

Execution Version

**AMENDMENT NO. 1 TO
POWER PURCHASE AGREEMENT, INTERCONNECTION AGREEMENT, GROUND
LEASE AND OPTION AGREEMENT**

THIS AMENDMENT NO. 1 TO POWER PURCHASE AGREEMENT, INTERCONNECTION AGREEMENT, GROUND LEASE, and OPTION AGREEMENT (this "*Agreement*") is dated as of _____, 2016, and is by and between Beacon Solar 3, LLC ("*Seller*"), a limited liability company organized and existing under the laws of the State of Delaware, and the City of Los Angeles acting by and through the Department of Water and Power ("*Buyer*"), a municipal corporation of the State of California. Each of Buyer and Seller is referred to individually in this Agreement as a "*Party*" and together they are referred to as the "*Parties*." Capitalized terms used but not defined herein shall have the respective meanings ascribed thereto in the PPA.

RECITALS

WHEREAS, on June 3, 2014, Seller and Buyer entered into (i) a Power Purchase Agreement (the "*PPA*"), (ii) an Interconnection Agreement (the "*IA*"), (iii) a Ground Lease (the "*Lease*"), and (iv) an Option Agreement (the "*Option Agreement*") relating to the purchase of Energy from the Facility to be constructed by Seller in Kern County, California, which PPA, IA, Lease and Option Agreement were approved via Board of Water and Power Commissioners Resolution No. 014-229, dated June 3, 2014, and by Ordinance 183140, effective July 14, 2014; and

WHEREAS, Seller subsequently changed its name from Hecate Energy Beacon #3 LLC to Beacon Solar 3, LLC;

WHEREAS, to facilitate financing for the Facility, the Parties have agreed to make certain modifications to the PPA, IA, Lease and Option Agreement, and represented that they are required in order to address changing market conditions.

NOW, THEREFORE, in consideration of the promises, mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, as set forth herein, the Parties agree to amend the PPA, IA, Lease and Option Agreement as follows:

AGREEMENT

1. Buyer and Seller hereby amend the PPA as follows, effective as of the date hereof:
 - a. The definition of "Ancillary Documents" in Section 1.1 of the PPA is hereby deleted in its entirety and replaced with the following:

“Ancillary Documents” means the Option Agreement, the Lease, the Interconnection Agreement and all other instruments, agreements, certificates and documents executed by or for Buyer and Seller pursuant to or in connection with this Agreement and shall not include all agreements and other documents included in the Performance Security and the Competitive Offer Power Purchase Agreement or any agreements related thereto.

- b. The definition of “Buyer’s Other Solar Developers” in Section 1.1 of the PPA is hereby amended by inserting after the word “Seller” the phrase “or any Affiliate of Seller”.
- c. The definition of “Permitted Encumbrances” in Section 1.1 of the PPA is hereby deleted in its entirety and replaced with the following:

“Permitted Encumbrances” means (i) any Lien in favor of the Facility Lender, (ii) any Lien approved by Buyer in a writing separate from this Agreement which expressly identifies the Lien as a Permitted Encumbrance, (iii) Liens for Taxes not yet due or for taxes being contested in good faith by appropriate proceedings, so long as such proceedings do not involve a risk of the sale, forfeiture, loss or restriction on the use of the Facility or any part thereof, *provided* that such proceedings end by the expiration of the Agreement Term, and (iv) suppliers’, vendors’, mechanics’, workman’s, repairman’s, employees’ or other like Liens arising in the ordinary course of business for work or service performed or materials furnished in connection with the Facility for amounts the payment of which is either not yet delinquent or is being contested in good faith by appropriate proceedings so long as such proceedings do not involve a risk of the sale, forfeiture, loss or restriction on use of the Facility or any part thereof, *provided* that such proceedings end by expiration of the Agreement Term, and *provided further* that in the case of Liens being contested under subsections (iii) or (iv), the Seller has provided additional security of a letter of credit substantially in the form attached hereto as Appendix E to the Buyer and the Facility Lender jointly in an amount equal to or greater than the amount of such Lien multiplied by 1.25.

- d. The definition of “Seller Party(ies)” in Section 1.1 of the PPA is hereby deleted in its entirety and replaced with the following:

“Seller Party(ies)” means Seller and all other Persons, excluding Buyer, executing any Ancillary Document now or hereafter in effect.

- e. Subsection (l) of the definition of “Special Purpose Entity” in Section 1.1 of the PPA is hereby deleted in its entirety and replaced with the following:

has not had and will not have any obligation to indemnify, and has not indemnified and will not indemnify any Person, other than (i) its officers, managers or members, as the case may be, with respect to actions taken or

omitted to be taken in good faith by such officer, manager or member with respect to the business and affairs of it, and (ii) the Independent Manager in connection with activities related to the performance of this Agreement;

- f. Section 1.1 of the PPA is hereby amended by adding the following definitions in their proper alphabetical order:

“**Deficit Capacity**” has the meaning set forth in Section 13.4.

“**Escrow Account**” has the meaning set forth in Section 5.4.

“**Original Capacity**” has the meaning set forth in Section 13.4.

- g. Section 2.3 of the PPA is hereby amended by renumbering it as Section 2.4, and the caption of the unnumbered paragraph at the end of Section 2.2 of the PPA captioned as “Survivability” is hereby replaced with the caption “Section 2.3 Survivability”.

- h. Section 2.4(f) of the PPA is amended to replace “December 31, 2016” with “July 31, 2017”.

- i. Section 3.1(b) of the PPA is amended by inserting the following sentence at the end of the section:

Notwithstanding anything in this Agreement to the contrary, (i) any failure by Seller to perform any of its duties or obligations in this Section 3.1(b) shall be treated as a failure to perform such duties or obligations to which Section 13.1(b) applies and Buyer’s right to terminate the PPA as a result of a Default arising out of such failure shall be exercisable pursuant to the provisions of Section 13.3 and (ii) Seller will indemnify Buyer for all costs incurred by Buyer to perform any condition which is the responsibility of Seller under this Section 3.1(b) which Seller does not timely undertake.

- j. Section 3.5 of the PPA is hereby deleted in its entirety and replaced with the following:

Performance Damages. If Seller fails to achieve the Commercial Operation Date by July 31, 2017, Seller shall pay liquidated damages to Buyer in an amount equal to \$180,000 per MW of the Facility based on the Original Capacity and Buyer’s Board of Commissioners shall have the option to terminate this Agreement pursuant to Section 2.4(f).

- k. Section 5.4 of the PPA is amended by inserting the following sentences at the end of the section:

Notwithstanding anything in this Section 5.4, or any other provision of the Agreement, Buyer accepts and agrees that alternative Performance

Security may, in Seller's discretion, be in the form of United States currency, in which Buyer holds a first and exclusive perfected security interest, deposited with a Qualified Issuer (or such other escrow agent acceptable to Buyer in its sole discretion) in an account under which Buyer is designated as beneficiary with sole authority to draw from the account or otherwise access the security (the "*Escrow Account*"). The Escrow Account shall be established pursuant to an agreement substantially in the form attached as Appendix EE. Funds held in the Escrow Account may be deposited in a money-market fund, short-term treasury obligations, investment-grade commercial paper and other liquid investment-grade investments with maturities of three months or less, with all investment income thereon to be taxable to, and to accrue for the benefit of, Seller. After the Commercial Operation Date, periodic sweeps by Seller for recovery of interest earned by the escrowed funds shall be allowed, and, at any time the balance in the Escrow Account exceeds the required amount of security, the escrow agent may remit any excess to Seller. If Seller fails to renew, replace or extend any letter of credit which has been provided as Performance Security at least fifteen (15) Business Days prior to its expiration, Buyer may, pursuant to Section 13.1(i), immediately draw the entire amount of the Performance Security, and Buyer shall place the amounts so drawn, at Seller's cost and with Seller's funds, in an interest bearing escrow account that will then constitute an Escrow Account until and unless Seller provides a substitute form of Performance Security meeting the requirements of this Agreement.

