12,028
6.) 87025 Rent Credit	\$9,816	\$0	\$9,816
7.) 80101 Salaries - Maintenance & Operations	\$432,254	\$426,276	\$5,979
8.) 86200 Insurance	\$311,352	\$304,715	\$6,636
9.) 81100 Electricity	\$192,869	\$187,767	\$5,102
10.) 86500 Permits	\$11,274	\$7,633	\$3,641
11.) 84700 Landscaping	\$67,473	\$64,460	\$3,013
12.) 81300 Water	\$72,506	\$69,513	\$2,993
13.) 88009 Airfest Expenses - Miscellaneous	\$3,103	\$0	\$3,103
Total	2,336,758	2,029,211	307,547

- 1.) Unplanned expenses related to contracting with Lobbyist, PFAS inventorying and reporting, and biological consulting.
- 2.) Unexpected legal expenses due to Baskett litigation, Semco Tool, and other environmental items.
- 3.) Increase in security cost above estimated budget.
- 4.) Expenses for next years Airfest not included in this fiscal year.
- 5.) Rising cost of fuel.
- 6.) A rent credit was granted to the Museum of flight.
- 7.) Maintenance and Operations Overtime.
- 8.) District added a pollution insurance policy.
- 9.) Rising cost of utilities.
- 10.) Additional permits required.
- 11.) Unanticipated landscape maintenance
- 12.) Rising cost of utilities.
- 13.) Expenses for next years Airfest not included in this fiscal year.

Veroneka Reade, Manager of Finance and Administration

Recommended: _____
Chris Hastert, General Manager

Approved Board Meeting
of September 22, 2022: _____
Hugh Rafferty, Secretary

RESOLUTION NO. 917

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SANTA MARIA PUBLIC AIRPORT DISTRICT MAKING FINDINGS ON ENERGY SAVINGS AND DETERMINING OTHER MATTERS IN CONNECTION WITH ENERGY SERVICE AGREEMENTS

WHEREAS, it is the policy of the State of California and the intent of the State Legislature to promote all feasible means of energy conservation and all feasible uses of alternative energy supply sources; and

WHEREAS, Santa Maria Public Airport District (“District”) desires to reduce the rising costs of meeting the energy needs at its facilities; and

WHEREAS, the District proposes to enter into power purchase agreements (“Power Purchase Agreements”) and related contract documents with FFP BTM SOLAR, LLC (“Supplier”) for facilities at the District’s real property sites, pursuant to which Power Purchase Agreements Supplier will design, construct, and install on District property solar photovoltaic facilities and arrange with the local utility for interconnection of the facilities, which will generate energy for the sites on which such facilities are located;

WHEREAS, Supplier has provided the District with analysis showing the financial and other benefits of entering into the Power Purchase Agreements, which analysis is attached hereto as Exhibit A and made part hereof by this reference; and

WHEREAS, Exhibit A includes data showing that the anticipated cost to the District for the electrical energy provided by the solar photovoltaic facilities will be less than the anticipated cost to the District of electrical energy that would have been consumed by the District in the absence of such measures; and

WHEREAS, Supplier was the selected vendor for School Project for Utility Rate Reduction’s (“SPURR”) Renewable Energy Aggregated Procurement (“REAP”) Program, a competitive statewide solar request for proposals (“RFP”) process, and the District adopts the REAP Program’s competitive process as its own.

WHEREAS, the District proposes to enter into the Power Purchase Agreements and related contract documents, each in substantially the form presented at this meeting, subject to such changes, insertions or omissions as the General Manager reasonably deems necessary following the Board’s adoption of this Resolution; and

WHEREAS, pursuant to Government Code section 4217.12, this Board held a public hearing, public notice of which was given two weeks in advance, to receive public comment; and

WHEREAS, the Power Purchase Agreements are in the best interests of the District; and

WHEREAS, the District’s proposed approval of the Power Purchase Agreements is a “Project” for purposes of the California Environmental Quality Act (“CEQA”); and

WHEREAS, the Guidelines for CEQA, California Code of Regulations Title 14, Chapter 13 (“State CEQA Guidelines”), exempt certain projects from further CEQA evaluation, including the following: (1) projects consisting of the new construction or conversion of small structures (“Class 3 Exemption”; Cal. Code Regs., tit. 14, § 15303); (2) projects consisting of the construction or placement of minor accessory structures to existing facilities (“Class 11 Exemption”; Cal. Code Regs., tit. 14, § 15311); and the Project is categorically exempt under one or more of such exemptions; and

WHEREAS, the Project does not involve any of the following and so is eligible for a categorical exemption as described above under State CEQA Guidelines section 15300.2:

- (a) the cumulative impact of successive projects of the same type in the same place, which over time are significant;
- (b) an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances;
- (c) a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway;
- (d) a hazardous waste site which is included on any list compiled pursuant to Section 65962.5 of the Government Code; and
- (e) a project which may cause a substantial adverse change in the significance of a historical resource; and

WHEREAS, Public Resources Code, section 21080.35 (added by Stats.2011, c. 469 (S.B.226), § 3), statutorily exempts from CEQA evaluation the installation of a solar energy system, including associated equipment, on the roof of an existing building or at an existing parking lot; and

* * * * *

NOW, THEREFORE, based upon the above-referenced recitals, the Board hereby finds, determines and orders as follows:

1. The terms of the Power Purchase Agreements and related agreements are in the best interests of the District.

2. In accordance with Government Code section 4217.12, and based on data provided by Exhibit A, the Board finds that the anticipated cost to the District for electrical energy provided by the Power Purchase Agreements will be less than the anticipated cost to the District of electrical energy that would have been consumed by the District in the absence of the Power Purchase Agreements.

3. The Board hereby approves the Power Purchase Agreements in accordance with Government Code section 4217.12.

4. The District's General Manager is hereby authorized and directed to negotiate any further changes, insertions and omissions to the Power Purchase Agreements as he/she reasonably deems necessary, and thereafter to execute and deliver the Power Purchase Agreements following the Board's adoption of this Resolution. The District's General Manager is further authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do or cause to be done any and all other acts and things necessary or proper for carrying out this resolution and said agreements.

5. The Project hereby found to be exempt from the requirements of CEQA pursuant to the Class 3, Class 11 Exemptions, as described above.

6. The Project is hereby found to be exempt from the requirements of CEQA pursuant to Public Resources Code, section 21080.35 (added by Stats.2011, c. 469 (S.B.226), § 3), as described above.

7. District staff are hereby authorized to file and process a Notice of CEQA Exemption for the Project in accordance with CEQA and the State CEQA Guidelines, and the findings set forth in this resolution.

The foregoing Resolution was adopted at a meeting of the Board of Directors of the Santa Maria Public Airport District on September 22, 2022, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

**Approved as to consent for
District:**

Chris Hastert, General Manager

**SANTA MARIA PUBLIC AIRPORT
DISTRICT:**

By: _____
Carl Engel, President

Approved as to form for District:

District Counsel

By: _____
Hugh Rafferty, Secretary

Exhibit "A"

Project Cashflows: Santa Maria Airport District Solar PPA

Rate Scenario	NEM 2.0
Solutions	Solar Only
Project	Airport NEMA
Year 1 Savings	\$28,008
Cumulative Savings	\$1,947,107
Cumulative NPV Savings	\$1,108,813
Payback Period	Immediate
Solar System Size (KW)	525
Storage System Size (KW)	0

Financial Assumptions

Parameter	Value
PPA Rate Escalator (%/yr)	0.0%
Utility Energy Escalator (%/yr)	2.7%
Utility Demand Escalator (%/yr)	5.0%
PPA Term (Years)	20
Discount Rate (%)	5.0%
Solar Degradation Rate (%)	0.50%

Year	Historic Utility Bill (without solar)	PPA + Storage Payment	New Utility Bill (with solar)	Total Electricity Costs (PPA + Utility)	Net Savings	Cumulative Savings
1	222,851	145,139	49,704	194,843	28,008	28,008
2	229,900	144,413	51,411	195,824	34,076	62,084
3	237,191	143,691	53,183	196,874	40,317	102,401
4	244,732	142,973	55,021	197,994	46,739	149,140
5	252,534	142,258	56,929	199,187	53,348	202,487
6	260,607	141,546	58,910	200,457	60,151	262,638
7	268,960	140,839	60,967	201,805	67,155	329,792
8	277,605	140,134	63,102	203,237	74,368	404,161
9	286,552	139,434	65,320	204,754	81,799	485,960
10	295,814	138,737	67,623	206,359	89,454	575,414
11	305,401	138,043	70,015	208,058	97,343	672,757
12	315,328	137,353	72,500	209,853	105,475	778,232
13	325,607	136,666	75,082	211,748	113,858	892,091
14	336,251	135,983	77,765	213,748	122,503	1,014,594
15	347,275	135,303	80,553	215,856	131,419	1,146,013
16	358,695	134,626	83,451	218,077	140,617	1,286,631
17	370,525	133,953	86,463	220,416	150,108	1,436,739
18	382,781	133,283	89,595	222,878	159,903	1,596,642
19	395,481	132,617	92,851	225,468	170,013	1,766,655
20	408,642	131,954	96,237	228,190	180,452	1,947,107
Total	\$6,122,733		\$1,406,683	\$4,175,626	\$1,947,107	\$1,947,107

CONFIDENTIAL AND PROPRIETARY

**GENERAL TERMS AND CONDITIONS OF
ENERGY SERVICES AGREEMENT**

These General Terms and Conditions of Energy Services Agreement are dated as of the ____ day of _____, 2022 and are witnessed and acknowledged by FFP BTM SOLAR, LLC, a Delaware limited liability company ("ForeFront Power") and Santa Maria Public Airport District, a public agency ("Purchaser"), as evidenced by their signature on the last page of this document. These General Terms and Conditions are intended to be incorporated by reference into Energy Services Agreements that may be entered into between ForeFront Power and Purchaser or between their respective Affiliates. These General Terms and Conditions shall have no binding effect upon ForeFront Power or Purchaser, respectively, except to the extent Purchaser or ForeFront Power (or an Affiliate thereof) becomes a party to an Energy Services Agreement that incorporates these General Terms and Conditions.

1. DEFINITIONS.

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

"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 Energy 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) taken any corporate or other action for the purpose of effecting any of the foregoing; or (ii) has a petition in bankruptcy filed against it, and such petition is not dismissed within ninety (90) days after the filing thereof.

"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” has the meaning set forth in Section 3.3(b).

“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.

“Delay Liquidated Damages” means the daily payment of (i) \$0.250/day/kW (DC) of the estimated nameplate capacity of the System (as set forth in Schedule 1 of the Special Conditions).

“Disruption Period” has the meaning set forth in Section 4.3.

“Early Termination Date” means any date on which this 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 or Section 11.2.

“Effective Date” has the meaning set forth in the preamble to the Special Conditions.

“Energy Services” has the meaning set forth in the Special Conditions.

“Energy Services Agreement” means each Energy Services Agreement (including the Schedules attached thereto) that may be entered into between ForeFront Power and Purchaser or between their respective Affiliates that incorporates these General Terms and Conditions by reference.

“Energy Services Payment” 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.

“Environmental Documents” has the meaning set forth in Section 7.2(f).

“Environmental Law” means any and all federal, state, local, provincial and foreign, civil and criminal laws, statutes, ordinances, orders, common law, codes, rules, regulations, judgments, decrees, injunctions relating to the protection of health and the environment, worker health and safety, and/or governing the handling, use, generation, treatment, storage, transportation, disposal, manufacture, distribution, formulation, packaging, labeling, or release to the environment of or exposure to Hazardous Materials, including any such requirements implemented through Governmental Approvals.

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

“Expiration Date” means the date on which this 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, (ii) any Person (or its agent) who has made or will make a loan to or otherwise provides financing to Provider (or an Affiliate of Provider) with respect to the System, or (iii) any Person acquiring a direct or indirect interest in Provider or in Provider’s interest in this Agreement or the System as a tax credit investor.

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

“ForeFront Power” has the meaning set forth in the Preamble.

“General Terms and Conditions” means these General Terms and Conditions of the Energy Services Agreement, including all Exhibits hereto.

“Guaranteed Commercial Operation Date” has the meaning set forth in Section 5 of the Special Conditions, subject to extension as set forth in Section 2.2(b).

“Guaranteed Construction Start Date” has the meaning set forth in Section 5 of the Special Conditions, subject to extension as set forth in Section 2.2(b).

“Governmental Approval” means any approval, consent, franchise, permit, certificate, resolution, concession, license, or authorization issued by or on behalf of any applicable Governmental Authority, including any such approval, consent, order or binding agreements with or involving a governmental authority under Environmental Laws.

“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.

“Hazardous Materials” means any hazardous or toxic material, substance or waste, including petroleum, petroleum hydrocarbons or petroleum products, and any other chemicals, materials, substances or wastes in any amount or concentration which are regulated under or for which liability can be imposed under any Environmental Law.

“Initial Term” has the meaning set forth in Section 2 of the Special Conditions.

“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 (by using one or more qualified contractors holding the appropriate licenses required in the jurisdiction where the System will be installed) at the Premises.

“Invoice Date” has the meaning set forth in Section 6.2.

“Liens” has the meaning set forth in Section 7.1(d).

“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, with counsel acceptable to Purchaser, 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(i).

“Party” or “Parties” has the meaning set forth in the preamble to the Special Conditions.

“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.

“Pre-existing Environmental Conditions” means any: (i) violation of, breach of or non-compliance with any Environmental Laws with respect to the Premises that first existed, arose or occurred on or prior to Provider’s commencement of construction at the Premises and (ii) the presence or release of, or exposure to, any Hazardous Materials at, to, on, in, under or from the Premises that first existed, arose or occurred on or prior to Provider’s commencement of construction at the Premises.

“Premises” means the premises described in Schedule 1 of the Special Conditions. The Premises includes the entirety of any structures and underlying real property located at the address 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).

“Provider Indemnified Parties” has the meaning set forth in Section 16.2.

“Purchase Date” means the first Business Day that occurs after the applicable purchase date set forth in Schedule 3 of the Special Conditions.

“Purchaser” has the meaning set forth in the preamble to the Special Conditions.

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

“Purchaser Indemnified Parties” has the meaning set forth in Section 16.1.

“Renewal Term” if applicable, has the meaning set forth in Section 2 of the Special Conditions.

“Representative” has the meaning set forth in Section 15.1.

“Security Interest” has the meaning set forth in Section 8.2(a).

“Site-Specific Requirements” means the site-specific information and requirements as may be set forth in Schedule 7 of the Special Conditions.

“Special Conditions” means each Energy Services Agreement, excluding these General Terms and 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%) or (b) the maximum rate allowed by Applicable Law.

“System” has the meaning set forth in Schedule 1 of the Special Conditions.

“System-based Incentives” means any accelerated depreciation, installation or production-based incentives, investment tax credits and subsidies including, but not limited to, the subsidies in Schedule 1 of the Special Conditions and all other related subsidies and incentives.

“System Operations” means Provider’s operation, maintenance and repair of the System performed by Provider or for Provider (by using one or more qualified contractors holding the appropriate licenses required in the jurisdiction where the System will be installed) in accordance with the requirements herein.

“Term” means the Initial Term, and the subsequent Renewal Term(s), if any.

“Term Year” means a twelve (12) month period beginning on the first day of the Term and each successive twelve (12) month period thereafter.

“Termination Date” means the date on which this Agreement ceases to be effective, including on an Early Termination Date or the Expiration Date.

“WREGIS” means the Western Renewable Energy Generation Information System.

1.2 Interpretation. The captions or headings in these General Terms and Conditions are strictly for convenience and shall not be considered in interpreting this Agreement. Words in this 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 this Agreement as a whole and not to any particular provision of this Agreement. Except as the context otherwise indicates, all references to “Articles” and “Sections” refer to Articles and Sections of these General Terms and Conditions.