- l. Section 9.3(b) of the PPA is amended by inserting the following sentence at the end of the section:

In the event that, notwithstanding Seller's commercially reasonable efforts to deliver Replacement Energy and associated Environmental Attributes to Buyer as required in this Section 9.3(b), Seller is unable to do so within the timeframe provided, then Buyer will be deemed to have made the election pursuant to Section 9.1 to receive cover damages and Seller shall be required to pay Buyer for the MWh of all accrued Shortfall Energy, taking into account any Replacement Energy and associated Environment Attributes Seller was able to deliver to Buyer, the amount of such payment determined and paid pursuant to the provisions of Section 9.2 no later than one hundred twenty (120) days after the Makeup Deadline.

- m. Section 13.1(b) of the PPA is hereby deleted in its entirety and replaced with the following:

Seller Payment or Performance Default. Failure by Seller (i) to make any payment under this Agreement or any of the Ancillary Documents when and as due which is not cured within thirty (30) calendar days after receipt of notice thereof from the Buyer or (ii) to perform any of its other duties or obligations under this Agreement or any of the Ancillary Documents when and as due

(other than any failure described in Section 13.1(i)) which is not cured within sixty (60) calendar days after receipt of notice thereof from the Buyer; provided that if such failure cannot be cured within such sixty (60) day period despite reasonable commercial efforts, Seller, including Lender, shall have up to one hundred eighty (180) days cumulative from the time of the notice to cure.

- n. Section 13.1(d) of the PPA is hereby deleted in its entirety and replaced with the following:

Seller Breach of Representation and Warranty. Inaccuracy in any material respect at the time made or deemed to be made of any representation, warranty, certification or other statement made by Seller in this Agreement or any Ancillary Document which is not cured within sixty (60) calendar days after receipt of notice thereof from the Buyer; provided that if such failure cannot be cured within such sixty (60) day period despite reasonable commercial efforts, Seller, including Lender, shall have up to one hundred eighty (180) days cumulative from the time of the notice to cure.

- o. Section 13.1(f) of the PPA is hereby deleted in its entirety and replaced with the following:

Seller Bankruptcy. Involuntary bankruptcy of Seller which is not cured within thirty (30) days after receipt of notice thereof from the Buyer.

- p. Section 13.1(h) of the PPA is hereby deleted in its entirety and replaced with the following:

Commercial Operation Date Default. The Seller shall fail to achieve Commercial Operation by July 31, 2017.

- q. Section 13.1(i) of the PPA is hereby deleted in its entirety and replaced with the following:

Performance Security Failure. (A) The failure of Seller to renew, replace or extend the Performance Security at least fifteen (15) Business Days prior to its expiration unless alternative Performance Security in the form of a letter of credit that complies with the requirements of Section 5.4 or in the form of an Escrow Account, at Seller's discretion, has been provided within thirty (30) days after notice from Buyer of any such failure; *provided however* that Buyer may draw on the entire amount of the Performance Security at any time, notwithstanding any cure period in this Agreement, if Seller fails to renew, replace or extend the Performance Security at least fifteen (15) Business Days prior to its expiration and if so drawn by Buyer, Buyer shall deposit the amounts so drawn in an Escrow Account as permitted by Section 5.4, and such failure shall be deemed to be cured, or (B) with respect to any obligor providing the Performance Security for the benefit of Buyer the occurrence of any of the following events which is not cured within thirty (30) days after

notice from Buyer by (i) either the obligor curing the applicable failure set forth below; or (ii) Seller delivering replacement Performance Security that complies with the requirements of Section 5.4 to Buyer:

- i. the failure of such obligor to honor a drawing or make a payment thereunder;
 - ii. the Performance Security issued by such obligor shall fail to be in full force and effect in accordance with the terms of this Agreement prior to the satisfaction of all obligations of Seller under this Agreement; or
 - iii. such obligor shall repudiate, disaffirm, disclaim, or reject, in whole or in part, or challenge the validity of its Performance Security and in any such event, Seller fails to provide replacement or alternative Performance Security.
- r. Section 13.1(l) of the PPA is hereby deleted in its entirety and replaced with the following:

Insurance Default. The failure of Seller to maintain and provide acceptable evidence of the required insurance for the required period of coverage as set forth in Appendix F, if such failure is not cured within fifteen (15) Business Days after receipt of notice thereof from the Buyer.

- s. Section 13.1(m) of the PPA is hereby deleted in its entirety and replaced with the following:

Fundamental Change. Except as permitted by Section 14.7, (i) a Party makes an assignment of its rights or delegation of its obligations under this Agreement, the Option Agreement or the Lease, or (ii) a Change in Control occurs (whether voluntary or by operation of law); in either case, if such breach is not cured within thirty (30) days after receipt of notice thereof from the Buyer.

- t. Section 13.3(c) of the PPA is amended by deleting the word "For" in the first sentence thereof and inserting in lieu thereof the words "Except as provided in Section 13.3(f)(vi) and Section 13.4, for".

- u. Section 13.3 of the PPA is amended to add the following subsection (f)(vi):

For the avoidance of doubt, if Buyer is the Defaulting Party, the Parties acknowledge that Seller will be unable to sell Facility Energy to any third party due to the exercise of termination provisions of the Lease and Interconnection Agreement. Accordingly, for purposes of calculating the Termination Payment and Gains, Losses and Costs, it shall be reasonable for Seller to assume it receives no revenue associated with sales of the Assumed

Daily Deliveries if Seller exercises such termination provisions except to the extent Seller is able to sell Facility Energy.

- v. Article 13 of the PPA is amended to add a new Section 13.4 thereto as follows:

Notwithstanding anything in this Agreement to the contrary, if (i) any breach by Seller under this Agreement is the result of Seller's failure to sell and deliver Energy and Environmental Attributes as and when required by this Agreement from the full capacity of the Facility (the net capacity set forth in Section 4 of Appendix B or such lesser capacity as may be permitted pursuant to the method set forth in Section 3.2 (the "**Original Capacity**")), or (ii) Seller is prevented from selling and delivering Energy and Environmental Attributes to Buyer at the Original Capacity level due to a Force Majeure event affecting Seller, but Seller is able to generate, sell and deliver Energy and Environmental Attributes from at least fifty percent (50%) of the Original Capacity (in either case, the non-producing capacity in MW AC, the "**Deficit Capacity**"), then, prior to the end of the cure period, in the case of a breach by Seller, or prior to the end of relevant time period set forth in Section 14.6(d) for termination in the case of a Force Majeure event affecting Seller, Seller shall have the option to terminate this Agreement pursuant to the provisions of Section 13.3 or reduce the net capacity of the Facility by an amount equal to the Deficit Capacity, in each case by providing written notice to Buyer, and Seller shall not be deemed to be in Default due a breach specified in clauses (i) or (ii) of this sentence. If Seller elects to reduce the capacity of the Facility, then such election shall not result in a termination of this Agreement or any of the Ancillary Documents or give rise to the right of Buyer to exercise its purchase option under the Option Agreement. If Seller elects to terminate this Agreement under this paragraph, then Seller shall pay Buyer the Termination Payment if required by, and in accordance with, Section 13.3 with Buyer treated as the Non-Defaulting Party. If Seller elects to reduce the capacity of the Facility, then the reduction of the capacity of the Facility by the Deficit Capacity shall be used for purposes of calculating a Termination Payment pursuant to Section 13.3, in which case the Assumed Daily Deliveries shall be calculated solely by reference to the generation lost as a result of the Deficit Capacity. Buyer and Seller shall continue performance of this Agreement with respect to the portion of capacity of the Facility remaining after subtraction of the Deficit Capacity. Buyer and Seller shall adjust all production guarantees, Guaranteed Generation and Performance Security amounts, the Minimum Purchase Price and the Maximum Purchase Price (as such terms are defined in the Option Agreement) for purchase opportunities under Sections 2.2(i) or (ii) and Exhibit 2.10 of the Option Agreement and any corresponding obligations by a proportionate amount taking into account the reduced generation capacity of the Facility after subtraction of the Deficit Capacity through an update to this Agreement and the Option Agreement accomplished by the Authorized Representatives. For the avoidance of doubt, if, after any such reduction in capacity of this Agreement, Seller is able to

increase the generation capacity of the Facility, then Seller shall give notice thereof to Buyer, and Seller shall be obligated to sell, and Buyer shall be obligated to purchase, such increased generation, but not more than the Original Capacity, pursuant to this Agreement and the production guarantees, Guaranteed Generation and Performance Security amounts, the Minimum Purchase Price and the Maximum Purchase Price (as such terms are defined in the Option Agreement) for purchase opportunities under Sections 2.2(i) or (ii) and Exhibit 2.10 of the Option Agreement and any corresponding obligations shall be adjusted to reflect such increased capacity through an update to this Agreement and the Option Agreement accomplished by the Authorized Representatives.

- w. Section 14.6(d) of the PPA is hereby deleted in its entirety and replaced with the following:

If based on a Force Majeure Notice, such Force Majeure event or its impact on the affected Party has continued (i) for a period of one hundred and eighty (180) or more consecutive calendar days, or (ii) for an aggregate period of three hundred and sixty (360) or more non-consecutive calendar days in the case of any claimed Force Majeure event or series of claimed Force Majeure events, the unaffected Party shall have the right to terminate this Agreement effective upon notice to the affected Party.

- x. Section 14.23 of the PPA is amended to add the following subsections (j)-(n):

(j) **Equal Benefits Ordinance.** Seller agrees to comply with the requirements of the Equal Benefits Ordinance, codified at Los Angeles Administrative Code §10.8.2.1, and to sign any required certifications related to such ordinance. Seller agrees to complete the form attached to Appendix FF related thereto and any certifications attached thereto.

(k) **Service Contractor Worker Retention Ordinance.** Seller agrees to comply with the requirements of the Service Contractor Worker Retention Ordinance, codified at Los Angeles Administrative Code §10.36 et seq., and to sign any required certifications related to such ordinance.

(l) **Living Wage Ordinance.** Seller agrees to comply with the requirements of the Living Wage Ordinance, codified at Los Angeles Administrative Code §10.37.1 et seq., and to sign any required certifications related to such ordinance.

(m) **Contractor Responsibility Ordinance.** Seller agrees to comply with the requirements of the Contractor Responsibility Ordinance, codified at Los Angeles Administrative Code §10.40 et seq., and sign any required certifications related to such ordinance. Seller agrees to complete

the form attached to Appendix FF related thereto and any certifications attached thereto.

(n) **Sweat-Free Procurement Ordinance.** Seller agrees to comply with the requirements of the Sweat-Free Procurement Ordinance, codified at Los Angeles Administrative Code §10.43 et seq., and sign any required certifications related to such ordinance. Seller agrees to complete the form attached to Appendix FF related thereto and any certifications attached thereto. In the case of impracticality in any provisions of the form due to the substitution of Buyer for the City of Los Angeles, Buyer will reasonably accommodate changes or substitutions in the requirements of the form as necessary to accomplish the purpose of such ordinance.

- y. Paragraphs 1 and 2 of Appendix A to the PPA are hereby deleted in their entirety and replaced with the following:
 - i. **Test Energy.** The purchase price for Delivered Energy that is Test Energy is \$49.97 per MWh.
 - ii. **Facility Energy and Excess Energy.** The purchase price for Delivered Energy that is not Test Energy is \$49.97 per MWh. Replacement Energy shall have the same purchase price as Facility Energy.
- z. Appendix B to the PPA is hereby deleted in its entirety and replaced with the Appendix B attached hereto.
- aa. Appendix C to the PPA is hereby deleted in its entirety and replaced with the Appendix C attached hereto.
- bb. The sixth full paragraph in Appendix F to the PPA is deleted and replaced with the following:

Failure to maintain and provide acceptable evidence of the required insurance for the required period of coverage may constitute a breach of contract, upon which Buyer's Authorized Representative may terminate or suspend the Agreement if a Default under Section 13.1(I) has occurred and is continuing.
- cc. Appendix I to the PPA is hereby deleted in its entirety and replaced with the Appendix I attached hereto.
- dd. Appendix DD to the PPA is hereby deleted in its entirety and replaced with the Appendix DD attached hereto.
- ee. A new Appendix EE, attached hereto, is added to the PPA after Appendix DD.

- ff. A new Appendix FF, attached hereto, is added to the PPA after Appendix EE.
2. Buyer and Seller hereby amend the IA as follows, effective as of the date hereof:
- a. Seller's addresses for billings and payments pursuant to Section 10.1.2 of the IA and for notices pursuant to Section 23.1.2 of the IA are hereby deleted in their entirety and replaced with the following:

Beacon Solar 3, LLC
c/o Sustainable Power Group, LLC
2180 South 1300 East, Suite 600
Salt Lake City, UT 84106
Attention: Ryan Creamer, CEO
Facsimile: (801) 679-3501

With a copy to:

Beacon Solar 3, LLC
c/o Sustainable Power Group, LLC
2180 South 1300 East, Suite 600
Salt Lake City, UT 84106
Attention: Sean McBride, General Counsel
Facsimile: (801) 679-3501
 - b. Section 15.1.4 of the IA is hereby amended by inserting the following phrase at the end of the last sentence, "that results in termination of the PPA".
 - c. Exhibit A to the IA is hereby deleted in its entirety and replaced with the Exhibit A attached hereto.
3. Buyer and Seller hereby amend the Lease as follows, effective as of the date hereof:
- a. The definition of "Permitted Uses" in Section 1.1 of the Lease is hereby deleted in its entirety and replaced with the following:

"Permitted Uses" shall be site preparation and testing, construction, equipping, operation and maintenance of the Facility and the production and sale of electrical energy therefrom.
 - b. Section 3.2 of the Lease is hereby amended by replacing the words "this Lease shall terminate" with the words "Landlord's Board of Commissioners may terminate this Lease effective upon thirty (30) days' prior written notice to Tenant".
 - c. Seller's address for notices in 1.2 of Exhibit B to the Lease is hereby deleted in its entirety and replaced with the following:

1.2. If to Tenant:

Beacon Solar 3, LLC
c/o Sustainable Power Group, LLC
2180 South 1300 East, Suite 600
Salt Lake City, UT 84106
Attention: Ryan Creamer, CEO
Facsimile: (801) 679-3501

With a copy to:

Beacon Solar 3, LLC
c/o Sustainable Power Group, LLC
2180 South 1300 East, Suite 600
Salt Lake City, UT 84106
Attention: Sean McBride, General Counsel
Facsimile: (801) 679-3501

4. Buyer and Seller hereby amend the Option Agreement as follows, effective as of the date hereof:

- a. Section 2.2(iii) of the Option Agreement is hereby deleted in its entirety and replaced with the following:

(iii) after the seventh anniversary of the Commercial Operation Date, within six (6) months after the date on which a termination notice is provided by Buyer in good faith to Seller pursuant to any of Sections 2.4(a)-(h), 13.2(d) or 13.3 of the PPA, and after any relevant cure periods in such Sections, if any, have expired. Further, the six (6) month window for such exercise will be delayed, if Seller has initiated any litigation regarding the validity of the termination notice, until such time as that litigation has resulted in a final, non-appealable order and the termination notice has not been found invalid.

- b. Section 5 of Exhibit 2.10 of the Option Agreement is hereby deleted in its entirety and replaced with the following:

The "**Minimum Purchase Price**" and the "**Maximum Purchase Price**" shall be as follows, corresponding to the applicable Purchase Option Opportunity for which Buyer has exercised its Project Purchase Option:

Purchase Opportunity:	Minimum Purchase Price	Maximum Purchase Price
7 th Contract Year (Sec. 2.2(i))	\$56,002,050	\$66,902,460

10 th Contract Year (Sec. 2.2(i))	\$51,457,734	\$56,453,507
15 th Contract Year (Sec. 2.2(i))	\$48,885,309	\$53,773,840
End of Delivery Term (Sec. 2.2(ii))	\$28,585,313	\$29,939,578
After the 7th Contract Year, within 6 months of delivery of a termination notice by Buyer (Sec. 2.2(iii))	The aggregate amount of outstanding Facility Debt immediately prior to Closing, if any (not exceeding the Facility Debt Limitation as defined in the PPA). Otherwise, none.	Not applicable.

5. Except as set forth in Sections 1, 2, 3, and 4 hereof, all other terms and conditions of the PPA, IA, Lease and Option Agreement shall remain in full force and effect, and no other amendments, modifications or adjustments to the PPA, IA, Lease and Option Agreement are intended to be made pursuant to this Amendment No. 1.

6. The provisions of Sections 14.8 through 14.22 of the PPA shall apply to this Agreement *mutatis mutandis*.

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement, effective as of the date set forth above.

CITY OF LOS ANGELES BY THE DEPARTMENT OF
WATER AND POWER,
as Buyer

By: _____

Name: Marcie L. Edwards

Title: General Manager

Date: _____

By: _____

Barbara E. Moschos, Board Secretary

BEACON SOLAR 3, LLC,
as Seller

By: _____

Name: Ryan Creamer

Title: Authorized Person

APPROVED AS TO FORM AND LEGALITY
MICHAEL N. FEUER, CITY ATTORNEY

APR 26 2016

BY _____
JEAN-CLAUDE BERTET
DEPUTY CITY ATTORNEY

APPENDIX B
TO POWER PURCHASE AGREEMENT

FACILITY

1. Name of Facility: Beacon Solar 3
Location: Mojave, Kern County, California
2. Owner: Beacon Solar 3, LLC
3. Operator: Beacon Solar 3, LLC
4. Equipment:
 - (a) Type of Facility: Solar PV
 - (b) Capacity:

Total nominal gross nameplate capacity (under expected average site conditions):
57.436 MWdc (PTC)¹

Total nominal net capacity (under expected average site conditions) at Point of Delivery:
56 MWac (PTC)¹

Total CEC-AC MW capacity: 56 MW¹
5. Planned Commercial Operation Date: June 30, 2017
6. Permits: Building, grading and other permits from Kern County or other entities as required.
7. Expected Interconnection Readiness Date: July 31, 2016

¹ Subject to final system design.

APPENDIX C
TO POWER PURCHASE AGREEMENT

BUYER AND SELLER BILLING, NOTIFICATION AND SCHEDULING CONTACT
INFORMATION

1. **Authorized Representative.** Correspondence pursuant to Section 14.1 shall be transmitted to the following addresses:

1.1 **If to Buyer:**

Department of Water and Power of the City of Los Angeles

111 North Hope Street, Room 1263 JFB

Los Angeles, California 90012

Attention: Power and Fuel Purchase Division – External Generation Manager and
Power System Planning and Development Division – Renewable Manager

Or if sent electronically, send to all the emails listed below:

Brian.Koch@ladwp.com

Sam.Mannan@ladwp.com

1.2 **If to Seller:**

Beacon Solar 3, LLC

c/o Sustainable Power Group, LLC

2180 South 1300 East, Suite 600

Salt Lake City, UT 84106

Attention: Ryan Creamer, CEO

Facsimile: (801) 679-3501

With a copy to:

Beacon Solar 3, LLC

c/o Sustainable Power Group, LLC

2180 South 1300 East, Suite 600

Salt Lake City, UT 84106

Attention: Sean McBride, General Counsel

Facsimile: (801) 679-3501

2. **Billings and payments** pursuant to Section 11.1 and Appendix A shall be transmitted to the following addresses:

2.1 **If Billing to Buyer:**

The Department of Water and Power of the City of Los Angeles

P.O. Box 51211

Room 424 JFB
Los Angeles, California 90051-5511
Attention: Accounting Division – Accounts Payable Section – Supervisor
Accounts Payable

Or if sent electronically, send to all the emails listed below:

Sherry.Grueter@ladwp.com
Andrew.Virzi@ladwp.com
Sharat.Batra@ladwp.com

2.2 If Payment to Buyer:

The Department of Water and Power of the City of Los Angeles
P.O. Box 51211
Room 424 JFB
Los Angeles, California 90051-5511
Attention: Accounting and Finance Reporting Unit – Projects Billing and Claims
Manager

Or if sent electronically, send to all the emails listed below:

Lillian.Valera@ladwp.com
Kathy.Fong@ladwp.com
Sharat.Batra@ladwp.com

3. All notices (other than Scheduling notices) required under the Agreement shall be sent by facsimile transmission, reliable overnight courier, and registered or certified mail, postage prepaid, to the address specified below.