2. TERM AND TERMINATION.

2.1 Term. The Initial Term is as specified in the Special Conditions.

2.2 Early Termination.

(a) Purchaser may terminate this Agreement prior to any applicable Expiration Date for any reason upon sixty (60) days’ prior written notice. If Purchaser terminates the Agreement prior to the Expiration Date of the Initial Term, 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 in accordance with Section 2.4. Upon Purchaser’s payment to Provider of the Early Termination Fee, this Agreement shall terminate automatically.

(b) Purchaser may (i) if Provider fails to commence construction by the Guaranteed Construction Start Date, be entitled (as its sole remedy) to Delay Liquidated Damages not to exceed \$22.5/kW (DC) of the estimated nameplate capacity of the System (as set forth in Schedule 1 of the Special Conditions), (ii) terminate this Agreement with no liability whatsoever, including, but not limited to the Early Termination Fee, if Provider fails to commence construction of the System by the date that is ninety (90) days after the Guaranteed Construction Start Date, or (iii) if Provider fails to achieve Commercial Operation by the Guaranteed Commercial Operation Date, be entitled (as its sole remedy) to Delay Liquidated Damages not to exceed \$15/kW (DC) of the estimated nameplate capacity of the System (as set forth in Schedule 1 of the Special Conditions), plus (if Installation Work had commenced at the Premises as of the date of termination) any costs reasonably incurred by Purchaser to return its Premises to its condition prior to commencement of the Installation Work. Further, Purchaser may terminate this Agreement with no liability whatsoever, including, but not limited to the Early Termination Fee, if Provider fails to commence Commercial Operation by the date that is sixty (60) days after the Guaranteed Commercial Operation Date. The Guaranteed Construction Start Date and Guaranteed Commercial Operation Date shall be extended on a day-for-day basis if any of the following occurs: (x) notwithstanding Provider’s commercially reasonable efforts, interconnection approval is not obtained within sixty (60) days after the Effective Date, provided that interconnection applications are submitted within 45 days of the later of (a) the Effective Date and (b) finalization of the System layout, (y) a Force Majeure Event occurs or for any delays by the Local Electric Utility or (z) an occurrence of any other unforeseeable event outside of Provider’s reasonable control, provided that Provider makes reasonable efforts to mitigate the impact of such events on the Guaranteed Construction Start Date or Guaranteed Commercial Operation Date (as applicable). Any such extension pursuant to subsection (z) shall be subject to the approval of Purchaser which shall not be unreasonably withheld, conditioned or delayed.

2.3 Purchase Option.

(i) 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 provide all calculations and assumptions supporting said Option Price to Purchaser. 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 2.3(ii)), (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 this Agreement. Upon execution of the documents and payment of the Option Price, in each case as described in the preceding sentence, this Agreement shall terminate automatically. 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 this Agreement shall be applicable as if Purchaser had not exercised any option to purchase the System.

(ii) Determination of Fair Market Value. If the Option Price indicated by Provider in accordance with Section 2.3(i) is equal to the Fair Market Value (as determined and demonstrated by supporting documentation provided 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 Energy Services industry. Such appraiser shall have expertise and experience in valuing photovoltaic systems, resale markets for such systems and related environmental attributes, and 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; however, if Purchaser in good faith disputes the valuation made by the appraiser, Purchaser shall have the right to retract its decision to exercise the Purchase Option. 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(i); otherwise, the Parties shall equally share such cost.

2.4 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 this 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 ninety (90) days after the Termination Date. The Premises shall be returned to its original condition, except for System mounting pads or other support structures on roof-mounted systems only, 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.

2.5 Conditions Prior to the Commercial Operation Date.

(a) In the event that any of the following events or circumstances occur prior to the Commercial Operation Date, Provider may (at its sole discretion) provide notice that it is terminating this 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, including but not limited to Provider's restoration of the Premises in accordance with Section 2.4:

(i) Provider determines that the Premises, as is, is insufficient to accommodate the System or unsuitable for construction or operation of the System.

(ii) 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.

(iii) 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.

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

(v) Provider has not received: (1) a fully executed license in the form of Exhibit A of these General Conditions from the owner of the Premises (if the Purchaser is a tenant), (2) 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 (3) such other documentation 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.

(vi) 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.

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

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

(b) If any of the conditions set forth in Section 2.5(a) are partly or wholly unsatisfied, and Provider wishes to revise the information in the Special Conditions, then Provider may propose modifications to the Special Conditions for acceptance by Purchaser. If Purchaser does not accept such modified Special Conditions, Provider may terminate this Agreement as provided in Section 2.5(a) and shall restore the Premises in accordance with Section 2.4. If Purchaser accepts such revised Special Conditions, such revised Special Conditions shall be deemed an amendment of this Agreement, and this Agreement shall remain in force and effect upon execution by both Parties.

2.6 Co-Located Systems. With respect to any Systems that are co-located at the same Premises and connected to the same meter, the Parties acknowledge that the Systems are intended to be owned and operated as one integrated system, and that the Energy Services Payment (a) represents the added value of integrating the Systems to enable Provider's delivery of the Energy Services pursuant to the Agreements when needed by Purchaser, and (b) is a component part of the total consideration payable to Provider in exchange for Provider's comprehensive duties under this Agreement and the Agreement(s) related to the other co-located System(s). Accordingly, the Parties further agree (x) to treat the Systems as one integrated system for all purposes, and (y) that any right or option that is exercised with respect to the System or this Agreement, whether in respect of early termination, purchase option or otherwise, shall also be exercised with respect to the Agreement(s) related to the other co-located System(s).

3. CONSTRUCTION, INSTALLATION AND TESTING OF SYSTEM.

3.1 Installation Work. Provider will cause the System (by using one or more qualified contractors holding the appropriate licenses required in the jurisdiction where the System will be installed) 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 consents, approvals and permits required to perform Purchaser's obligations under this Agreement, including but not limited to those related to the Local Electric Utility, any Governmental Approval, and any consents, waivers, approvals or releases required pursuant to any applicable contract or 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 providers of Energy Services similar to those provided by the System in the United States. Provider shall provide Purchaser with reasonable advanced notice of such testing and shall permit Purchaser or Purchaser's representative to observe such testing. Purchaser's observation of such testing shall not be construed as or deemed an approval of such testing or test results.

(b) If the results of such testing indicate that the System is capable of providing the Energy Services, 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 ("Commercial Operation"), 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*, 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 at the Premises. Such meter(s) shall meet the general commercial standards of the solar photovoltaic industry or the required standards of the Local Electric Utility.

4.2.1 Meter Testing.

(a) Provider shall provide certificates of calibration for all meters prior to the time of their installation, no meter will be placed in service for which Provider has not provided certificates of calibration. Provider shall test or arrange for all meters to be tested in accordance with the meter manufacturer's recommendations. Provider shall bear all costs and expenses associated with each meter testing. Purchaser shall be notified at least ten (10) days in advance of such testing and shall have the right to be present during such tests. Provider shall provide Purchaser with detailed written results of all meter tests.

(b) Provider shall test or arrange for meter inspection and testing bi-annually when performing System operations and maintenance.

4.2.2 Cost of Meter Repair.

(a) If meter testing, as described above demonstrates that a meter was operating outside of its allowable calibrations (+/- 2%), then Provider will pay for the cost of repairs or replacement necessary to restore a meter to proper working order.

(b) If a meter is found to be inaccurate by more than two percent (2%), invoices for the prior six (6) months or from the last date such meter was registering accurately, whichever period is less, shall be adjusted to reconcile the discrepancy and payment for the amount of the adjustment issued by the appropriate party within 45 days, except that Purchaser shall not be obligated to pay interest on any amount found to be due because a meter was operating outside of its allowable calibration (+/- 2%).

4.2.3 Meter Data. Provider shall gather and maintain the data from all meters, including but not limited to, interval data registered at least once every fifteen (15) minutes ("Meter Data"), and shall make such Meter Data promptly available to Purchaser at Purchaser's request.

4.3 System Disruptions. In the event that (a) the owner or lessee of the Premises repairs the Premises 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 (b) 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 Energy 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 sales of Environmental Attributes and any reduced System-based Incentives, if applicable, during the Disruption Period. For the purpose of calculating Energy Services Payments and lost revenue for such Disruption Period, Energy Services for each month of said months shall be deemed to have been produced at the average rate over the same month for which data exists (or, if the disruption occurs within the first twelve (12) months of operation, the average over such period of operation). Notwithstanding the foregoing, Purchaser shall be entitled to exercise its rights under Section 9 (Allowed Disruption Time) of the Special Conditions.

5. TITLE TO SYSTEM.

5.1 Throughout the duration of this 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.

5.2 Environmental Attributes And System-Based Incentives. Purchaser’s purchase of Energy Services includes Environmental Attributes, but does not include System-based incentives. System-based Incentives shall be owned by Provider or Provider’s financing party for the duration of the System’s operating life. Purchaser disclaims any right to System-based 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 5.2. During the Term, Provider shall establish and maintain a WREGIS sub-account to register and track renewable energy certificates (RECs) associated with generation produced by the System. Unless Purchaser prefers a different sub-account designation, RECs transferred into the WREGIS sub-account will be tagged by Provider as retired on behalf of Purchaser. Provider will provide Purchaser read-only access to the WREGIS sub-account and provide an annual report to Purchaser on the status of the RECs. Purchaser understands that if RECs are retired they cannot be used for any other purpose or ‘un-retired’

6. PRICE AND PAYMENT.

6.1 Consideration. Purchaser shall pay to Provider a monthly Energy Services Payment for the Energy Services provided during each calendar month of the Term as set forth in the Special Conditions.

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 Energy Services Payment in respect of the immediately preceding month. The last invoice shall include Energy Services provided only through the Termination Date of this Agreement. Invoices shall state, at a minimum, (i) the amount of actual electricity produced by the System and delivered to the delivery point during the invoice period (if applicable), (ii) the rates applicable to, and any charges incurred by, Purchaser under this Agreement, and (iii) the total amount due from Purchaser.

6.3 Time of Payment. Purchaser shall pay all undisputed amounts due hereunder within thirty (30) days after Purchaser’s receipt of an invoice from Provider.

6.4 Method of Payment. Purchaser shall make all payments under this Agreement either (a) by electronic funds transfer in immediately available funds to the account designated by Provider from time to time or

(b) by check timely delivered to the location 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.

6.5 Disputed Payments. If a *bona fide* dispute arises with respect to any invoice, Purchaser shall not be deemed in default under this 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 if it becomes aware of any event or circumstance relating to the System or the Premises that poses a significant risk to human health, the environment, the System or the Premises. In the event of unreasonable damage to the Premises caused by, or as the result of, the System, Provider shall, at its sole cost, repair said Premises to the condition existing prior to such damage.

(b) Governmental Approvals. While providing the Installation Work, Energy 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.

(c) Health and Safety. Provider shall take all necessary and reasonable safety precautions with respect to providing the Installation Work, Energy Services, and System Operations that shall comply with all Applicable Laws pertaining to the health and safety of persons and real and personal property. All work shall be performed by licensed professionals, as may be required by Applicable Law, and in accordance with such methods, acts, guidelines, standards and criteria reasonably accepted or followed by a majority of System integrators in the United States.

(d) 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, with counsel acceptable to Purchaser, and court costs at trial and on appeal) incurred in discharging and releasing such Lien; *provided*, Provider shall have the right to contest any such Lien, so long as it provides a statutory bond or other reasonable assurances of payment that either remove such Lien from title to the Premises or that assure that any adverse judgment with respect to such Lien will be paid without affecting title to the Premises.

(e) System Condition. Provider shall take all actions reasonably necessary, including but not limited to repair and maintenance, to ensure that the System is capable of operating at a commercially reasonable continuous rate throughout the Term.

(f) Environmental Indemnification by Provider. Provider shall indemnify, hold harmless and defend (with counsel acceptable to Purchaser) Purchaser Indemnified Parties from and against all liability, proceedings, liens, actions, claims, penalties, costs and expenses, or demands of any nature, and conduct all actions required under Environmental Laws in connection with the deposit, release, or spill of any Hazardous Materials at, on, above, below or near the Premises by Provider. In no event shall Provider be responsible for the existence of any Hazardous Materials at the Premises prior to the Effective Date. Provider shall promptly notify Purchaser if it becomes aware of

any Hazardous Materials, or any deposit, spill, or release of any Hazardous Materials at, on, above, below or near the Premises.

(g) Production Data. Provider shall provide Purchaser with access to System production data in electronic format, such as tabular Excel or csv with each production unit in a separate cell. Production data could be delivered monthly or by granting Purchaser access to a web portal.

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

(a) Notice of Damage or Emergency. Purchaser shall (i) 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, (ii) 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. In the event of damage to Purchaser's premises caused by, or as the result of, the System, Provider shall, at its sole cost, repair said premises to the condition existing prior to such damage.

(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. To the extent that only Purchaser is authorized to request, obtain or issue any necessary approvals, Governmental Approvals, rebates or other financial incentives, Purchaser shall cooperate with Provider to obtain or issue such approvals, Governmental Approvals, rebates or other financial incentives in the name of Provider. Purchaser shall provide to Provider copies of all Governmental Approvals and CCRs applicable to the Premises, other than those obtained by Provider or to which Provider is a party.

(d) Access to Premises, Grant of License.

(i) Purchaser hereby grants to Provider a revocable non-exclusive license coterminous with the Term containing all the rights necessary for Provider to use and occupy portions of the Premises for the installation, operation, maintenance and removal 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; *provided*, with respect to Provider's access to the Site, such license shall be subject to conditions or limitations for the protection of minor students that are imposed generally on commercial contractors by Purchaser or by Applicable Law. If Provider's financing structure requires that Purchaser enter into a license agreement directly with Financing Party, Provider shall enter into such an agreement which shall be in a form set forth by Provider and which contain substantially the same rights as set forth in this Section 7.2(d).

(ii) 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*, Purchaser and Purchaser's landlord shall at all times have access to and the right to observe the Installation Work or System removal.

(iii) 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 provide 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. Subject to Purchaser's indemnity obligations set forth herein, Purchaser shall have no liability whatsoever in connection with personal property or equipment of Provider or Provider's employees, consultants, contractors, subcontractors, and vendors. Provider shall be solely responsible for the safety and security of Provider's employees, consultants, contractors, subcontractors, and vendors, as well as any personal property, including but not limited to, any tools, materials, and equipment of such parties used or stored on the Premises.

(f) Environmental Documents. On or before the Effective Date of each Special Conditions Purchaser shall identify and set forth in each Special Conditions and unless previously delivered, Purchaser shall, to the extent the same are known and in the possession or control of Purchaser, deliver to Provider copies of all reports, agreements, plans, inspections, tests, studies or other materials concerning the presence of Hazardous Materials at, from or on the Premises including, but not limited to, soil reports, design drawings, environmental reports, sampling results or other documents relating to Hazardous Materials that have been identified or may be present on, in or under the Premises (collectively, the "Environmental Documents"). Thereafter, Purchaser agrees to provide copies of any new Environmental Documents within ten (10) days of receipt of same. Purchaser hereby agrees to furnish such other documents in Purchaser's possession or control with respect to Governmental Approvals compliance with Environmental Law or Hazardous Materials with respect to the Premises as may be reasonably requested by Provider from time to time.

(g) Compliance with Environmental Laws. Notwithstanding anything to the contrary in this Agreement, Purchaser shall operate and maintain the Premises to comply with the requirements of all applicable Environmental Laws that limit or govern the conditions or uses of the Premises, without impairing or interfering with Provider's construction, operation and ownership of the System or occupancy of the Premises. In no event shall Provider have any liability or obligation with respect to any Pre-existing Environmental Condition on, in or under the Premises, or operations or maintenance of the Premises required to comply with Environmental Laws with respect to Pre-Existing Environmental Conditions.

(h) Environmental Indemnification by Purchaser. Purchaser shall indemnify, hold harmless and defend Provider from and against all claims, pay costs and expenses, and conduct all actions required under Environmental Laws in connection with (i) the existence at, on, above, below or near the Premises of any Pre-existing Environmental Conditions, and (ii) any Hazardous Materials released, spilled or deposited at, on above or below the Premises by the Purchaser. Purchaser shall promptly notify Provider if it becomes aware of any Hazardous Materials, or any deposit, spill, or release of any Hazardous Materials at, on, above, below or near the Premises.

8. REPRESENTATIONS & WARRANTIES.

8.1 Representations and Warranties of Both Parties. In addition to any other representations and warranties contained in this 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 this Agreement;
- (c) it has taken all requisite corporate or other action to approve the execution, delivery, and performance of the Agreement;
- (d) this 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 and other similar laws now or hereafter in effect;
- (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;

(f) its execution and performance of this Agreement and the transactions contemplated hereby do not and will not constitute a breach of any term or provision of, or a default under, (i) any contract, agreement or Governmental Approval 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; and

(g) its execution and performance of this Agreement and the transactions contemplated hereby do not and will not require any consent from a third party, including any Governmental Approvals from any Governmental Authority, that are not identified in the Special Conditions.

8.2 Representations of Purchaser. Purchaser represents and warrants to Provider as of the Effective Date that:

(a) Purchaser acknowledges that it 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;

(b) 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;

(c) 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;

(d) 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;

(e) To Purchaser's knowledge, Purchaser has identified and disclosed to Provider in the Special Conditions (i) all Environmental Documents in Purchaser's possession or control, (ii) all CCRs, Governmental Approvals or other restrictions imposed under Applicable Laws with respect to the use of the Premises that could affect the construction and operation of the System within Purchaser's possession or control, and (iii) all environmental reports, studies, data or other information relating to the use of the Premises by Provider within the Purchaser's possession or control;

(f) To Purchaser's knowledge, the Premises is in compliance with Environmental Laws, and that Purchaser holds and is in compliance with all Governmental Approvals required for the ownership and any current operations or activities conducted at the Premises; and

(g) Purchaser has identified in the Special Conditions and delivered to Provider all material reports and information concerning the presence or release of Hazardous Materials on, in or under the Premises in Purchaser's possession or control.

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

8.3 EXCLUSION OF WARRANTIES. EXCEPT TO THE EXTENT OTHERWISE EXPRESSLY SET FORTH HEREIN, THE INSTALLATION WORK, SYSTEM OPERATIONS, AND ENERGY 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 ENERGY 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 Energy 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 Energy 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.

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 this 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 Provider or as a result of such party's failure to comply with a collective bargaining agreement); and (v) action or inaction by a Governmental Authority (unless Purchaser is a Governmental Authority and Purchaser is the Party whose performance is affected by such action nor inaction). A Force Majeure Event shall not be based on the economic hardship of either Party, or upon the expiration of any lease of the Premises by the Purchaser from the owner of the Premises.

10.2 Excused Performance. Except as otherwise specifically provided in this Agreement, neither Party shall be considered in breach of this Agreement or liable for any delay or failure to comply with this 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*, the Party claiming relief under this Article 10 shall as soon as practicable after becoming aware of the circumstances constituting Force Majeure (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*, Purchaser shall not be excused from making any payments and paying any unpaid amounts due in respect of Energy Services delivered to Purchaser prior to the Force Majeure Event performance interruption. Subject to Section 10.3 below, the Parties agree that to the extent permitted by Applicable Law, the Term of this Agreement shall extend on a day for day basis for every day in which the occurrence of a Force Majeure Event has affected either Party's performance of its obligations hereunder.

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 either Party shall be entitled to terminate this Agreement upon ninety (90) days' prior written notice to the other Party. If at the end of such ninety (90) day period such Force Majeure Event shall still continue, this 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, including but not limited to Provider's obligations to remove the System and restore the Premises as set forth herein), and Purchaser shall have no obligation to pay the Early Termination Fee.

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 representation, covenant or other term of this 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 Article 12, Purchaser may terminate this Agreement with no penalty or liability whatsoever, including but not limited to the Early Termination Fee, and exercise any other remedy it may have at law or equity or under this Agreement.

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 representation, covenant or other term of this 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, such longer cure period not to exceed ninety (90) days; and
- (iii) Purchaser fails to pay Provider any undisputed amount due Provider under this 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 Section 11.2(a) has occurred and is continuing, in addition to other remedies expressly provided herein, and subject to Article 12, Provider may terminate this Agreement and upon such termination, (A) Provider shall be entitled to receive from Purchaser the Early Termination Fee set forth on Schedule 3, Column 1 of the Special Conditions, and (B) Provider may exercise any other remedy it may have at law or equity or under this Agreement.

11.3 Cross Default. With respect to any Systems that are co-located at the same Premises, if a Party defaults under this Agreement, it shall also be a default of such Party under the Agreement(s) related to the other co-located System(s); *provided*, a cure of the original default shall be a cure of any such cross default. In the event of a cross default, the non-defaulting Party shall be entitled to exercise its rights with respect to this Agreement and all such other Agreements, including terminating all such Agreements and, if Provider terminates one or more Agreements due to a Purchaser Default, Purchaser shall pay the Early Termination Fees for all such terminated Agreements.

11.4 Removal of System. Upon any termination of this Agreement pursuant to this Article 11 and payment of the Early Termination Fee (if applicable), Provider will remove the System pursuant to Section 2.4 hereof.

12. LIMITATIONS OF LIABILITY.

12.1 Except as expressly provided herein, neither Party shall be liable to the other Party or its Indemnified Persons 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 this Agreement.

12.2 A Party's maximum liability to the other Party under this Agreement, shall be limited to the aggregate Estimated Remaining Payments as of the date of the events giving rise to such liability, *provided*, the limits of liability under this Section 12.2 shall not apply with respect to (i) indemnity obligations hereunder in respect of personal injury or environmental claims and (ii) any obligation of Purchaser to pay Energy Service Payments, the Early Termination Fee or the Option Price, (iii) any obligation of Provider to pay for Lost Savings in accordance with the Special Conditions and (iv) if applicable, any obligation of Provider to remove the System and restore the Premises in accordance with Section 2.4.

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*, Purchaser agrees that Provider may assign this Agreement without the consent of the Purchaser to an Affiliate of Provider or any party providing financing for the System. In the event that Provider identifies a secured Financing Party in 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 and agrees to provide such estoppels, acknowledgments and opinions of counsel as Provider may reasonably request from time to time. Any Financing Party shall be an intended third-party beneficiary of this Section 13.1. Any Assignment by Provider without obtaining the prior written consent and release of Purchaser, when such consent is required by this Section 13.1, shall not release Provider of its obligations hereunder.

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

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

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

(c) 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 this 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 this Agreement, all notices and communications concerning this 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 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 this Agreement shall be hand delivered, sent by registered or certified U.S. Mail, postage prepaid, or by commercial overnight delivery service, 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 this 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 this Agreement or negotiating this 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 this Agreement. Notwithstanding the above, a Party may provide such Confidential Information to its officers, directors, members, managers, employees, agents, contractors, consultants, Affiliates, lenders (existing or potential), investors (existing or potential) and potential third-party assignees of this Agreement or third-party acquirers of Provider or its Affiliates (provided and on condition that such potential third-party 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 this 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.

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 but not limited to the California 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 this 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, this Agreement; *provided*, 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. Each Party agrees that the disclosing Party would be irreparably injured by a breach of this Article 15 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 15. 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 15, but shall be in addition to all other remedies available at law or in equity.

16. INDEMNITY.

16.1 Provider's Indemnity. Subject to Article 12, Provider agrees that it shall indemnify and hold harmless Purchaser, its permitted successors and assigns and their respective directors, officers, members, shareholders and employees (collectively, the "Purchaser Indemnified Parties") from and against any and all Losses incurred by Purchaser Indemnified Parties to the extent arising from or out of the following: any claim for or arising out of any injury to or death of any Person or loss or damage to property of any Person to the extent arising out of Provider's negligence or willful misconduct, arising out of, or in connection with this Agreement.. Provider shall not, however, be required to reimburse or indemnify any Purchaser Indemnified Party for any Loss to the extent such Loss is due to the negligence or willful misconduct of any Purchaser Indemnified Party.

16.2 Purchaser's Indemnity. Subject to Article 12 and to the extent permitted by Applicable Law, Purchaser agrees that it shall indemnify and hold harmless Provider, its permitted successors and assigns and their respective directors, officers, members, shareholders and employees (collectively, the "Provider Indemnified Parties") from and against any and all Losses incurred by Provider Indemnified Parties to the extent arising from or out of any claim for or arising out of any injury to or death of any Person or loss or damage to property of any Person to the extent arising out of Purchaser's negligence or willful misconduct, arising out of, or in connection with this Agreement.. Purchaser shall not, however, be required to reimburse or indemnify any Provider Indemnified Party for any Loss to the extent such Loss is due to the negligence or willful misconduct of any Provider Indemnified Party.

17. INSURANCE.

17.1 Generally. Purchaser and Provider shall each 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, (b) Commercial General Liability Insurance with limits of not less than \$2,000,000 general aggregate, \$1,000,000 per occurrence, and (c) 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 Purchaser's property coverage. The amount and terms of insurance coverage will be determined at Provider's sole discretion.

17.2 Certificates of Insurance. Each Party, upon request, shall furnish current certificates evidencing that the insurance required under Section 17.1 is being maintained. Each Party'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.

17.3 Additional Insureds. Each Party'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.

17.4 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 or incorporated by reference, 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 to this Agreement, including these General Terms and Conditions as incorporated by reference, are integral parts of this Agreement and are an express part of this Agreement. In the event of a conflict between the provisions of these General Terms and 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 this Agreement the normal standards of performance within the Energy Services 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 [Reserved].

18.6 Limited Effect of Waiver. The failure of Provider or Purchaser to enforce any of the provisions of this 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.

18.7 Survival. The obligations under Section 2.4 (Removal of System), Section 7.1 (Provider Covenants), Sections 7.2(d), (e), (f), (g) and (h) (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), all payment or indemnification obligations accrued prior to termination of this Agreement, 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.

18.8 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California without reference to any choice of law principles. The Parties agree that the courts of the State of California and the Federal Courts sitting therein shall have jurisdiction over any action or proceeding arising under this 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 18.8.

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

18.10 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 this 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.

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

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

18.13 Electronic Delivery. This Agreement may be duly executed and delivered by a Party by execution and facsimile or electronic, "pdf" delivery of the signature page of a counterpart to the other Party.

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 this 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 this 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 ForeFront Power and Purchaser below. Neither ForeFront Power nor Purchaser shall have any obligations or liability resulting from its witnessing and acknowledging these General Terms and Conditions.

“FOREFRONT POWER”: FFP BTM SOLAR, LLC

By: _____

Name: _____

Title: _____

Date: _____

“PURCHASER”: Santa Maria Public Airport District

By: _____

Name: _____

Title: _____

Date: _____

Exhibit A
of General Terms and Conditions

[PURCHASER'S LETTERHEAD]

[Landlord's Address]

Attn: Authorized Representative

Re: Proposed Energy System Installation at [Address of Premises]. Lease dated [] between [PURCHASER] and [LANDLORD] (the "Lease")

Dear Authorized Representative:

As has been discussed with you, [PURCHASER] ("Purchaser") and [FFP Entity], LLC ("Provider") have entered into an Energy Services Agreement, pursuant to which Provider will install, finance, operate, and maintain a [solar photovoltaic] [battery storage] 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] [battery storage] 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. Landlord consents to the filing by Provider 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.
2. Provider 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] [battery storage] 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] [battery storage] system have a first priority perfected security interest in the system. Provider and the finance providers for the [solar photovoltaic] [battery storage] 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:

Acknowledged and agreed by:

[LANDLORD]

By: _____

Name:

Title:

Exhibit B
of General Terms and Conditions

Certain Agreements for the Benefit of the Financing Parties

Purchaser acknowledges that Provider will be receiving financing accommodations from one or more Financing Parties and that Provider may sell or assign the System or this Agreement and/or may secure 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 Financing Party, Purchaser agrees as follows:

(a) **Consent to Collateral Assignment.** Purchaser consents to either the assignment, sale or conveyance to a Financing Party or the collateral assignment by Provider to a Financing Party, of 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 this 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 cancel, modify or terminate this Agreement without the written consent of the Financing Party, however, this provision shall not be interpreted to limit any termination rights of either Party as set forth in the Agreement.

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

i. The Financing Party 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 Purchaser'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 Purchaser of the transferee or assignee of this Agreement. Any such exercise of remedies shall not constitute a default under this Agreement.

iv. Upon any default not reasonably susceptible to cure by a Finance Party, including, without limitation, 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 default, Purchaser shall enter into a new agreement with the Financing Party or its designee 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 agree that the cure rights described herein are in addition to and apply and commence following the expiration of any notice

and cure period applicable to Provider. The Parties respective obligations will otherwise remain in effect during any cure period; *provided*, 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.

Exhibit C
of General Conditions

Requirements Applicable to the Installation Work

Section B.1 **Prohibition Against Use of Tobacco.** All properties and facilities owned, leased or operated by the Purchaser are tobacco-free work places. No person on, at or in any Purchaser-controlled property or facility, including, without limitation, the Premises, may smoke, chew or otherwise use tobacco products. Provider shall be responsible for: (i) informing any and all persons present on or at the Premises on account of the Installation Work about the Purchaser's tobacco-free policy; and (ii) strictly enforcing such policy with respect to the Premises. The Purchaser, Provider, and each Subcontractor shall require that any person present on or at the Premises on account of the Installation Work who violates such policy must permanently leave the Premises, and shall prohibit such person from thereafter being present or performing any of the Installation Work on or at the Premises.

Section B.2 **Prohibition Against Use of Drugs.**

(a) **Purchaser Drug-Free Policy.** All properties and facilities owned, leased or operated by the Purchaser are drug-free work places. No person on, at or in any Purchaser-controlled property or facility, including, without limitation, the Premises, may: (i) engage in the unlawful manufacture, dispensation, possession or use, including being under the influence, of any controlled substance, (ii) possess or use any alcoholic beverage, or (iii) use any substance which may cause significant impairment of normal abilities. Provider shall be responsible for: (i) informing any and all persons present on or at the Premises on account of the Installation Work about the Purchaser's drug-free policy; and (ii) strictly enforcing such policy with respect to the Premises. The Purchaser, Provider, and each Subcontractor shall require that any person present on or at the Premises on account of the Installation Work who violates such policy must permanently leave the Premises, and shall prohibit such person from thereafter being present or performing any of the Installation Work on or at the Premises.

(b) **Drug-Free Workplace Certification.** Provider is hereby made subject to the requirements of Government Code Sections 8350 et seq., the Drug-Free Workplace Act of 1990.

Section B.3 **Compliance with Labor Requirements.** The Installation Work is a "public works" project as defined in Section 1720 of the California Labor Code ("Labor Code") and made applicable pursuant to Section 1720.6 of the Labor Code. Therefore, the Installation Work is subject to applicable provisions of Part 7, Chapter 1, of the Labor Code and Title 8 of the California Code of Regulations, Section 16000 et seq. (collectively, "Labor Law"). Provider acknowledges that, as provided by Senate Bill 854 (Stats. 2014, Ch. 28), the Project is subject to labor compliance monitoring and enforcement by the California Department of Industrial Relations ("DIR").

Section B.4 **Compliance with Labor Code Requirements.** Provider must be, and shall be deemed and construed to be, aware of and understand the requirements of the Labor Law that require the payment of prevailing wage rates and the performance of other requirements on public works projects. Provider, at no additional cost to the Purchaser, must: (i) comply with any and all applicable Labor Law requirements, including, without limitation, requirements for payment of prevailing wage rates, inspection and submittal (electronically, as required) of payroll records, interview(s) of workers, et cetera; (ii) ensure that its Subcontractors are aware of and comply with the Labor Law requirements; (iii) in connection with Labor Law compliance matters, cooperate with the DIR, the Purchaser and other entities with competent jurisdiction; and (iv) post all job-site notices required by law in connection with the Installation Work, including, without limitation, postings required by DIR regulations. A Subcontractor that has been debarred in accordance with the Labor Code, including, without limitation, pursuant to Sections 1777.1 or 1777.7, is not eligible to bid on, perform, or contract to perform any portion of the Installation Work. Wage rates for the Installation Work shall be in accordance with the general prevailing rates of per-diem wages determined by the Director of Industrial Relations pursuant to Labor Code Section 1770. The following Labor Code sections are by this reference incorporated into and are a fully operative part of the Contract, and Provider shall be responsible for compliance therewith:

(a) Section 1735: Anti-Discrimination Requirements;

- (b) Section 1775: Penalty for Prevailing Wage Rate Violations;
- (c) Section 1776: Payroll Records;
- (d) Sections 1777.5, 1777.6 and 1777.7: Apprenticeship Requirements;
- (e) Sections 1810 through 1812: Working Hour Restrictions;
- (f) Sections 1813 and 1814: Penalty for Failure to Pay Overtime; and
- (g) Section 1815: Overtime Pay.