If to Buyer:

Department of Water and Power of the City of Los Angeles
111 North Hope Street, Room 1263 JFB
Los Angeles, California 90012
Attention: LADWP Operating Agent – Power and Fuel Purchase Division –
External Generation Manager and Power System Planning and Development
Division – Renewable Manager

Or if sent electronically, send to all the emails listed below:

Brian.Koch@ladwp.com
Sam.Mannan@ladwp.com

If to Seller:

Beacon Solar 3, LLC
c/o Sustainable Power Group, LLC
2180 South 1300 East, Suite 600
Salt Lake City, UT 84106
Attention: Ryan Creamer, CEO
Facsimile: (801) 679-3501

With a copy to:

Beacon Solar 3, LLC
c/o Sustainable Power Group, LLC
2180 South 1300 East, Suite 600
Salt Lake City, UT 84106
Attention: Sean McBride, General Counsel
Facsimile: (801) 679-3501

4. All notices related to scheduling of the Facility shall be sent to the following address:

If to Buyer:

Department of Water and Power of the City of Los Angeles
P.O. Box 111
Room 1148 JFB
Los Angeles, California 90051
Attention: Manage of Wholesale Energy Resources-- ECC Dispatcher
Phone: (818) 771-6771
Facsimile: (818) 771-6606

Or if sent electronically, send to all the emails listed below:

Brad.Packer@ladwp.com
Sam.Mannan@ladwp.com
Saifunddin.Mogri@ladwp.com

If to Seller:

Beacon Solar 3, LLC
c/o Sustainable Power Group, LLC
2180 South 1300 East, Suite 600
Salt Lake City, UT 84106
Attention: Ryan Creamer, CEO
Facsimile: (801) 679-3501

With a copy to:

Beacon Solar 3, LLC
c/o Sustainable Power Group, LLC
2180 South 1300 East, Suite 600
Salt Lake City, UT 84106
Attention: Sean McBride, General Counsel
Facsimile: (801) 679-3501

5. **Curtailments.** All notices related to curtailments of the Facility shall be sent to the following address:

If to Buyer:

Department of Water and Power of the City of Los Angeles
P.O. Box 111
Room 1148 JFB
Los Angeles, California 90051
Attention: Manage of Wholesale Energy Resources – ECC Dispatcher
Phone: (818) 771-6771
Facsimile: (818) 771-6606

Or if sent electronically, send to all the emails listed below:

Brad.Packer@ladwp.com
Saifunddin.Mogri@ladwp.com
Sam.Mannan@ladwp.com

If to Seller:

Beacon Solar 3, LLC
c/o Sustainable Power Group, LLC
2180 South 1300 East, Suite 600
Salt Lake City, UT 84106
Attention: Ryan Creamer, CEO
Facsimile: (801) 679-3501

With a copy to:

Beacon Solar 3, LLC
c/o Sustainable Power Group, LLC
2180 South 1300 East, Suite 600
Salt Lake City, UT 84106
Attention: Sean McBride, General Counsel
Facsimile: (801) 679-3501

6. **Deemed Generated Energy.** Unless otherwise specified by Buyer, all notices related to calculations of Deemed Generated Energy shall be sent to the following address:

If to Buyer:

Department of Water and Power of the City of Los Angeles
P.O. Box 111
Room 1148 JFB
Los Angeles, California 90051
Attention: Manage of Wholesale Energy Resources – ECC Dispatcher
Phone: (818) 771-6771
Facsimile: (818) 771-6606

Or if sent electronically, send to all the emails listed below:

Brad.Packer@ladwp.com
Sharat.Batra@ladwp.com
Sam.Mannan@ladwp.com

If to Seller:

Beacon Solar 3, LLC
c/o Sustainable Power Group, LLC
2180 South 1300 East, Suite 600
Salt Lake City, UT 84106
Attention: Ryan Creamer, CEO
Facsimile: (801) 679-3501

With a copy to:

Beacon Solar 3, LLC
c/o Sustainable Power Group, LLC
2180 South 1300 East, Suite 600
Salt Lake City, UT 84106
Attention: Sean McBride, General Counsel
Facsimile: (801) 679-3501

APPENDIX I
TO POWER PURCHASE AGREEMENT

MILESTONE SCHEDULE

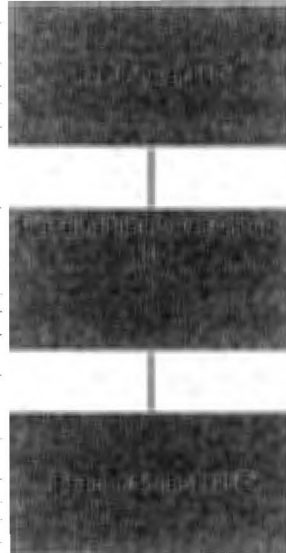
<u>Milestones</u>	<u>Preliminary Dates</u>
1. Seller to Provide Points List for Distributed Control System (DCS):	May 31, 2016
2. Pre-Site Acceptance Testing (SAT) of Seller's interconnection equipment, bench tests:	April 30, 2017

For informational purposes only, Buyer is expected to achieve the following milestones, but these milestones are not Milestones as defined in this Agreement:

	<u>Preliminary Dates</u>
1. Main Access Road Completed:	August 2014
2. Access Road to the Site:	August 2014
3. Installation of the Vista Switchgear to the Site:	April 1, 2015
4. Power provided at the Site (through SCE 12 kV distribution line):	August 1, 2014
5. Water availability for construction:	August 1, 2014
6. Power through Vista Switchgear:	May 2, 2016
7. Expected Interconnection Readiness Date:	July 31, 2016

APPENDIX DD
TO POWER PURCHASE AGREEMENT

Corporate Structure of Seller and Parent Entity(ies)



APPENDIX EE
TO POWER PURCHASE AGREEMENT

Form of Escrow Agreement

MASTER ESCROW AGREEMENT

Pursuant to this Escrow Agreement, dated _____, [XXXX] (the "Depositor") hereby establishes an Escrow Account (the "Account") with U.S. Bank National Association (the "Agent"), to be maintained and administered for the benefit of the City of Los Angeles acting by and through the Department of Water and Power (the "Beneficiary") as described in Schedule II attached hereto in accordance with the following terms and conditions:

This Agreement is the Escrow Agreement that was contemplated in that certain Power Purchase Agreement dated as of [DATE] by and between the Depositor and the Beneficiary. The funds and/or property described on Schedule I attached hereto and incorporated herein will be deposited in the Account upon delivery thereof to the Agent in the manner and at the time(s) specified in Schedule I. The Agent is hereby authorized and directed by the Depositor, as its escrow agent, to hold, deal with and dispose of all amounts deposited in the Account by Depositor, as well as any investment or interest income thereon (collectively the "Account Funds"), as provided in the Instructions set forth in Schedule II attached hereto and incorporated herein; subject, however, to the terms and conditions set forth below, which in all events, shall govern and control over any contrary or inconsistent provisions contained in Schedules I or II attached hereto.

1. **Agent's Duties.** Agent's duties and responsibilities shall be limited to those expressly set forth in this Agreement, and Agent shall not be subject to, or obliged to recognize, any other agreement between any or all of the parties or any other persons even though reference thereto may be made herein; provided, however, this Agreement may be amended at any time or times by an instrument in writing signed by all the parties hereto. Agent shall not be subject to or obligated to recognize any notice, direction or instruction of any or all of the parties hereto or of any other person, except as expressly provided for and authorized in Schedule II, and in performing any duties under this Agreement, Agent shall not be liable to any party for consequential damages, (including, without limitation, lost profits) losses, or expenses, except for gross negligence or willful misconduct on the part of the Agent.

2. **Court Orders or Process.** If any controversy arises between the parties to this Agreement, or with any other party, concerning the subject matter of this Agreement, or its terms or conditions, Agent will not be required to determine the controversy or to take any action regarding it. Agent may hold all documents and funds and may wait for settlement of any such controversy by final appropriate legal proceedings or other means as, in Agent's discretion, Agent may require, despite what may be set forth elsewhere in this Agreement. In such event, Agent will not be liable for interest or damages. Agent is authorized, in its sole discretion, to comply with orders issued or process entered by any court with respect to the Account, the Account Funds or this Agreement, without determination by the Agent of such court's jurisdiction in the matter. If any Account Funds are at any time attached, garnished, or levied upon under any court order, or in case the payment,

assignment, transfer, conveyance or delivery of any such property shall be stayed or enjoined by any court order, or in case any order, judgment or decree shall be made or entered by any court affecting such property or any part thereof, then in any of such events Agent is authorized, in its sole discretion, to rely upon and comply with any such order, writ, judgment or decree which it is advised by legal counsel of its own choosing is binding upon it; and if Agent complies with any such order writ, judgment or decree, it shall not be liable to the Depositor or to any other person, firm or corporation by reason of such compliance even though such order, writ, judgment or decree may be subsequently reversed, modified, annulled, set aside or vacated.

3. **Agent's Actions and Reliance.** Agent shall not be personally liable for any act taken or omitted by it hereunder if taken or omitted by it in good faith and in the exercise of its own best judgment. Agent shall also be fully protected in relying upon any written notice, instruction, direction, certificate or document which in good faith it believes to be genuine, including written instructions from Depositor or Beneficiary in the form of the attached Schedule(s), if any.

4. **Collections.** Agent shall proceed as soon as practicable to collect any checks, interest due, matured principal or other collection items with respect to Account Funds at any time deposited in the Account. All such collections shall be subject to the usual collection procedures regarding items received by Agent for deposit or collection. Agent shall not be responsible for any collections with respect to Account Funds if Agent is not registered as record owner thereof or otherwise is not entitled to request or receive payment thereof as a matter of legal or contractual right. All collection payments or receipts shall be deposited to the Account. Agent shall not be required or have a duty to notify anyone of any payment or maturity under the terms of any instrument, security or obligation deposited in the Account, nor to take any legal action to enforce payment of any check, instrument or other security deposited in the Account.

5. **Agent Responsibility.** Agent shall not be responsible or liable for the sufficiency or accuracy of the form, execution, validity or genuineness of documents, instruments or securities now or hereafter deposited in the Account, or of any endorsement thereon, or for any lack of endorsement thereon, or for any description therein. Agent may maintain all Account Funds in a Federal Reserve Bank or in any registered clearing agency as Agent may select, and may register such deposited funds in the name of Agent or its agent or nominee on the records of such Federal Reserve Bank or such registered clearing agency or a nominee of either. Agent shall not be responsible or liable in any respect on account of the identity, authority or rights of the persons executing or delivering or purporting to execute or deliver any such document, security or endorsement or this Agreement.

6. **Investments.** All Account Funds shall be invested by Agent in the (i) direct obligations of the United States, or of any agency of the United States, or obligations guaranteed as to principal and interest by the United States or any agency of the United States, maturing not more than 90 days from the date of acquisition, (ii) money market mutual funds investing solely in obligations maturing within 365 days, including funds for which the [Bank] or an affiliate provides investment advice or other services, or (iii) certificates of deposit issued by a United States commercial bank or a foreign bank with a United States branch, which United States commercial bank or United States branch has at the applicable time a Credit Rating of (a) A- or better from Standard & Poor's Rating Services and (b) "A3" or better from Moody's Investors Service, Inc. So long as the funds and/or

property available to the Beneficiary hereunder are not diminished, accrued interest shall be distributed to the Depositor on an annual basis. All entities entitled to receive interest from the Account will provide Agent with a W-9 or W-8 IRS tax form prior to the disbursement of interest. A statement of citizenship will be provided if requested by Agent. The Agent shall not be liable for losses, penalties or charges incurred upon any sale or purchase of any such investment.

7. **Notices/Directions to Agent.** Notices and directions to Agent from Depositor or Beneficiary, as expressly set forth in Schedule II, shall be in writing and signed by an authorized representative as identified pursuant to Schedules III and IV (each, an "Authorized Representative"), and shall not be deemed to be given until actually received by Agent's employee or officer who administers the Account. Agent shall not be responsible or liable for the authenticity or accuracy of notices or directions properly given hereunder if the written form and execution thereof on its face purports to satisfy the requirements applicable thereto as set forth in Schedule II, as determined by Agent in good faith without additional confirmation or investigation.

8. **Books and Records.** Agent shall maintain books and records regarding its administration of the Account, and the deposit, investment, collections and disbursement or transfer of Account Funds, shall retain copies of all written notices and directions sent or received by it in the performance of its duties hereunder, and shall afford the Depositor and Beneficiary periodic statements for the Account and reasonable electronic access to it.

9. **Disputes Among Depositor and Third Parties.** In the event Agent is notified of any dispute, disagreement or legal action between or among the Depositor and any third parties, relating to or arising in connection with the Account, the Account Funds or the performance of the Agent's duties under this Agreement, the Agent shall be authorized and entitled, subject to Section 2 hereof, to suspend further performance hereunder, to retain and hold the Account Funds and take no further action with respect thereto until the matter has been fully resolved, as evidenced by written notification signed by the Depositor and any other parties to such dispute, disagreement or legal action.

10. **Notice by Agent.** Any notices which Agent is required or desires to give hereunder to the Depositor or Beneficiary shall be in writing and may be given by sending the same to the address indicated in Schedule II for the Depositor or Beneficiary (or to such other address as may have been substituted by written notification to Agent), by United States certified or registered mail, overnight courier service, or confirmed facsimile transmission. Any notice sent by Agent to Depositor must also be sent to Beneficiary. Whenever under the terms hereof the time for Agent's giving a notice or performing an act falls upon a Saturday, Sunday or banking holiday, such time shall be extended to the next business day.

11. **Legal Counsel.** If Agent believes it to be reasonably necessary to consult with counsel concerning any of its duties in connection with the Account or this Agreement, or in case Agent becomes involved in litigation on account of being escrow agent hereunder or on account of having received property subject hereto, then in either case, its costs, expenses, and reasonable attorney's fees shall be paid by Depositor.

12. **Agent Compensation.** Agent shall be paid a fee for its services as set forth on Schedule V attached hereto and incorporated herein, which shall be subject to increase upon notice sent to Depositor, and reimbursed for its reasonable costs and expenses incurred. The Depositor shall pay and reimburse Agent's fees and reasonable costs and expenses. The Depositor and its successors and assigns agree to indemnify and hold Agent harmless against any and all losses, claims, damages, liabilities, and expenses, including reasonable costs of investigation, counsel fees, including allocated costs of in-house counsel and disbursements that may be imposed on Agent or incurred by Agent in connection with the performance of its duties under this Agreement, including but not limited to any litigation arising from this Agreement or involving its subject matter.