Section B.5 Requirements for Payroll Records. Provider must comply with all applicable provisions of Labor Code Sections 1776 and 1812, which relate to preparing and maintaining accurate payroll records, and making such payroll records available for review and copying by the Purchaser, the DIR Division of Labor Standards Enforcement, and the DIR Division of Apprenticeship Standards. The payroll records must be certified and made available as required by Labor Code Section 1776.

Section B.6 Contractor Registration. On and after March 1, 2015, no contractor may bid on a public works project unless the contractor is, and no subcontractor may be listed in any bid for a public works project unless the subcontractor is, currently registered with the DIR and qualified to perform public work pursuant to Labor Code Section 1725.5. On and after April 1, 2015, no contractor or subcontractor may be awarded a contract for work on a public works project, or may perform any work on a public works project, unless the contractor or subcontractor is currently registered with the DIR and qualified to perform public work pursuant to Labor Code Section 1725.5. It is not a violation of Labor Code Section 1725.5 for an unregistered contractor to submit a bid authorized by Business and Professions Code Section 7029.1 or Public Contract Code Section 20103.5, if the contractor is registered at the time the contract is awarded.

Section B.7 Permits and Licenses. Without limiting anything set forth in Section B.7 of this Exhibit C, Provider, its Subcontractors, and all of their respective employees and agents: (i) shall secure and maintain in force at all times during the performance of the Installation Work such licenses and permits as are required by law; and (ii) shall comply with all federal and State, and County laws and regulations, and other governmental requirements applicable to the System or the Installation Work. Provider or its subcontractors shall obtain and pay for all permits and licenses required for the performance of, or necessary in connection with, the Installation Work, and shall give all necessary notices and deliver all necessary certificates to the Purchaser, and shall pay all royalties and license fees arising from the use of any material, machine, method or process used in performing the Installation Work. Provider shall be solely responsible for all charges, assessments and fees payable in connection with any such licenses, permits, materials, machines, methods, and processes.

Section B.8 Protection of Minor-Aged Students. Provider, in conformance with Education Code Section 45125.1, shall require and be responsible for ensuring compliance by each and every person who will be on or at the Premises in connection with the construction, maintenance, operation or other purposes related to the System with all California Department of Justice guidelines and requirements relating to fingerprinting and criminal-history background checks, regardless of whether Section 45125.1 otherwise by its terms would apply to any such activities. In the event Education Code Section 45125.1 is repealed or superseded, Provider, following receipt of written notice from the Purchaser, shall comply with such successor or other requirements as determined by the Purchaser in its reasonable discretion. The Purchaser, in its discretion, may exempt in writing any person(s) from the foregoing requirements if Provider makes alternative arrangements for supervision of such person(s) that are acceptable to the Purchaser in its sole discretion.

ENERGY SERVICES AGREEMENT – SOLAR

Santa Maria Airport District Main Terminal

This Energy Services Agreement (“Agreement”) is made and entered into as of this ____ day of _____, 2022 (or, if later, the latest date of a Party’s execution and delivery to the other Party of this Agreement, the “Effective Date”), between FFP BTM SOLAR, LLC, a Delaware limited liability company (“Provider”), and *Santa Maria Public Airport District, a public agency* (“Purchaser”; and, together with Provider, each, a “Party” and together, the “Parties”).

RECITALS

- A. Purchaser desires that Provider install and operate a solar photovoltaic system at the Premises (as hereafter defined) for the purpose of providing Energy Services (as hereafter defined), and Provider is willing to have the Installation Work performed by using one or more qualified contractors holding the appropriate licenses required in the jurisdiction where the System will be installed;
- B. Provider is in the business of designing, constructing, owning, financing, and operating solar photovoltaic systems for the purpose of selling power generated by the systems to its purchasers;
- C. California Government Code sections 4217.10 et seq. authorizes a public entity to enter into energy service contracts, facility financing contracts, and related agreements to implement the State’s conservation and alternative energy supply source policy;
- D. Purchaser’s governing body has made those findings required by Government Code section 4217.12 that the anticipated cost to the Purchaser for Energy Services provided by the System under this Agreement is expected to be less than the anticipated marginal cost to the Purchaser of electrical energy that would have been consumed by Purchaser in the absence of its purchase of the Energy Services;
- E. Provider and Purchaser acknowledged those certain General Terms and Conditions of Energy Services Agreement between FFP BTM Solar, LLC and Purchaser dated as of _____, 2022 (“General Terms and Conditions”), which are incorporated by reference as set forth herein; and
- F. The terms and conditions of this Energy Services Agreement, excluding the General Terms and Conditions incorporated herein, constitute the “Special Conditions” referred to in the General Terms and Conditions.

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 Terms and Conditions. The General Terms and Conditions are incorporated herein as if set forth in their entirety.
- 2. Initial Term. The initial term of this Agreement shall commence on the Effective Date and shall continue for Twenty (20) years from the Commercial Operation Date (as defined in the General Terms and Conditions), unless and until extended or terminated earlier pursuant to the provisions of this Agreement (the “Initial Term”). After the Initial Term, this Agreement may be renewed for an additional five (5) year term (a “Renewal Term”). At least one hundred and eighty (180) days, but no more than three hundred and sixty-five (365) days, prior to the expiration of the Initial Term, Provider shall give written notice to Purchaser of the availability of the Renewal Term. Purchaser shall have sixty (60) days to agree to continuation of this Agreement for the Renewal Term. Absent agreement to the Renewal Term this Agreement shall expire on the Expiration Date. The Initial Term and the subsequent Renewal Term, if any, are referred to collectively as the “Term”.
- 3. Schedules. The following Schedules hereto are hereby incorporated into this Agreement:

Schedule 1	Description of the Premises, System and Subsidy
Schedule 2	Energy Services Payment
Schedule 3	Early Termination Fee
Schedule 4	Estimated Annual Production
Schedule 5	Notice Information
Schedule 6	Reserved
Schedule 7	Specific Items for Scope of Work
Schedule 8	Acknowledgment of Upgrades, Schedule or Scope Change
Schedule 9	Site Diagram
Schedule 10	Microgrid Feasibility Analysis

4. Privacy. Purchaser acknowledges that the System may collect certain information about Purchaser’s electricity usage and the System performance. Such information may be stored and processed in the United States or any other country in which Provider or its third-party service providers, or its or their respective affiliates, subsidiaries, or service providers, maintain facilities. Purchaser consents to any such transfer of information outside of Purchaser’s country.

5. Milestone Dates.
 - 5.1 The Guaranteed Construction Start Date is 450 days from Effective Date provided that the Local Electric Utility is prepared to begin its construction on any required utility, (distribution or transmission), upgrades, if any. In the event that the Local Electric Utility is not prepared to commence construction on required upgrades, if any are required, Provider will be allowed a day for day extension to the Guaranteed Construction Start Date, as defined in the Definitions section of Exhibit A General Terms and Conditions between the Parties.

 - 5.2 The Guaranteed Commercial Operation Date is 270 days from Guaranteed Construction Start Date.

6. Purchase Requirement; Energy Services Payment. “Energy Services” means the supply of electrical energy output from the System and any associated reductions in Purchaser’s peak demand from its Local Electric Utility. Purchaser agrees to purchase one hundred percent (100%) of the Energy Services generated by the System and made available by Provider to Purchaser during each relevant month of the Term, up to a maximum of one hundred and ten percent (110%) of Estimated Annual Production, as defined in Schedule 4. While the Energy Services are calculated and billed on a per kWh basis as set forth in Schedule 2 of these Special Conditions, they represent a package of services and benefits.

7. Net Energy Metering.
 - 7.1 The Parties acknowledge that the pricing assumes Net Energy Metering (NEM) 2.0 for the Initial Term. If (i) Provider fails to submit interconnection applications by October 31, 2022, or (ii) prior to the Commercial Operation Date, Provider fails to keep such interconnection applications in good standing such that the System would not be eligible for NEM 2.0, Purchaser may terminate this Agreement with no liability whatsoever, including, but not limited to the Early Termination Fee. The foregoing shall not apply to the extent Provider’s failure is caused by an act or omission by Purchaser in connection with Provider’s submittal of interconnection applications.

Provided, however, that in the event of a change in Applicable Law that occurs after the Commercial Operation Date and results in a loss of NEM 2.0 grandfathering, Purchaser shall have no such termination right. Provided further that Purchaser shall ensure any correspondence with the Local Electric Utility regarding the tariff and changes to the interconnection agreement are promptly shared with Provider.

8. Estimated Annual Production. The annual estimate of electricity generated by the system for each year of the initial term is set as forth in Schedule 4 of the Special Conditions (“Estimated Annual Production”). Within sixty (60) days of each annual anniversary of the Commercial Operation Date, Provider will provide

a statement to Purchaser that shows the actual annual kWh production from the System for the Term Year, the Estimated Annual Production, and the Minimum Guaranteed Output (defined below).

9. Minimum Guaranteed Output. If the System fails to generate at least ninety-five percent (95%) of the Estimated Annual Production for a full Term Year (such amount, the “Minimum Guaranteed Output”), other than as a result of the acts or omissions of Purchaser or the Local Electric Utility (including a Disruption Period), or an Event of Force Majeure, Provider shall credit Purchaser an amount equal to Purchaser’s Lost Savings on the next invoice or invoices during the following Term Year. The formula for calculating Lost Savings for the applicable Term Year is as follows:

$$\text{Lost Savings} = (\text{MGO} * \text{WPR} - \text{AE}) \times \text{RV}$$

MGO = Minimum Guaranteed Output, as measured in total kWh, for the System for the applicable Term Year.

WPR = Weather Performance Ratio, measured as the ratio of the actual insolation over typical (pro-forma) insolation. Such Weather Performance Ratio shall only apply if the ratio is less than 1.00.

AE = Actual Electricity, as measured in total kWh, delivered by the System for the Term Year plus the estimated lost energy production during a Disruption Period.

$$\text{RV} = (\text{ATP} - \text{kWh Rate})$$

ATP = Average tariff price, measured in \$/kWh, for the Term Year paid by Purchaser with respect to the Premises. This price is determined by dividing the total cost for delivered electricity, including all charges associated with such electricity howsoever named, including, without limitation, charges for distribution, transmission, demand, and systems benefits, paid to the Local Electric Utility during the applicable Term Year by the total amount of delivered electricity by the electric utility during such Term Year.

kWh Rate = the kWh Rate in effect for the applicable Term Year(s), measured in \$/kWh.

If the RV is zero or less, then no Lost Savings payment is due to Purchaser. Any Lost Savings payment shall occur no later than sixty (60) days after the end of the Term Year during which such Lost Savings occurred.

10. Allowed Disruption Time. Notwithstanding the provisions in Section 4.3 of the General Terms and Conditions to the contrary, during years 4 through 20 (but not years 1 through 3) of the Term, Purchaser shall be afforded a one-time allocation of fifteen (15) days which may be used consecutively or in separate periods of at least twenty-four (24) hours each (“Allowed Disruption Time”) during which the System shall be rendered non-operational. Purchaser shall not be obligated to make payments to Provider for electricity not received during the Allowed Disruption Time, nor shall Purchaser be required to reimburse Provider for any other lost revenue during the Allowed Disruption Time, including any lost revenue associated with any reduced sales of Environmental Attributes, and Provider shall be credited for the estimated lost production the System would have produced during such Allowed Disruption Time toward satisfaction of its Minimum Guaranteed Output, as set forth in Section 8 of the Special Conditions, such estimated lost production to be calculated in the same manner as set forth in Section 4.3 of the General Conditions.

11. Distribution Upgrades, Scope and Schedule Changes.

11.1 For any distribution upgrades required or changes to the scope of Installation Work made pursuant to Schedule 2 of the Special Conditions, the Parties may execute an acknowledgment in the form attached hereto as Schedule 8 detailing (i) the description of the distribution upgrades or change in scope of the Installation Work (ii) the amount of the adjustment in the kWh Rate and Early Termination Fee that corresponds to such costs, if any (iii) changes to the Estimated Annual

CONFIDENTIAL AND PROPRIETARY

Production in Schedule IV, if any, and (iv) any change to the Guaranteed Construction Start Date and Guaranteed Commercial Operation Date resulting from such upgrades or scope changes;

11.2 For any day for day extensions made pursuant to Section 2.2(b) of the General Conditions, the Parties may execute an acknowledgment in the form attached hereto as Schedule 8 detailing (i) the circumstances that warrant such day for day extension and (ii) the updated Guaranteed Construction Start Date and/or Guaranteed Commercial Operation Date;

11.3 For any extensions that are not made pursuant to Section 2.2(b) of the General Conditions, Provider may request extensions to the Guaranteed Construction Start Date and/or Guaranteed Commercial Operation Date to the extent that Provider can demonstrate to Purchaser that Provider is seeking such extension for good cause. Purchaser in its sole discretion may approve such extension(s) by executing an acknowledgment in the form attached hereto as Schedule 8 on which Provider details (i) the circumstances for which Provider deems good cause for such extension(s), (ii) the actions that Provider is taking to complete the System on a schedule agreeable to the Purchaser and (iii) the updated Guaranteed Construction Start Date and/or Guaranteed Commercial Operation Date.

For the avoidance of doubt, Purchaser designates the District’s General Manager as authorized to execute the acknowledgment form attached hereto as Schedule 8 provided the terms of such acknowledgment comply with this Section 11.

12. Sunlight Access. 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.

13. Use of System. Purchaser will not use electrical energy generated by the System for the purposes of heating a swimming pool within the meaning of Section 48 of the Internal Revenue Code.

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.

PROVIDER:
FFP BTM SOLAR, LLC

PURCHASER:
Santa Maria Public Airport District

By: _____
Name:
Title:
Date:

By: _____
Name:
Title:
Date:

SCHEDULES

I. Schedule 1 – Description of the Premises, System and Subsidy

<u>A. Premises</u>	349 Terminal Drive Santa Maria, CA 93455, USA
Site diagram attached:	X Yes <input type="checkbox"/> No
<u>B. Description of Solar System</u>	Behind the meter, grid interconnected, canopy mounted solar. (the “System.”)
Solar System Size:	524.61 kW (DC) (this is an estimate (and not a guarantee) of the System size; Provider may update the System Size prior to the Commercial Operation Date.)
<u>C. Anticipated Subsidy or Rebate</u>	\$0

II. Schedule 2 – Energy Services Payment

Purchaser shall pay to Provider a monthly payment (the “Energy Services Payment”) for the Energy Services provided 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.

The “Actual Monthly Production” means the amount of energy recorded by Provider’s metering equipment during each calendar month of the Term.

The kWh Rate with respect to the System under this Agreement shall be in accordance with the following schedule:

PPA Rate Table

Term Year	kWh Rate (\$/kWh)	Term Year	\$/kWh Rate (\$/kWh)
1	\$0.1620	11	\$0.1620
2	\$0.1620	12	\$0.1620
3	\$0.1620	13	\$0.1620
4	\$0.1620	14	\$0.1620
5	\$0.1620	15	\$0.1620
6	\$0.1620	16	\$0.1620
7	\$0.1620	17	\$0.1620
8	\$0.1620	18	\$0.1620
9	\$0.1620	19	\$0.1620
10	\$0.1620	20	\$0.1620

Distribution Upgrades. Within thirty (30) days of receipt of notice from the Local Electric Utility of distribution upgrade costs required by the Local Electric Utility, Purchaser will provide written notice (email is acceptable) to Provider of Purchaser's election of one of the following options:

- a. Purchaser will pay the entire amount of such distribution upgrade costs, and the kWh rate as stated in PPA Rate Table will remain unchanged. Purchaser shall make payments directly to the Local Electric Utility in accordance with the requirements of the Local Electric Utility.
- b. For every \$0.01 per watt DC of such distribution upgrade costs, the kWh rate in PPA Rate Table will increase \$0.0007 per kWh.