13. **Agent Resignation.** Agent may resign by giving at least forty-five (45) days' advance written notice of its resignation to the Depositor and the Beneficiary. Within forty-five (45) days after receiving the aforesaid notice, the Depositor and the Beneficiary agree to appoint a successor escrow agent, to which Agent shall transfer the Account Funds then held in the Account, less its unpaid fees, costs and expenses. If a successor escrow agent has not been appointed and has not accepted such appointment by the end of the 45-day period, Agent may apply to a court of competent jurisdiction for the appointment of a successor escrow agent, and the costs, expenses and reasonable attorney's fees which Agent incurs in connection with such a proceeding shall be paid by Depositor.

14. **Escrow Termination.** Unless previously terminated as provided in Schedule II, this Agreement shall terminate on [DATE] at which time the Account Funds then held in the Account, less Agent's unpaid fees, costs and expenses shall be distributed as provided in Schedule II.

15. **Governing Law.** This Agreement shall be construed, interpreted, enforced, and administered in accordance with the laws of the State of California, without regard to conflict of law principles. All litigation arising out of, or relating to this Agreement, shall be brought in a state or federal court in the County of Los Angeles in the State of California. The Depositor and the Agent irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of California and waive any defense of *forum non conveniens*.

16. **Automatic Succession.** Any company into which the Agent may be merged or with which it may be consolidated, or any company to whom Agent may transfer a substantial amount of its escrow business, shall be the successor to the Agent without the execution or filing of any paper or any further act on the part of any of the parties, anything herein to the contrary notwithstanding.

17. **Brokerage Confirmations.** The parties acknowledge that to the extent regulations of the Comptroller of Currency or other applicable regulatory entity grant a right to receive brokerage confirmations of security transactions of the escrow, the parties waive receipt of such confirmations, to the extent permitted by law. The Agent shall furnish a statement of security transactions on its regular monthly reports.

18. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be one and the same instrument. The exchange of copies of this Agreement and of signature pages by facsimile transmission shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement

for all purposes. Signatures of the parties transmitted by facsimile shall be deemed to be their original signatures for all purposes.

19. **Assignment, Binding Effect.** No party shall assign any of its rights or obligations under this Agreement without obtaining the prior written consent of the other parties to this Agreement. Subject to the foregoing, all the provisions of this Agreement shall be binding upon and shall inure to the benefit of and be enforceable by the parties to this Agreement and their respective successors and assigns. Any purported assignment in violation of this provision shall be null and void and of no force or effect.

20. **Further Assurances.** Each party shall execute and deliver such additional documents or take such additional actions if such requested document or action is reasonably necessary to effect the transactions described in this Agreement.

21. **Miscellaneous.** This Escrow Agreement represents the complete and final agreement among the Depositor, the Agent and the Beneficiary and supersedes all prior agreements, written or oral, on the subject matter hereof and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of such parties. There are no unwritten oral agreements between or among the Depositor, the Agent and the Beneficiary. Time is of the essence for the performance of each of the terms and provisions of this Escrow Agreement.

The undersigned Agent hereby agrees to hold, manage and dispose of the Account Funds at any time deposited to the Account in accordance with the foregoing Agreement.

[signature page follows]

IN WITNESS WHEREOF, the undersigned have affixed their signatures and hereby adopt as part of this instrument Schedules I through V which are incorporated by reference.

DEPOSITOR:

By: _____

By: _____

Its: _____

Its: _____

BENEFICIARY:

By: _____

Its: _____

AGENT: _____

By: _____

Its: _____

SCHEDULE I

DEPOSITS:

Deposits will be the following:

1. An initial deposit in the amount of [xxx] Dollars United States Currency (\$xxx.xx) (the "Escrow Deposit") to be delivered by the Depositor [on/before specified date, if any]. Depositor shall restore the Account to [\$xxx.xx] after any drawing on the account by the Beneficiary, within seven days after notice by the Beneficiary of such drawing, up to a maximum aggregate deposit obligation (including the initial deposit) of [xxx] Dollars (\$xxx.xx).

SCHEDULE II

INSTRUCTIONS OF DEPOSITOR

1. All amounts deposited in the Account by Depositor, as well as any investment or interest income thereon (collectively the "Account Funds"), shall be invested during the term of this Escrow Agreement as set forth in Section 6 above.

2. Funds to be deposited into the Account shall be delivered by wire over the Federal Funds Wire System as follows:

U.S. National Bank Association

ABA # 091000022

U.S. Bank Trust N.A.

Account #[]

Remark: [Escrow Deposit pursuant to the Master Escrow Agreement dated xxx with XXXX]

3. Any notices to be delivered shall be in writing and shall be sent by United States certified or registered mail, overnight courier service, or confirmed facsimile transmission. For all purposes hereof, any notice so sent shall be effectual as though served upon the person to whom it was sent at the time of confirmation by confirmed facsimile, the business day following the time it was sent by overnight courier service, or three business days following the day it was sent by certified or registered mail.

The address and facsimile for the Agent are as follows, unless updated by the Agent at any time in writing:

U.S. National Bank Association

60 Livingston Avenue

St. Paul, MN 55107-2292

Attn: []

Phone: []

Fax: []

With a fax copy to:

Linda McConkey

Fax: 503-275-5738

The address and facsimile for the Beneficiary are as follows, unless updated by the Beneficiary at any time in writing:

City of Los Angeles acting by and through the Department of Water and Power

Finance and Risk Control

111 North Hope St., Room 465

Los Angeles, CA 90012

The address and facsimile for the Depositor are as follows, unless updated by the Depositor at any time in writing:

[XXXX]

4. Agent shall hold the Account Funds and shall dispose of them only in accordance with the following provisions:

a) Agent shall deliver the Account Funds to the Depositor upon receipt of a written instruction by the Beneficiary's Chief Financial Officer or his/her designee to release the Account Funds.

b) Agent shall deliver the Account Funds to the Depositor or the Beneficiary as designated by an instruction letter jointly executed by both the Depositor and the Beneficiary; provided, however, that if Agent delivers any notice of resignation pursuant to Section 13 within the period specified in such instruction letter for delivery of Account Funds, Agent shall deliver such funds on the date of such resignation notice.

c) Agent shall deliver the requested portion of the Account Funds to the Beneficiary by wire transfer within three (3) business days of the receipt by the Agent of a written, notarized certification in the form attached as Exhibit A hereto by a Beneficiary Authorized Representative; provided, however, that if Agent delivers any notice of resignation pursuant to Section 13 within such three (3) business day period, Agent shall deliver such funds on the date of such resignation notice.

d) In the event the Agent has resigned pursuant to Section 13 of this Agreement, the Agent shall transfer the Account Funds to any successor agent appointed pursuant to Section 13.

5. This Agreement shall terminate upon the delivery of all the Account Funds in the manner provided by Section 4 of this Schedule II, or upon written agreement by all parties to this Agreement. Upon such termination of this Agreement, all undelivered Account Funds shall be returned to the Depositor in accordance with the wiring instructions to be provided by the Depositor, and the Agent shall be relieved of its duties hereunder without any liability thereafter to any party whatsoever.

EXHIBIT A TO SCHEDULE II

U.S. Bank National Association
60 Livingston Avenue
St. Paul, MN 55107-2292
Attn: []
Phone:
Fax:

Dear Sir or Madam:

This letter is a request for disbursement to Beneficiary in the amount of \$_____ on deposit in the escrow account [#] maintained as specified in Schedule II of that certain Escrow Agreement dated [,] between [XXXX], U.S. Bank National Association, and Beneficiary. The undersigned certifies that we are entitled to these funds because [XXXX] is in default of its obligations under that certain [Agreement] due to the following reason(s):

You are hereby instructed to deliver the funds by federal funds wire in accordance with the wire instructions below:

[insert wiring instructions]

Sincerely,

Beneficiary Authorized Representative

Name:
Title:

Subscribed and sworn to be before me this ____ day of _____, 20__.