Scope Changes (ITC Eligible): If changes in project scope occur that are eligible for the Federal Investment Tax Credit (such as but not limited to adverse geotechnical conditions) and such additional scope and associated costs go beyond those contemplated as part of the development and implementation of the System in this Agreement, Provider will provide reasonable documentation demonstrating the direct and actual time and materials costs relating to such associated costs, and, within 30 days of receipt of notice from Provider reasonably substantiating the associated costs, Purchaser will provide written notice to Provider of Purchaser's election of one of the following options:

- a. Purchaser will pay the entire amount of such associated costs, and the kWh rate as stated in PPA Rate Table will remain unchanged.
- b. For every \$0.01 per watt DC of such associated costs, the kWh rate in PPA Rate Table will increase \$0.00044 per kWh.

Scope Changes (Non-ITC Eligible): If changes in project scope occur that are not eligible for the Federal Investment Tax Credit (such as but not limited to additional required ADA upgrades) and such additional scope and associated costs go beyond those contemplated as part of the development and implementation of the System in this Agreement, Provider will provide reasonable documentation demonstrating the direct and actual time and materials costs relating to such associated costs, and, within 30 days of receipt of notice from Provider reasonably substantiating the associated costs, Purchaser will provide written notice to Provider of Purchaser's election of one of the following options:

- c. Purchaser will pay the entire amount of such associated costs, and the kWh rate as stated in PPA Rate Table will remain unchanged.
- d. For every \$0.01 per watt DC of such associated costs, the kWh rate in PPA Rate Table will increase \$0.00058 per kWh.

If the aggregate of costs set forth above for which Purchaser has elected to pay for via increased kWh Rate exceed the maximum total kWh Rate increase of \$0.02883 the Provider has the option to terminate this Agreement and to remove the System pursuant to Section 2.4 of the General Conditions. In no event shall Purchaser be responsible for costs that exceed the stated kWh Rate increase.

III. Schedule 3 – Early Termination Fee

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

Early Termination Occurs in Year:	Column 1 Early Termination Fee where Purchaser does <u>not</u> take Title to the System (\$/Wdc including costs of removal)	Purchase Date Occurs on the 91st day following: (Each “Anniversary” below shall refer to the anniversary of the Commercial Operation Date)	Column 2 Early Termination Fee where Purchaser takes Title to the System (\$/Wdc, does <u>not</u> include costs of removal)
1*	\$5.09		--
2	\$4.32		--
3	\$4.06		--
4	\$3.81		--
5	\$3.57		--
6	\$3.33	5 th Anniversary	\$2.83
7	\$3.28	6 th Anniversary	\$2.78
8	\$3.25	7 th Anniversary	\$2.75
9	\$3.21	8 th Anniversary	\$2.71
10	\$3.17	9 th Anniversary	\$2.67
11	\$3.13	10 th Anniversary	\$2.63
12	\$3.08	11 th Anniversary	\$2.58
13	\$3.04	12 th Anniversary	\$2.54
14	\$2.99	13 th Anniversary	\$2.49
15	\$2.95	14 th Anniversary	\$2.45
16	\$2.90	15 th Anniversary	\$2.40
17	\$2.85	16 th Anniversary	\$2.35
18	\$2.79	17 th Anniversary	\$2.29
19	\$2.74	18 th Anniversary	\$2.24
20	\$2.68	19 th Anniversary	\$2.18

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 this Agreement shall be as follows:

Term Year	Estimated Production (kWh)	Term Year	Estimated Production (kWh)
1	896,034	11	852,227
2	891,554	12	847,966
3	887,096	13	843,726
4	882,660	14	839,507
5	878,247	15	835,310
6	873,856	16	831,133
7	869,487	17	826,978
8	865,139	18	822,843
9	860,814	19	818,728
10	856,509	20	814,635

The values set forth in the table above are estimates (and not guarantees), of approximately how many kWhs are expected to be generated annually by the System assuming the System size indicated in Schedule 1 and based on initial System designs. Provider may deliver to Purchaser an updated table on or about the Commercial Operation Date based on the actual System size and design.

V. Schedule 5 – Notice Information

Purchaser:

[]

Provider:

FFP BTM Solar, LLC
c/o Forefront Power, LLC
Attn: Director, Energy Services
100 Montgomery St., Suite 725
San Francisco, CA 94104

With a copy to

FFP BTM Solar, LLC
c/o Forefront Power, LLC
Attn: Legal Department
100 Montgomery St., Suite 725
San Francisco, CA 94104
Email: FPLegal@forefrontpower.com

Financing Party:

[To be provided by Provider when known]

VI. Schedule 6 – Reserved

VII. Schedule 7 – Specific Items for Scope of Work

- 1.1. All System structures shall be permitted through the authority having jurisdiction as carports or shade structures, as applicable. Provider shall obtain permits on behalf of the project(s), including building department, structural, grading, and/or electrical permits as required.
- 1.2. Provider and Purchaser are operating under the assumption that the premises will be eligible for a CEQA Notice of Exemption (NOE), and that a special use, conditional use, or zoning permit will not be required. Provider assumes that Purchaser, as lead agency, will issue a Notice of Exemption for CEQA. Upon request, Provider shall provide such limited support as necessary to Purchaser to obtain the NOE, including, if necessary, biological study and associated consultant statement and summary citing exemptions applicable. Provider shall not be responsible for costs or delays associated with any unforeseen required CEQA studies, special use, conditional use, or zoning permits, or mitigations that may result from a CEQA submittal and public comment.
- 1.3. Solar arrays will be canopy height of 10' minimum clearance.
- 1.4. Provider shall be responsible for all tree trimming and tree removal in order to facilitate the installation of the Systems. Provider will remove tree such that area is flush with grade. Purchaser shall acknowledge and approve removal of trees identified by Provider, in order to install the system and such approval shall not be unreasonably withheld. Purchaser shall be

CONFIDENTIAL AND PROPRIETARY

responsible for the costs associated with afforestation or reforestation for any trees removed. Purchaser can elect to address afforestation or reforestation itself, or require that Provider address it through the change order process described in Schedule 2. Irrigation re-routing shall not be the responsibility of the Provider.

- 1.5. Provider shall be responsible for verifying and understanding existing ADA parking, striping, and paths of travel and what code-required upgrades may be necessary as a result of the System and any pre-existing non-compliance. Provider shall be responsible for all required ADA striping, signage within the solar canopy footprint and connecting to existing ADA-compliant path of travel. Provider's scope excludes any demolition, grading, paving, curb cuts, or truncated domes throughout the Premises to achieve ADA compliance, or any required ADA striping and signage outside of the solar canopy footprint and connecting to the existing ADA-compliant path of travel. Should any excluded items for ADA-compliance be required, Provider will work with Purchaser in good faith to determine a mutually-acceptable solution for Purchaser to pay the costs associated with such upgrades, including potentially an increase in the kWh rate in Schedule 2.
- 1.6. Provider assumes that soil conditions are not such soils that are rocky, sandy, contaminated, ground water, caving, or otherwise have problematic construction limitations. Specifically, ForeFront Power assumes no required shoring or de-watering for trenches, and a maximum required pier depth of 10' and diameter of 30". If soil conditions prove to be more adverse than these assumptions, Provider shall not be responsible for such additional expenses. Provider shall work with Purchaser in good faith to determine a mutually acceptable solution for Purchaser to pay such additional costs, including potentially an increase in the kWh rate in Schedule 2.
- 1.7. Provider and Purchaser are operating under the assumption that the Federal Aviation Administration (FAA) will determine that Project has no hazard, will not require any mitigations, and their review will not cause construction delay. If mitigation is required as a result of the FAA review, Purchaser shall be responsible for the costs of such mitigations, provided, Provider shall work with Purchaser in good faith to determine a mutually-acceptable solution for Purchaser to pay such additional costs, including potentially an increase in the kWh rate in Schedule 2. Provider shall also be granted a day for day extension for any additional studies mitigation work to reach a no hazard determination.
- 1.8. Provider agrees to construct the System in no more than 1 construction phase, and that Provider will be allowed ample space, to the extent that it is available, to store material on site.
- 1.9. Provider has determined through preliminary site visits and review that Purchaser's current 480V main electrical service equipment will need to be replaced in order to facilitate installation and energization of the System. Provider shall be responsible for replacing the existing service equipment with new equipment with no reduction in functionality to Purchaser's electrical infrastructure. Provider assumes that the upgrades will be considered by the serving electric utility as a "like-for-like" replacement, allowing the new service equipment to be located where the existing service equipment is located and that no additional utility upgrades will be required. Provider's also assumes that existing branch circuit conductors are of sufficient length for re-terminating in the new service equipment or can be spliced to new conductors. Should additional work be required to Purchaser's electrical infrastructure, Provider shall work with Purchaser in good faith to determine a mutually-acceptable solution for Purchaser to pay such additional costs, if any, including potentially an increase in the kWh rate by exercising the Scope Changes (Distribution, Transmission, and Electrical Infrastructure Upgrades) rates in Schedule 2. Provider shall be responsible for all fees associated with the interconnection application, except that Provider shall not be responsible for transmission and distribution upgrades determined necessary by the Local Electric Utility.

VIII. Schedule 8 – Acknowledgment of Upgrades, Schedule or Scope Change

Upgrades, Scope and/or Schedule Change Acknowledgment

This Acknowledgment is made in accordance with Section 10 of the Special Conditions, as defined in that Energy Service Agreement – [Solar], between [PURCHASER] (“Purchaser”) and FFP BTM Solar, LLC (“Provider”), dated [_____, 20____] (the “Agreement”). Upon execution by both Purchaser and Provider, this Acknowledgment shall be effective as of [INSERT DATE] (the “Acknowledgment Effective Date”).

1. Type of Change:

- Distribution Upgrades
- Scope Changes (ITC Eligible)
- Scope Changes (Non-ITC Eligible)
- Day for Day Extension
- Extension for Good Cause

2. Description of Change

[INSERT DESCRIPTION AND IF PROVIDER SEEKING EXTENSION FOR GOOD CAUSE, PROVIDER TO DETAIL CIRCUMSTANCES AND ACTIONS PROVIDER IS TAKING TO COMPLETE SYSTEM ON AGREED UPON SCHEDULE]

3. kWh Rate and Early Termination Fee [IF NO IMPACT TO RATE OR ETF THEN DELETE]

[INSERT UPDATED KWH RATE AND EARLY TERMINATION FEE TABLE]

4. Estimated Annual Production [IF NO IMPACT TO ESTIMATED ANNUAL PRODUCTION THEN DELETE]

[INSERT UPDATED SCHEDULE 4 ESTIMATED ANNUAL PRODUCTION TABLE]

5. Updated Guaranteed Construction Start Date and Guaranteed Commercial Operation Date [IF NO IMPACT TO CLIFF DATES THEN DELETE]

The Parties hereby agree that the Guaranteed Construction Start Date and the Guaranteed Commercial Operation Date as defined in the Agreement are updated as follows:

Guaranteed Construction Start Date: [_____]

Guaranteed Commercial Operation Date: [_____]

The Parties hereby acknowledge and confirm the terms set forth herein as of the Acknowledgment Effective Date.

[PURCHASER]

FFP BTM Solar, LLC

By: _____

By: _____

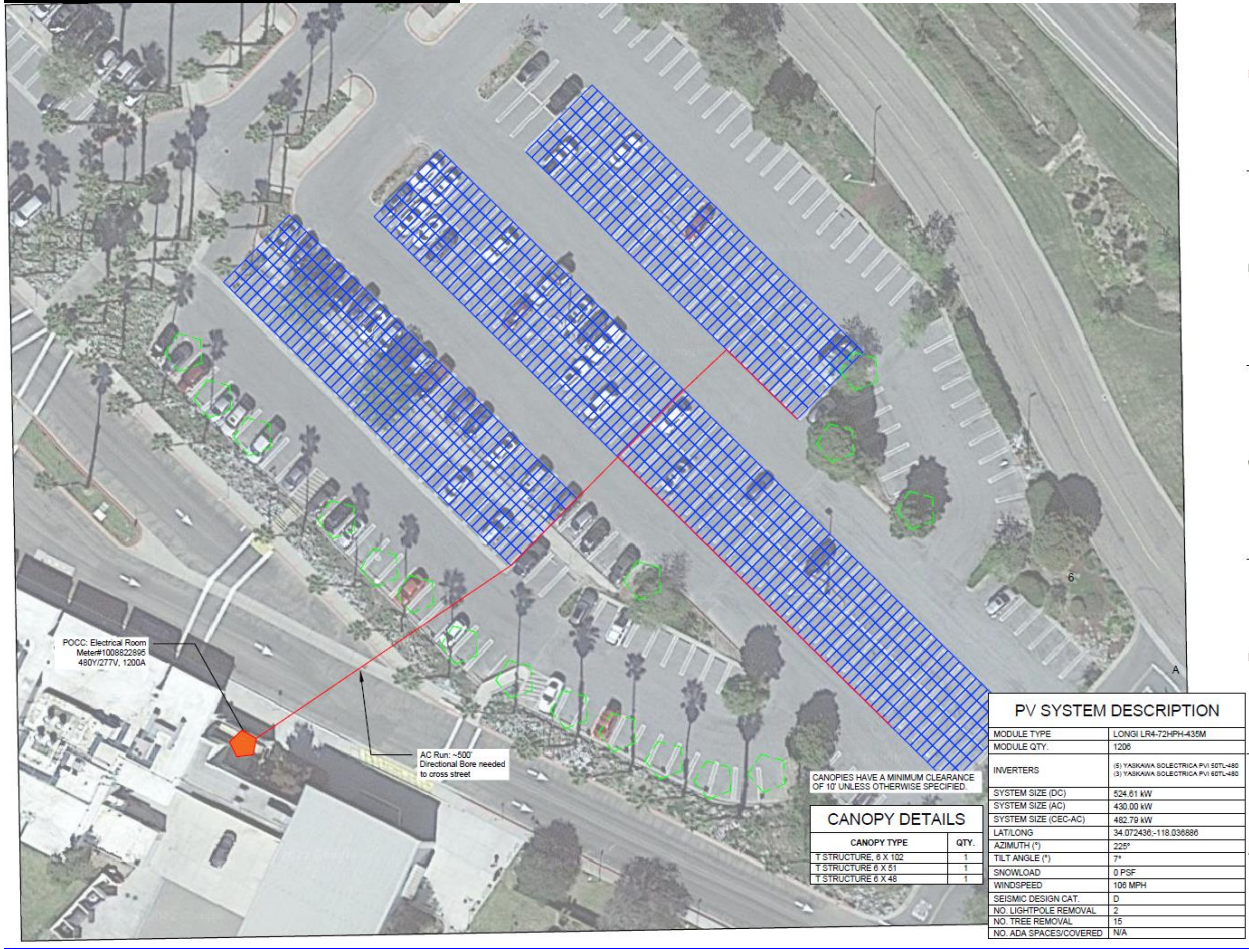
Name: _____

Name: _____

Title: _____

Title: _____

IX. Schedule 9 – Site Diagram





September 22, 2022

Board of Directors
 Santa Maria Public Airport District
 3217 Terminal Drive
 Santa Maria, CA 93455

Subject: Authorization for one staff member and 3 community members to attend a headquarter meeting with SkyWest Airlines to be held December 5th, 2022, in Saint George, Utah.

Summary

This meeting provides the Air Service Development Team the opportunity to meet with SkyWest Airlines.

Budget

		Attendees	Days	Rate	Total
Fees:	Ground Transportation	4		\$168.00	\$168.00
	Transportation	4		\$498.00	\$1,992.00
	Lodging	4	1	\$125.00	\$500.00
	Meals	4	2	\$60.00	\$480.00
	Total:				\$3,140.00

Overall Impact:

2022-2023 Budget for Business Travel	\$83,660.00
Previously Approved Business Travel	\$11,348.00
Current Balance for Business Travel	\$72,312.00
Amount of this Request	\$3,140.00
Balance Remaining if Approved	\$69,172.00

Recommendation

Staff recommends attending this meeting to enhance air service at the District.

Please let me know if you have any questions.

Sincerely,

Chris Hastert
 General Manager

EMPLOYMENT AGREEMENT

This Employment Agreement (the "Agreement"), is entered into as of September 22, 2022 and shall be retroactively effective September 13, 2022 (the "Commencement Date"), by the Santa Maria Public Airport District (the "District") and Kerry Fenton (the "Interim General Manager").

1. Term of Employment. District hereby employs Interim General Manager to serve at the pleasure of District's Board of Directors to perform the duties and functions of full-time general manager of the Santa Maria Public Airport District, upon the terms and conditions set forth below. The term of employment of Interim General Manager by the District shall commence on the Commencement Date and shall continue thereafter on the same terms and conditions for the greater of a minimum period of six months or two months following the official start date of a permanent appointment of a General Manager other than the Interim General Manager unless earlier terminated pursuant to Section 7 (such term being hereinafter referred to as the "Employment Period").

2. Acceptance of Employment/Duties. Interim General Manager accepts said employment and agrees to carry out the duties of general manager faithfully and in accordance with the laws of the State of California, the Official Administrative Code of the District, the policies and directions of District's Board, and the regulations, grant assurances and orders of the Federal Aviation Administration, and other applicable laws, as may now exist and as they may be amended from time to time. The Interim General Manager shall report to the Board of Directors of the District (the "Board"), with duties and responsibilities reflected on the job description attached as Exhibit A to this Agreement. In addition, Interim General Manager shall be responsible for the selection, hiring, training, assignment, evaluation, discipline, direction, organization, reorganization, and arrangement of administrative, maintenance, operations, supervisory and management staff; provided, the decision to fill any vacant position, create any new position, or terminate employment of any employee is subject to prior approval of the Board. Interim General Manager shall perform such other duties which may from time to time be assigned to him by the Board. Interim General Manager shall devote all time necessary to perform the duties described herein.

Interim General Manager shall travel as reasonably required in connection with the performance of her duties hereunder.

3. Compensation. The District shall pay, and Interim General Manager shall accept, as full consideration for her services hereunder compensation consisting of the following:

3.1 Base Salary. \$12,397 per month base salary.

3.2 Cost of Living adjustment. The Interim General Manager shall be listed on the annual Resolution approving salaries and salary increases only as it pertains to cost of living adjustments based upon the consumer price index (CPI). Any such adjustment will be effective July 1st of that year.

4. Benefits. Subject to all applicable eligibility requirements, legal limitations, and subject to applicable taxes, Interim General Manager will be provided her current benefits which will continue to update in accordance with the Santa Maria Public Airport District Personnel Manual and shall be provided with the following additional benefits:

- i. The District shall reimburse the Interim General Manager for use of her personal vehicle outside of the Santa Barbara County limits for District business at a rate equivalent to the standard mileage rate established by proclamation of the Internal Revenue Service.
- ii. The District shall provide an automobile allowance of five hundred seventy-five dollars (\$575) per month. Mileage reimbursement for travel within Santa Barbara County will not be reimbursed. Mileage reimbursement shall be approved for out of area travel pursuant to Section ix. above.
- iii. The District shall provide a cell phone allowance of fifty (\$50) per month if not issued a District provided cell phone.
- iv. The Interim General Manager will be provided with twenty (20) hours of Administrative Leave for the initial 6 months and an additional three and one third (3 and 1/3) hours of Administrative leave for each full month that follows.

5. Reimbursement of Expenses. The District will reimburse Interim General Manager for all reasonable travel, entertainment and other expenses incurred or paid by the Interim General Manager in connection with, or related to, the performance of her duties, responsibilities or services under this Agreement, subject to review by the Board or its administrative and financial committee, if applicable.

6. Civic Club Membership. District recognizes the desirability of representation in and before local, civic and other organizations, and the Interim General Manager is authorized to become a member of one nationally recognized service club, for which the District shall pay necessary expenses for dues and meals.

7. Obligations Upon Termination of Employment Period.

7.1 Disability. In the event of the permanent disability (as hereinafter defined) of Interim General Manager during the Employment Period, the District shall have the right, upon written notice to Interim General Manager, to terminate Interim General Manager's employment hereunder, effective upon the 30th calendar day following the giving of such notice (or such later day as shall be specified in such

notice). Upon the effectiveness of such termination, (i) the District shall have no further obligations hereunder, except to pay and provide, subject to applicable withholding, (A) all amounts of Base Salary, sick leave, and vacation leave, accrued, but unpaid, at the effective date of termination; (B) all reasonable unreimbursed business-related expenses. Interim General Manager shall have no further obligations hereunder other than those provided for in Sections 9 and 10 hereof. For purposes of this Agreement, "permanent disability" shall be defined as any physical or mental disability or incapacity which renders Interim General Manager incapable in any material respect of performing the essential function and services required of him in accordance with her obligations under Section 2 for a period of 90 consecutive calendar days, or for 90 days in any 360 day period, or as otherwise determined by District's long term disability insurance carrier or worker's compensation insurance carrier, or PERS retirement system.

7.2 Death. In the event of the death of Interim General Manager during the Employment Period, this Agreement shall automatically terminate and the District shall have no further obligations hereunder, except to pay and provide to Interim General Manager's beneficiary or other legal representative, subject to applicable withholding, (i) all amounts of Base Salary, sick leave, and vacation leave, accrued but unpaid at date of death, and (ii) all reasonable unreimbursed business-related expenses.

7.3 Termination. The District reserves the right to terminate Interim General Manager at any time, in its sole discretion. In the event of the termination of Interim General Manager from this temporary role, her employment will revert back to her previous position of Administrative Assistant, or any other position the Board appoints her to such that any new assignment is mutually agreeable to both Interim General Manager and the District.

8. Voluntary Termination by Interim General Manager. In the event Interim General Manager voluntarily elects to terminate employment prior to the expiration of the Employment Period, or any extension thereof, Interim General Manager shall provide District's Board with a minimum of 30 days' written notice.

9. Cooperation with the District After Termination of the Employment Period. Following termination of the Employment Period or any extension, Interim General Manager shall fully cooperate with the District in all matters relating to the winding up of her pending work on behalf of the District and the orderly transfer of any such pending work to other employees of the District as may be designated by the District.

10. Confidentiality; Return of Property; Non-Solicitation.

The Interim General Manager acknowledges that during the Employment Period she will receive confidential information from the District, its attorneys, consultants, employees, tenants and others, (each a "Relevant Entity").

Accordingly, the Interim General Manager agrees that during the Employment Period (as it may be extended from time to time) and thereafter, the Interim General Manager and her affiliates shall not, except in the performance of her obligations to the District hereunder or as may otherwise be approved in advance by the District, directly or indirectly, disclose or use (except for the direct benefit of the District) any confidential information that she may learn or has learned by reason of her association with any Relevant Entity. Upon termination of this Agreement, the Interim General Manager shall promptly return to the District any and all properties, records or papers of any Relevant Entity that may have been in her possession at the time of termination, whether prepared by the Interim General Manager or others, including, but not limited to, confidential information and keys. For purposes of this Agreement, "confidential information" includes all data, analyses, reports, interpretations, forecasts, documents and information concerning a Relevant Entity and its affairs, including, without limitation, litigation claims, policies, procedures, personnel files and information, confidential reports, technical information, financial information, prospects or opportunities, (i) that the District reasonably believes are confidential or affect public security, or (ii) the disclosure of which could be injurious to a Relevant Entity or beneficial to competitors of a Relevant Entity, but shall exclude any information that the Interim General Manager is required to disclose under any applicable laws, regulations or directives of any government agency, tribunal or authority having jurisdiction in the matter or under subpoena or other process of law, is or becomes publicly available prior to the Interim General Manager's disclosure or use of the information in a manner violative of the second sentence of this Section 10(a), or is rightfully received by Interim General Manager without restriction or disclosure from a third party legally entitled to possess and to disclose such information without restriction (other than information that he may learn or has learned by reason of her association with any Relevant Entity).

11. Evaluation. The Board shall evaluate Interim General Manager's performance at such times as it determines, in the exercise of its sole discretion, but at least once per six month period. Any evaluation shall be in writing and be signed by not less than a majority of the Board.

12. General.

12.1 Waiver. Neither party shall, by mere lapse of time, without giving notice or taking other action hereunder, be deemed to have waived any breach by the other party of any of the provisions of this Agreement. Further, the waiver by either party of a particular breach of this Agreement by the other shall neither be construed as nor constitute a continuing waiver of such breach or of other breaches by the same or any other provision of this Agreement.

12.2 Severability. If for any reason a court of competent jurisdiction or arbitrator finds any provision of this Agreement to be unenforceable, the provision shall be deemed amended as necessary to conform to applicable laws or regulations, or if it cannot be so amended without materially altering the intention of the parties, the remainder of the Agreement shall continue in full force and effect as if the offending provision were not contained herein.

12.3 Notices. All notices and other communications required or permitted to be given under this Agreement shall be in writing and shall be considered effective upon personal service or upon transmission of a facsimile or the deposit with Federal Express or in Express Mail and addressed to the Board of Directors of the District at its administrative office, and to Interim General Manager at her most recent address shown on the District's records, or at any other address which either may specify in any appropriate notice to the other.

12.4 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which taken together constitutes one and the same instrument and in making proof hereof it shall not be necessary to produce or account for more than one such counterpart.

12.5 Entire Agreement. The parties hereto acknowledge that each has read this Agreement, understands it, and agrees to be bound by its terms. The parties further agree that this Agreement shall constitute the complete and exclusive statement of the agreement between the parties and supersedes all proposals (oral or written), understandings, representations, conditions, covenants, and all other communications between the parties relating to the subject matter hereof. Any modification of this Agreement will be effective only if it is in writing signed by both parties.

12.6 Governing Law. This Agreement shall be governed by the law of the State of California.

12.7 Assignment. This Agreement is for personal services and may not be assigned by Interim General Manager.

13. Amendment. This Agreement may be amended at any time by mutual written agreement signed by the parties. Any adjustment in salary or benefits shall be in the form of a written agreement.

14. **Mutual Termination.** This Agreement may be terminated at any time by mutual written agreement signed by the parties.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date first above written.

Santa Maria Public Airport District

By: _____
Carl Engel
President

By: _____
Hugh Rafferty
Secretary

INTERIM GENERAL MANAGER

Kerry Fenton

Position: Airport General Manager
Agency: Santa Maria Public Airport District
Location: Santa Maria, California

CHARACTERISTICS:

The General Manager has broad responsibility for the overall organization, staffing, budgeting and operations of the airport. The General Manager reports directly to the five-member board of directors, and oversees the work of division managers, professional and administrative staff, and interfaces with Federal Aviation Administration, Transport Security Administration, the Airport Commission, vendors, and transportation and environmental management bodies.

Duties and Responsibilities:

1. Plans, organizes and directs the operation, maintenance and property management activities of the District through subordinate managers and supervisors; reviews recommendations and actions of subordinates; and solves department problems.
2. Reviews and approves long range plans for the District including master plan, airport improvement plans.
3. Manages District properties; reviews and makes recommendations regarding proposed development and property utilization; negotiates lease agreements; resolves problems with leaseholders.
4. Directs the preparation of applications for Federal and State grants; and administers and evaluates grant programs.
5. Directs, evaluates and presents monthly and annual District reports, studies, evaluation reviews and statistical summaries.
6. Researches and monitors developments related to District operations, evaluates their impact and recommends improvements.
7. Takes a direct role in community relations activities to maintain effective public relations, such as speaking to community groups and organizations.
8. Manages the District environmental programs, including wetlands mitigation, monitoring and restoration, stormwater pollution prevention, hazardous materials program, and associated reporting requirements.

QUALIFICATIONS:

Knowledge of:

- Municipal Airport operations, including security administration, commercial operations, parking maintenance, noise abatement, and related practices, and methods, materials and equipment utilization.
- Federal and State laws and regulations and City codes and ordinances governing the operations of a Public Airport.
- Occupational Safety and Health Administration (OSHA) regulations, American with Disabilities Act (ADA) requirements related to public accessibility and accommodations.
- Contract administration and lease administration practices and requirements; lease negotiations practices; commercial development and concession operation practices.
- Land use principals and practices; property management practices and regulations.

- Marketing and community relations practices, media relations, customer service principles.
- Strategic planning principles; theories of management and organization; leadership principles.
- Project management, benchmarking, and program evaluation principles.
- Principles of staffing, selection, training, supervision, evaluation and discipline.
- Negotiating techniques

Skills:

- Operate personal computer hardware to utilize public records information systems, word processing, spreadsheet, and presentation software, operate a calculator. Good understand of internet.
- Operate a motor vehicle.

Ability to:

- Plan, organize, and direct a wide variety of Airport programs and services to meet community needs and to effectively comply with safety, operating and environmental regulations.
- Approve and adopt major long-term capital improvement programs and construction plans.
- Articulate Airport regulations polices, and procedures and address issues with clarity and diplomacy involving the City Council, County Board of Supervisors, Airport Commission, and concerned citizens and community groups
- Exercise independent judgment and initiative within established guidelines.
- Prepare clear, concise and complete correspondence, reports and other written materials.
- Establish and maintain effective working relationships with City, and County Officials, Commissioners, staff, regulators, commercial representatives, and other in the course of work.
- Prepare and deliver effective public presentations.
- Work independently.

Education / Training / Experience:

Candidate should have a Bachelor's degree in Business Administration, Public Administration, or related field; and six years or more years of progressively responsible professional, lease administration, contract administration, and airport operations and management experience, including three years or more of managerial and supervisory experience. Coursework or certifications through AAEE in airport management and budgeting programs is desirable. Training through Special Districts Associations would be desirable.

License, Certificates; Special Requirements:

Candidate must have a valid Class C California driver's license and the ability to maintain insurability under District's Vehicle Insurance Policy. Must have the ability to work extended hours or be on-call to respond to Airport emergencies or special events.

SERVICE AGREEMENT

(Executive Search Services)

By this Agreement, dated September 22, 2022, between SANTA MARIA PUBLIC AIRPORT DISTRICT (herein called "District") and ADK CONSULTING, INC., a Florida corporation, (herein after called "Consultant"), District and Consultant agree as follows:

1. SCOPE OF WORK

District hires Consultant to perform, and Consultant agrees to perform, professional executive search services as described in Exhibit "A", a written proposal dated August 23, 2022, from Consultant to District's General Manager, attached and incorporated by this reference.

2. COMPENSATION

District shall compensate Consultant for all services to be provided by Consultant under this Agreement for "Full-Service", as outlined in the table on page 14 of Exhibit "A" attached and incorporated by this reference. Consultant shall be compensated for the work described under the Scope of Services as set forth for said services, not to exceed a lump sum amount of \$39,900.00. Consultant shall bill District for services rendered in accordance with the payment schedule on page 14 of Exhibit "A". Payment shall be due and payable 30 days following date of receipt of submitted bill.

Reimbursable Expenses as outlined in Exhibit "A" page 15 are limited to air transportation, lodging, meals, printing, shipping, and expenses associated with presentations and meetings not to exceed \$5,000.00. All expenses will be reimbursed at cost and subject to review by the General Manager. There will be no reimbursement for office overhead, including but not limited to telephone, facsimile, postage, in-house copying, insurance, etc. which are included in the consulting fees.

3. TIME OF PERFORMANCE

Consultant shall commence performance of the services hereunder upon receipt of written authorization to proceed and shall complete the services within 6 months of the execution of this agreement.

4. MATERIALS AND DOCUMENTS

Except as otherwise specified in this agreement, Consultant will bear the cost and expense of all materials, supplies, tests and data used or needed by Consultant in the performance of its services and the work products to be delivered to District. District shall be the owner of all drawings, maps, mylars, reproducibles, plans, specifications, test reports, and other documents, data and work products produced or resulting from the services of Consultant. District will make available all existing plans, maps, data and information it has that may be needed by Consultant to perform its services. Consultant may retain copies of the original documents for its files.

5. ASSIGNMENT

This Agreement or any interest herein shall not be assigned by either party hereto.

6. CONSULTANT INDEPENDENT CONTRACTOR

The parties intend that Consultant shall be an independent contractor in performing the services provided by this Agreement. District is interested only in the results to be achieved, and the conduct and control of the work will lie solely with Consultant. Consultant is not to be considered an agent or employee of District for any purpose, and the officers, employees and agents of Consultant are not entitled to any of

the benefits that District provides for its employees, including worker's compensation insurance. It is understood that Consultant is free to contract for similar services to be provided to others while under contract with the District, provided there is no actual or perceived conflict of interest. District's General Manager shall have the right, in his sole discretion, to determine if a conflict of interest exists.

7. CONSULTANT'S RECORDS

Full and complete records of Consultant's services and expenses and records between District and Consultant shall be kept and maintained by Consultant and shall be retained by Consultant for seven (7) years after District makes final payment to Consultant hereunder and all pending matters regarding Consultant's services and the Project is closed. The District, the U.S. Department of Transportation, the FAA, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books of account, documents, papers, and records of Consultant which are directly pertinent to Consultant's work for the purpose of making audits, examinations, excerpts and transcriptions.

8. TERMINATION

This Agreement may be terminated by District upon failure by Consultant to satisfactorily perform the terms and conditions of this Agreement within fifteen (15) days of receipt of written notice from the District specifying the manner in which Consultant has failed to satisfactorily perform. In the event of such termination, Consultant shall not be entitled to further compensation from District. Either party may terminate this Agreement for any reason on thirty (30) days written notice to the other.

9. SUSPENSION OR ABANDONMENT OF PROJECT

District may at any time suspend or abandon the Project or any part thereof. In the event District should determine to suspend or abandon all or any part of the Project, it shall give written notice thereof to Consultant, who shall immediately terminate all work upon that portion of the Project suspended or abandoned in the notice. Within thirty (30) days of the date of notice of suspension or abandonment, District shall pay to Consultant, as full and final settlement, compensation for all of Consultant's services performed and costs and expenses incurred prior to receipt of notice of suspension or abandonment in a prorated amount equal to the proportion that the Consultant's services rendered to the date of receipt of such notice bears to the total compensation the Consultant would have received had the Project been completed.

10. INDEMNIFICATION

Consultant agrees to defend, indemnify and hold harmless District, its directors, officers, employees and agents from and against any and all loss, damage, liability, claims, demands, detriments, costs, charges, expenses and causes of action of any nature or character which District may incur, sustain or be subject to, including attorney's fees, rising out of or in any way connected with the services or work to be performed by Consultant, or arising from the negligence, act or omission of Consultant, its officers, agents and employees, excepting only liability or loss attributable to the sole active negligence of District or its willful misconduct.

11. INSURANCE

Consultant shall at Consultant's expense take out and maintain during the life of this Agreement the following types and amounts of insurance insuring Consultant and Consultant's officers and employees:

Automobile Liability and Comprehensive General Liability: Automobile liability insurance and comprehensive general liability insurance including public liability, and contractual liability coverage, each providing bodily injury, death and property damage liability limits of not less than \$1,000,000 for each accident or occurrence.

Before or concurrently with the execution of this Agreement, Consultant shall file with the District a certificate or certificates of insurance, issued by the insurance carrier, covering the specified insurance.

Each such certificate and policy shall bear an endorsement precluding the cancellation, or reduction in coverage, of any policy before the expiration of thirty (30) days after the District shall have received notification by registered or certified mail from the insurance carrier. District shall be named as an additional insured on each policy required herein without offset to any insurance policies of District. Each policy shall be on an "occurrence" basis and not a "claims made" basis.

12. DISTRICT'S DESIGNATED REPRESENTATIVE

District designates its General Manager, as its "Designated Representative". The Designated Representative is authorized to review, critique, and approve the services of Consultant.

13. EXTRA SERVICES

There will be no payment of extra services by Consultant unless it is expressly authorized in writing by General Manager before the services are performed and the amount District shall pay Consultant for said extra services has been mutually agreed upon in writing.

14. COVENANT AGAINST DISCRIMINATION

Contractor covenants that, by and for itself, its heirs, executors, assigns and all persons claiming under or through them, that there shall be no discrimination against or segregation or, any person or group of people on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the performance of this Agreement. Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin or ancestry.

15. INTERPRETATION

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either part by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

16. INTEGRATION; AMENDMENT

There are no oral agreements between the parties affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.

17. SEVERABILITY

In the event that part of this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining portions of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

18. ATTORNEYS' FEES

If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees, and costs whether or not the matter proceeds to judgment.

19. NOTICES

Notices pursuant to this Agreement shall be given by United States mail, postage prepaid, addressed to the parties hereto as follows:

District: Santa Maria Public Airport District
3217 Terminal Drive
Santa Maria, CA 93455

Consultant: Douglas R. Kuelzman
ADK Consulting, Inc.
PO Box 330906
Atlantic Beach, FL 32233

20. CERTIFICATE OF CONSULTANT

Consultant agrees to complete, execute, and deliver to District upon execution of this Agreement a certificate in the form and content of Exhibit "B" attached hereto and incorporated herein. Consultant agrees to comply with the conditions and provisions of the certificate.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be fully executed.

Dated: September 22, 2022

District:

SANTA MARIA PUBLIC AIRPORT DISTRICT

By: _____
CHRIS HASTERT, General Manager

Consultant:

ADK Consulting, Inc.

By: _____
DOUGLAS KUELPMAN, President/CEO

EXHIBIT “A”

August 23, 2022, LETTER PROPOSAL

Exhibit "A"

**Proposal for
Executive Search Services**

General Manager

**Santa Maria
Public Airport District**

by

ADK Consulting and Executive Search

August 23, 2022



Exhibit "A"

TABLE OF CONTENTS

Needs & Objectives	3
Executive Summary	4
ADK Executive Leadership Team	5
Key Elements of Every Search	6
Levels of Searches.....	8
Work Scope	9
Compensation	14
FAQs.....	16
Contact Information	18

Proposal for Executive Search Services

General Manager

Santa Maria Public Airport District

August 23, 2022

ADK Consulting & Executive Search (ADK) is pleased to offer its Full-Service and HR Assist executive search services to the Santa Maria Public Airport District (Client) in response to its verbal request for a proposal to fill the position of General Manager.

ADK Consulting & Executive Search

Objectives

The objective of our ADK Team is to assist in filling this position with the best talent and cultural fit available.

We believe that working collaboratively and understanding your organization, the position to be filled, and the needs of the District are critical to finding the best fit candidates.

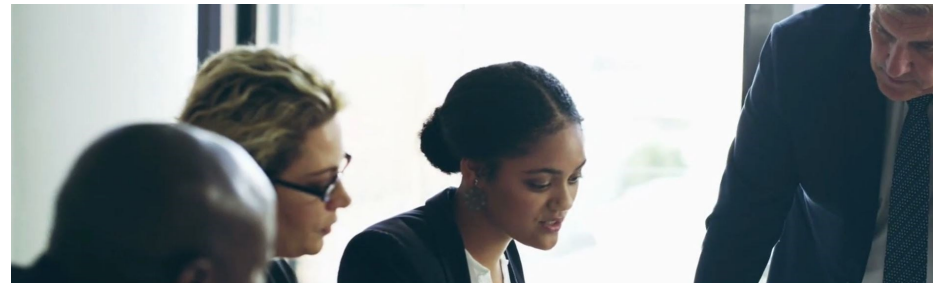


Exhibit "A"



Executive Summary

ADK is an industry leader in executive recruiting and organizational development. Our roots date back to our incorporation in 2003 in Jacksonville, FL. Our early success in identifying and providing outstanding leaders not only enhanced our clients' organizations but made a positive impact on their communities and regions. Many of our executive placements are recognized as top leaders in the industry affecting policy, best practices and legislation on the national level.

[Click here for our Brochure Introduction to ADK](#)

Airport Expertise

Today, ADK is considered the largest talent search firm in the U.S. airport industry, based on the total number of searches performed annually for airports. ADK has placed over 130 Airport Directors / CEOs / Executive Directors and we have worked with over 170 airports throughout the U.S. over the past 19 years, conducting organization and compensation studies and successfully completing well over 400 senior executive level airport searches. We have also been fortunate to work for many organizations affiliated with airports and transportation.

The testimony for any search organization is the success and repeat business that has been achieved between them and their clients. Repeat clients account for over 80% of our projects since 2003. We are honored that we have performed multiple searches for many of our clients and are the "go to" firm for their ongoing HR solutions.

ADK Team

The ADK Team, with 20 professionals, has decades of experience in executive recruitment, business management, board experience, organizational leadership, and compensation studies, just to name a few. We have the knowledge and expertise to recruit the best fit executives for our clients and continually strive to exceed both client and candidate expectations. The ADK Team is fully committed to providing the highest level of service and results in the recruitment and development of your leadership team. Just ask *any* of our clients.

Exhibit "A"

ADK Executive Leadership Team

Doug Kuelpman

President / Chief Executive Officer

Doug is the founder and co-owner of ADK. Doug has over thirty years of experience in the aviation industry and nineteen years in the executive recruiting industry. In 2003, he started ADK Consulting & Executive Search, specializing exclusively in airports. Prior to starting ADK, he was with UPS Airlines for eighteen years. As Vice President, he was a member of the initial startup team for the airline. Doug holds a bachelor's degree from the University of Washington, served as an engineering officer in the U.S. Navy, and is a licensed commercial pilot with instrument ratings.

Annell Kuelpman

Executive Vice President / Chief Operating Officer

Annell is co-owner of ADK. She has over thirty years of recruitment experience and provides leadership for strategic planning initiatives including innovative recruitment processes. Her early career and success in commercial real estate and consulting business led to recruiting, marketing, training and business development for private companies and business development and coaching for individuals. Annell holds a bachelor's degree from the University of Kentucky.

Blake Astran, J.D.

Vice President, Business Operations

Blake has years of executive recruiting experience primarily focusing on public sector clients including aviation, transportation, and local governments. Prior to joining ADK, Blake practiced law in both the public and private sectors, with a concentration on criminal law. Most recently, Blake was a senior associate at Krauthamer & Associates, Inc. He received his bachelor's degree from the University of Florida and Juris Doctorate from Barry University.

Linda Frankl, A.A.E.

Director, Senior Practice Leader

Linda started her aviation career over thirty years ago in operations and security. For over twenty years, she worked for Columbus Regional Airport Authority leading senior departments in operations and strategy. Prior to joining ADK, she was Vice President, Strategy Management. While at Columbus, Linda participated in the research and creation of ACRP's Report 75, Airport Leadership Development Program now being utilized by many airports around the country. She holds a bachelor's degree from Embry-Riddle Aeronautical University.

ADK Team Approach

Every search is assigned a team of professionals and is led by a Senior Project Manager with years of experience working at airports prior to joining ADK. All search managers have proven project management experience in recruiting. Included on the team is an experienced assistant project manager, a SHRM certified HR specialist, a sourcing strategy specialist, an advertising coordinator, and administrative support staff. All members of the entire ADK team have input to every search. See a complete list of our team bios at: [Our ADK Team](#)

Exhibit "A"

Key Elements for Every Search

Our focus is on top performers directing our principal energy and attention to the candidates who show highest potential of a good match for this position. At ADK, we target and identify top performing industry professionals who demonstrate a proven track record of success and best cultural fit for your organization. ADK's recruitment plan below can be tailored or amended to meet the Client's needs and/or expectations.

Communication:

We strongly believe that communication with our clients and candidates is essential to a successful search. Throughout the search, we communicate with our clients and candidates so that we all have the same shared expectations.

Strategy Discussion:

At the start of the search we schedule a "Strategy Discussion" that includes our client (Hiring Manager and/or Executive Sponsor) and those associated with the search as well as our Project Manager and the ADK Team members that will work closely on the search. We will collectively determine the profile of what you are looking for in your new hire, discuss your expectations, express your priorities for the position, and define the exceptional qualities that you want to see in your new hire. ADK works with our clients to gain an understanding of their organizations and the community in which they live and work. This knowledge base continues to grow with every search. The information we gather will help our team build their strategic approach for the search. With the development and posting of a recruitment brochure, we will develop a firm timetable for the search.

Direct Sourcing and Team Approach:

Every search is touched by multiple members of our team working collaboratively on all of our searches. The Senior Project Manager and Project Team who are responsible for your search thoughtfully create a target list of known potential candidates and a list of organizations that will most likely provide the best fit candidates for the position. Our team has an incredibly large network in the industry and first-hand knowledge of key leaders and resources throughout the country. Our role is to make the opportunity known to passive candidates. Personal contact is critical to success in recruiting these candidates.

Unmatched Database:

We have been developing a database of industry professionals since 2003. We electronically contact over 50,000 subscribers announcing our searches through our widely read e-newsletter. We believe our database is unmatched because we make a concerted effort to keep contact information current and continually add new subscribers through our website and new applicants for our many C-level searches.

Exhibit "A"

Key Elements for Every Search

Our focus is on top performers... (Continued)

Diversity, Equity, and Inclusion:

We are committed to the advancement of the principles of diversity, equity and inclusion. We believe that the most diverse candidate pool starts with our own intentional, thoughtful and targeted personal outreach which is an extremely important role and responsibility of our ADK Team. Our firm belief is that organizations that employ/promote people of different genders, ages, races, cultural backgrounds, languages and national origins offer creativity, problem-solving, engagement, innovation, strategic thinking, better decisions and improved results. Our role and commitment to ourselves and to our clients is to promote an inclusive culture where every individual is valued, respected, and supported and everyone has the opportunity to achieve their potential.

Internal Candidates and External Candidates:

We are your partner in this search irrespective of the source of the candidates. Many of our searches include internal candidates and our client has the opportunity to see how their internal candidates compete on the national level. If candidates are generated internally or if Client receives applications/résumés directly, they should be referred to ADK to be included in the overall candidate pool. All candidates are assessed on their own merits.

Applicant Tracking System (ATS):

Candidates submit directly through our website to our secure online applicant tracking system, iCIMS, that is used by companies such as Amazon and Microsoft. At this location, candidates are requested to respond to initial screening questions that give us additional information about their background and qualifications related to the position that are not necessarily obvious in their résumé. Our screening process moves through various phases where our Project Manager advances the candidates to next steps including written responses to essay questions and self-directed video interviews explained in Phase 2 Screening. Top candidates and their screening materials are shared with our client through our dedicated Confidential Client Portal when Client wants to see them.

Notification:

ADK has an outstanding reputation for keeping candidates apprised of their status throughout the search process. After the search, those who seek guidance as to their possible shortcomings are given a courteous and professional response. Many candidates have expressed appreciation over the years for our thoughtful, helpful guidance.

2 Levels of Searches

- **Full-Service**
- **HR Assist**

Both search Levels can be *customized* to fit client needs, timeline and budget .

1. Full-Service Search

- Visits to Client (not including travel expenses)
- Phase 1: Candidate Pool Development
- Phase 2: Screening Level 1
- Phase 2: Screening Level 2
- Phase 3: Screening Level 3
- Phase 4: Final Interviews and Negotiations
- Consultation and communication with Client throughout process
- Placement Guarantee as outlined on Page 16

2. HR Assist Search

- Phase 1: Candidate Pool Development
- Phase 2: Screening Level 1
- Phase 2: Screening Level 2

Recommendation of Top Candidates for further screening and final interviews to be conducted by Client.

Exhibit "A"

Work Scope

Phase 1: Candidate Pool Development

Applicable to both Full Service and HR Assist searches.

Candidate Pool Development

Our objective is to attract as many top quality candidates as possible by casting as wide a net as possible. We believe the best finalists come from being thoughtful in our outreach to find outstanding candidates who may or may not be looking for a job.

1.0 Human Resources Compliance

ADK will work with Client and ensure compliance with Client's Human Resources processes regarding applications, testing, and timing.

1.1 Startup and Recruitment Brochure Development

ADK will assist Client in the review of all Job Descriptions (JDs) and provide suggestions as appropriate as part of the project startup strategy. Then we will develop a comprehensive and outstanding recruitment brochure that is synonymous with ADK. It allows interested candidates to learn about the community, the organization, and the Position Profile that establishes what is being sought in your ideal candidate. A link to the brochure will be provided for posting on Client's website if applicable. The posting of the brochure is the "official kick-off" of the search campaign and the basis of a timeline.

1.2 ADK Network and Direct Sourcing

ADK retains staff who are industry specialists for a reason. We are widely known throughout the U.S., have personal knowledge of available talent, and know what the typical requirements are for the positions we are retained to help fill. We use our direct outreach process to actively recruit qualified and diverse candidates for this position. Our knowledge of the industry and nationwide outreach also allows purposeful involvement of women and minority candidates in our selection pool.

Many of the most talented candidates we have placed come from our direct sourcing and targeted outreach through personal and direct telephone contacts as well as our industry leading e-newsletter. Our role is to make this position known to a wide universe of potential applicants and to cultivate an interest in the vacancy. The quality and diversity of the final list of candidates is totally dependent on the qualifications of the initial candidate pool; hence, the amount of time we spend on candidate pool development is critical to the success of our search process.

1.3 Marketing & Advertisement

We will post electronic recruiting ads with appropriate national organizations and other mediums as determined necessary and appropriate in consultation with the Client. Ads attract people who are typically looking for a move and sometimes these ads reach potentially good candidates by word of mouth through this process. We capture passive candidates through our ADK e-Newsletter that is widely read, and through our team strategy and targeted approach.

Exhibit "A"

Work Scope

Phase 2: Screening

**Applicable to both
Full Service and HR Assist searches.**

ADK uses a variety of tools to assess all candidates, internal and external. Through our vetted and thorough screening phases, we assess background and skill sets, level of enthusiasm for the position, cultural and personality fit, reputation, and leadership style. We determine the closest match to background and experience that is relevant to the position.

Level 1 Screening:

2.0 Job Specific Questionnaire:

These questions are the first screening questions that are presented to the candidates at the time they apply. They are quick multiple choice questions that tell us whether the candidate meets the minimum qualifications for the position as developed with Client's input.

2.1 Résumé Review:

Résumés are reviewed by the Project Manager and the Assistant Project Manager.

2.2 Next Steps:

Top candidates meeting the qualifications and expectations are moved to the next stage of ADK's screening process.

Exhibit "A"

Work Scope

Phase 2: Screening

Applicable to both
Full Service and HR Assist searches.

Level 2 Screening

2.3 Client's Application (if required)

If Client has a required application process, candidates will be notified via email and an included link that leads to the Client's application that must be filled out to be considered for this position. Candidates will be notified that this application does not come to ADK.

2.4 Questionnaire

Candidates who meet minimum qualifications will be asked to respond to essay questions at this point. These supplemental responses give us additional insight into the candidates, how they think, an example of their written communication skills, and more information than is typically found in a résumé.

2.5 Video Recordings

We provide a 10-12 minute video interview snippet to gain insight into a candidate's presence and demeanor.

2.6 Review of Essay Questionnaires & Video Recordings

The ADK Search Manager and associated team members review all Essay Questions and Recorded Video Interviews.

2.7 Conversations

The Search Manager explores any areas that may need to be clarified through personal conversations with the top candidates.

2.8 Client Consultation

Recommendations to Client for next steps in the client screening on Client's schedule.

2.9 Deliverables

Candidate submittals and screening results are made available in real-time for easy viewing through the Confidential Client Portal or at the time Client wishes to review them after certain application and/or testing procedures have taken place.

NOTE: For an HR Assist search, at this point of the process, ADK has completed it's search and Client takes over with their normal HR processes that may include additional testing, interviews, reference checks, media checks, final interviews, and negotiations.

Exhibit "A"

Work Scope Phase 3: Screening

Applicable to Full-Service searches only.

Level 3 Screening

3.0 In-depth Conversational Interviews

HR conversational interviews are conducted in-depth by one of our SHRM certified team members to obtain a better understanding of each candidate's depth of knowledge in the industry, the personality of each of the candidates, and their enthusiasm for this position. We acquire an in-depth understanding of the candidate's communication, management and leadership style through our conversational interviews and provide our Client an interview summary as another tool in the toolbox.

3.1 Executive Summaries

The Project Manager will provide Executive Summaries on the top candidates that will include all of the information we have developed during the search.

3.2 Internet Media

We research and review any information regarding candidates found in a general internet search of public media information to screen for adverse information that may affect employment. Due to a broad scope of client policies, interpretations, and various legal requirements throughout the country, we do not include social media checks such as Facebook, Instagram, Twitter, or YouTube in our search. We research and investigate the candidates using various media search engines looking for any questionable items/red flags that need to be considered so there are no surprises.

3.3 References

Verifiable references are generally performed after the selection of the final list of candidates upon request of Client. Professional references give us a great deal of supporting information about the candidates. We look for consistency in remarks and gain insight into how the person is perceived by others in a working environment. These may provide areas to be explored during the final interviews.

3.4 Client Consultation

Consultation with Client and recommendations for final interviews.

Work Scope

Phase 4

Applicable to Full-Service searches only.

Final Interviews & Negotiations

4.0 Assessments

ADK has certified assessors with years of experience in utilizing a variety of assessments. We conduct a research-validated assessment that offers personalized insights into the candidates' motivations and communication styles. Assessments should not be over-weighted in the overall analysis but are simply one more tool in the toolbox. A full-service search will include DISC assessments for the candidates invited for final interviews. Additional assessments are available for an additional fee.

4.1 Background Checks

At Client's request, ADK will perform background checks (credit, criminal, education, and motor vehicle) through our third party provider (ISP). It is expected that background checks would be performed on a final list of candidates upon request of Client. Background checks take approximately one week to be completed.

4.2 Final Interviews

ADK has years of experience in assisting and conducting final interviews for our clients. We will collaborate with the Client to assist in the final interview process commensurate with Client's established processes and preferences. We can assist in helping to plan, prepare the hiring manager for the interviews, handle the logistics for the candidates, and provide specific targeted questions to be used by Client, as needed and requested.

4.4 Negotiations and Close-out

Negotiations and hiring assistance are natural for us. While some clients prefer to do their own negotiations, we always offer assistance upon request from our clients for all of our searches. This service is as simple as consulting on terms of the offer to providing full negotiations through an acceptance of an offer between the Client and the selected candidate.

Exhibit "A"

ADK Professional Fees are for RETAINED SERVICES

Full-Service...\$39,900.00

Included:

- Visits to Client location (not including travel expenses)
- Phase 1: Candidate Pool Development
- Phase 2: Screening Levels 1 and 2
- Phase 3: Screening Level 3
- Phase 4: Interviews and Negotiations
- Consultation and communication with Client throughout process
- Placement Guarantee as outlined on Page 16

Installments for **Full-Service** searches are as follows:

Installment 1: \$13,300.00 invoiced upon recruitment brochure posting.

Installment 2: \$13,300.00 invoiced 30 days after recruitment brochure posting.

Installment 3: Remaining due after contract completion including any expenses, if applicable.

HR Assist...\$22,600.00

Included:

- Phase 1: Candidate Pool Development
- Phase 2: Screening Level 1
- Phase 2: Screening Level 2
- Consultation and communication with Client throughout process
- Consultation and recommendations for Short List or Finalists

Installments for **HR Assist** searches are based on anticipated midpoint for two installments:

Installment 1: \$9,040.00 invoiced upon recruitment brochure posting.

Installment 2: \$9,040.00 invoiced 30 days after recruitment brochure posting.

Installment 3: \$4,520.00 due after contract completion including any expenses, if applicable.

This pricing structure is valid for 90 days from the date of this proposal. Optional add-on services are offered for additional fees if requested.

Terms: Net 30 days. Late fees accrue on payments that are over 30 days late at 1.5% per month.

Continued Next Page...

Compensation

Exhibit "A"

Compensation (Continued)

Options:

If Client desires that ADK perform additional services, we will provide a quote to you for any additions to the Work Scope you may need or bill on a time and material basis at our rate of \$150.00 per hour. Multiple searches performed under the same contract qualify for a discount. Contact ADK for more information.

Background checks are optional. Background checks are performed by our 3rd party provider, ISP Pro Mesa. Checks include criminal, credit, education, and motor vehicle checks. Checks normally take 3-5 business days to complete after receipt of consent from candidate. Background checks can be provided at \$300.00 per candidate upon request from Client.

Additional Recruitments:

Any additional staff placements by Client that occurs within 12 months of a placement whereby the candidate was identified in this specific recruitment process, shall incur an additional fee of \$10,000.00 for Full-Service searches and \$5,000.00 for HR Assist searches.

Travel Expenses:

The professional fees above do not include any travel related expenses. With client's approval, ADK's Search Manager will travel to client's location as part of the search process. Client will be invoiced for applicable travel expenses at cost. For an HR Assist search, an additional fee would be incurred for the Search Manager's time.

Compensation Parameters:

- We do not add *any* overhead fees to the fees described above.
- This is not a contingency search. ADK's fees are consistent with the standards of the retained search profession.
- ADK is due full payment of the professional fee above regardless of the source of the candidate chosen by Client to fill the position.
- Out-of-pocket expenses, as approved and requested by Client in writing, for ADK travel, lodging, and search committee meeting expenses are billed separately at cost.
- There is no charge for video recordings.
- We do not charge an additional fee for administrative and clerical support, teleconferencing, office copies, and computer/telephone usage.
- We do charge, at cost, for reproduction, binding, and courier services if requested by Client.
- All deliverables are provided to Client at no cost electronically.
- Reimbursement of candidate travel expenses *is the responsibility of Client*.

Exhibit "A"

FAQs

➔ Do you have a Placement Guarantee?

Yes, for **Full-Service** searches only. We stand behind our full-service searches with a powerful, but remarkably simple, guarantee. Should a candidate leave (except for health related issues) or be terminated for cause¹ (with supporting documentation such as a termination letter) within the first year after they begin their new position, we will conduct another search to replace the individual at:

- No charge if departure is within the first 4 months;
- 30% of the professional fee paid for the initial search within 5-8 months of start date; or
- 60% of the professional fee paid for the initial search within 9-12 months of start date.
- Any travel related expenses approved by Client under the guarantee, would be additional.

¹For cause: Generally considered as intentional acts of fraud, embezzlement, theft, or material violation of law that occurs within the course of employment; intentional damage to organization assets; intentional disclosure of organization confidential information; intentional breach of organization policies; willful conduct injurious to the organization, monetary or otherwise; and/or willful breach of employee's obligations.

➔ Who will be my point of contact and the person responsible for my search?

The Primary Search Manager for overall project oversight and direct responsibility for the search process will be designated, in writing, at the time of a notice to proceed on the contract is received. Doug Kuelpman, President & CEO, will be your contact for contracting, financial relationships, and issues that may present themselves extending beyond the Project Manager level. Client has the right to approve any proposed placement or replacement of the Primary Search Manager upon request.

➔ What does Contract Completion mean?

Contract completion means a job offer has been communicated to and accepted by the selected finalist for either type of executive search.

Exhibit "A"

FAQs

➤ How long will it take to complete the contract?

The posting of the recruitment brochure is the “official kick-off” of the search for the timeline. The time to develop the brochure depends on how quickly the client furnishes the necessary information. Once the brochure is posted, a firm timetable can be provided by ADK for the various phases of the Scope of Work. Variables to be considered for the search schedule include the type of search selected, the process for Client to confirm and approve the recommended candidates, the establishment of the final interview dates, and the actual interview process itself. Holidays, vacations and conference schedules need to be considered as well. Relocation time for the selected candidate also needs to be considered. It is difficult to provide a firm timeline before we have the opportunity to discuss the various process items with our client.

A typical timeline for our searches is listed below.

- **Full-Service:** 2.5 - 3.0 months from brochure posting to selection.
- **HR Assist:** 1.5 - 2 months from brochure posting to completion of Phase 2 - Screening Level 2.9

➤ When does the search “officially” begin?

At the receipt of a Notice to Proceed (NTP). A typical NTP would be in the form of a Purchase Order referencing this proposal, a simple Services Agreement for execution (ADK has one client can use), or a Professional Services Agreement supplied by Client. Any of these will be our “Notice to Proceed”.

➤ What are best practices to attract and maintain a strong candidate pool?

Understanding the desired ideal candidate background, level of enthusiasm and traits that fit the culture of the organization are key to develop thoughtful strategies for outreach to develop a strong candidate. Keeping candidates updated on their status on a timely basis is extremely important to maintain the candidate pool. Candidates appreciate being informed and treated with respect and not being left in the dark. They often have other options that we are not aware of and keeping them apprised helps them make better decisions and have a more positive attitude about ADK and our client. Our Clients’ reputations are as important as our own.

Exhibit "A"

Company Address Contact Information

Business Address:

Douglas R. Kuelpman
ADK Consulting, Inc.
PO Box 330906
Atlantic Beach, FL 32233

UPS or Federal Express Deliveries:

Douglas R. Kuelpman
ADK Consulting, Inc.
802 Providence Island Ct.
Jacksonville, FL 32225

Douglas Kuelpman - President/CEO

Phone: (904) 536-8102
Email: doug@adkexecutivesearch.com

Annell Kuelpman - Chief Operating Officer/Chair

Phone: (904) 536-8104
Email: annell@adkexecutivesearch.com

Blake Astran, J.D. - Vice President, Business Operations

Phone: (240) 338-4800
Email: blake@adkexecutivesearch.com

ADK Website: www.adkexecutivesearch.com

*Thank you for your consideration!
We look forward to hearing from you.*

EXHIBIT "B"

CERTIFICATION OF CONSULTANT

I hereby certify that I am the owner or principal executive officer and duly authorized representative of the firm of ADK Consulting, Inc., a Florida corporation whose address is PO Box 330906, Atlantic Beach FL, 32233 and that neither I nor the firm I represent has:

A. Employed or retained for commission, percentage, brokerage contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above firm) to solicit or secure this contract;

B. Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract; or

C. Paid or agreed to pay to any firm, organization, or person (other than a bona fide employee working solely for me or the above firm) any fee, contribution, donation, or consideration of any kind for or in connection with procuring or carrying out the contract, except as herein expressly stated (if any):

I acknowledge that this certificate may be furnished to the Federal Aviation Administration of the United States Department of Transportation in connection with this contract involving participation of federal funds and is subject to applicable state and federal laws, both criminal and civil.

Date

Douglas Kuelpman



September 22, 2022

Board of Directors
Santa Maria Public Airport District
3217 Terminal Drive
Santa Maria, CA 93455

Subject: Authorization for two staff members and one community member to attend the ICAS conference to be held December 12-15, 2022, in Las Vegas, NV.

Budget

		Attendees	Days	Rate	Total
Fees:	Registration	3		\$875.00	\$2,625.00
	Transportation	3		\$455.00	\$1,365.00
	Lodging	3	6	\$158.00	\$2,844.00
	Meals	3	6	\$60.00	\$1,080.00
	Total:				\$7,914.00

Overall Impact:

2022-2023 Budget for Business Travel	\$83,660.00
Previously Approved Business Travel	\$14,488.00
Current Balance for Business Travel	\$69,172.00
Amount of this Request	\$7,914.00
Balance Remaining if Approved	\$61,258.00

Summary

This conference provides the contacts and guidance needed to perform a successful airshow.

Recommendation

Staff recommends attending this conference as it provides information necessary to administer the upcoming airshow in 2023.

Please let me know if you have any questions.

Sincerely,

Chris Hastert, CM
General Manager