Notary Public

My Commission Expires: _____

SCHEDULE III

DEPOSITOR AUTHORIZED REPRESENTATIVES

Each of the following individuals is designated as a "Depositor Authorized Representative," and is authorized to act on behalf of the Depositor under this Agreement. The Depositor may add, change or delete such Authorized Representative upon written and notarized notice to the Agent.

Depositor Authorized Representatives:

Specimen Signature: _____

Name/Title: _____

Specimen Signature: _____

Name/Title: _____

Subscribed and sworn to be before me this ____ day of _____, 20__.

Notary Public

My Commission Expires: _____

SCHEDULE IV

BENEFICIARY AUTHORIZED REPRESENTATIVES

Each of the following individuals is designated as a "Beneficiary Authorized Representative," and is authorized to act on behalf of the Beneficiary under this Agreement. The Beneficiary may add, change or delete such Authorized Representative upon written and notarized notice to the Agent.

Beneficiary Authorized Representatives:

Specimen Signature: _____

Name/Title: _____

Specimen Signature: _____

Name/Title: _____

Subscribed and sworn to be before me this ____ day of _____, 20__.

Notary Public

My Commission Expires: _____

SCHEDULE V

SCHEDULE OF FEES FOR SERVICES AS ESCROW AGENT

FOR _____
BILLED ANNUALLY

01010 **Acceptance Fee** TBD
The acceptance fee includes the administrative review of documents, initial set-up of the account, and other reasonably required services up to and including the closing. This is a one-time fee, payable at closing.

_____ reserves the right to refer any or all escrow documents for legal review before execution. Legal fees (billed on an hourly basis) and expenses for this service will be billed to, and paid by, the customer. If appropriate and upon request by the customer, _____ will provide advance estimates of these legal fees.

04460 **Escrow Agent** TBD
Annual administration fee for performance of the routine duties of the escrow agent associated with the management of the account. Administration fees are payable in advance.

Direct Out of Pocket Expenses

Reimbursement of expenses associated with the performance of our duties, including but not limited to publications, legal counsel after the initial close, travel expenses and filing fees. At Cost

Extraordinary Services

Extraordinary services are duties or responsibilities of an unusual nature, including termination, but not provided for in the governing documents or otherwise set forth in this schedule. A reasonable charge will be assessed based on the nature of the service and the responsibility involved. At our option, these charges will be billed at a flat fee or at our hourly rate then in effect.

Dated: _____

APPENDIX FF
TO POWER PURCHASE AGREEMENT

City of Los Angeles
Department of Public Works
Bureau of Contract Administration
Office of Contract Compliance
1149 S. Broadway, Suite 300, Los Angeles, CA 90015
Phone: (213) 847-2625 E-mail: bcn.cecc@lacity.org

EQUAL BENEFITS ORDINANCE COMPLIANCE AFFIDAVIT

Prime contractor must certify compliance with Los Angeles Administrative Code (L.A.C.) Section 10.82.1 et seq. prior to the execution of a City agreement subject to the Equal Benefits Ordinance (EBO).

SECTION 1. CONTACT INFORMATION

Company Name: _____

Company Address: _____

City: _____ State: _____ Zip: _____

Contact Person: _____ Phone: _____ E-mail: _____

Approximate Number of Employees in the United States: _____

Approximate Number of Employees in the City of Los Angeles: _____

SECTION 2. EBO REQUIREMENTS

The EBO requires City Contractors who provide benefits to employees with spouses to provide the same benefits to employees with domestic partners. Domestic Partner means any two adults, of the same or different sex, who have registered as domestic partners with a governmental entity pursuant to state or local law authorizing this registration, or with an internal registry maintained by the employer of at least one of the domestic partners.

Unless otherwise exempt, the contractor is subject to and shall comply with the EBO as follows:

- A. The contractor's operations located within the City limits, regardless of whether there are employees at those locations performing work on the City Contract; and
- B. The contractor's operations located outside of the City limits if the property is owned by the City or the City has a right to occupy the property, and if the contractor's presence at or on the property is connected to a Contract with the City; and
- C. The Contractor's employees located elsewhere in the United States, but outside of the City Limits, if these employees are performing work on the City Contract.

A Contractor must post a copy of the following statement in conspicuous places at its place of business available to employees and applicants for employment:

"During the performance of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners."

City of Los Angeles
Department of Public Works
Bureau of Contract Administration
Office of Contract Compliance
1149 S. Broadway, Suite 300, Los Angeles, CA 90015
Phone: (213) 847-2625 – Fax: (213) 847-2777

EQUAL BENEFITS ORDINANCE COMPLIANCE AFFIDAVIT

Your company must certify compliance with Los Angeles Administrative Code Section 10.8.2.1, *et seq.*, Equal Benefits Ordinance (EBO), prior to the execution of a City agreement the value of which exceeds \$5,000.

SECTION 1. CONTACT INFORMATION

Project Name: Beacon Solar 3 BAVN ID # _____

Company Name: Beacon Solar 3, LLC

Company Address: c/o Sustainable Power Group, 2180 South 1300 East, Suite 600

City: Salt Lake City State: Utah Zip: 84106

Contact Person: Sean McBride Phone: 801-679-3506 E-mail: smcbride@spower.com

Approximate Number of Employees in the United States: 90

Approximate Number of Employees in the City of Los Angeles: 0

SECTION 2. EBO REQUIREMENTS

The EBO requires City Contractors who provide benefits to employees with spouses provide the same benefits to employees with domestic partners. Domestic Partner means any two adults, of the same or different sex, who have registered as domestic partners with a governmental entity pursuant to state or local law authorizing this registration or with an internal registry maintained by the employer of at least one of the domestic partners.

Unless otherwise exempt, the contractor is subject to and shall comply with the EBO as follows:

- A. A contractor's operations located within the City limits, regardless of whether there are employees at those locations performing work on the City Contract.
- B. A contractor's operations on real property located outside of the City limits if the property is owned by the City or the City has a right to occupy the property, and if the contractor's presence at or on the property is connected to a Contract with the City.
- C. The Contractor's employees located elsewhere in the United States, but outside of the City Limits if those employees are performing work on the City Contract.

A Contractor must post a copy of the following statement in conspicuous places at its place of business available to employees and applicants for employment:

"During the performance of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners."

SECTION 3. COMPLIANCE OPTIONS

I have read and understand the provisions of the Equal Benefits Ordinance and Rules and Regulations and have determined that compliance shall be effectuated as indicated below:

- I have previously contracted with the City of Los Angeles, been determined to be in compliance with the EBO, and have **NOT** altered my benefits programs as they relate to providing equal coverage to an employee's spouse/domestic partner.
- I have no employees.
- I provide no benefits.
- I provide benefits to employees only. Employees are prohibited from enrolling their spouse or domestic partner.
- I provide equal benefits in accordance with the City of Los Angeles EBO.
- I provide employees a "Cash Equivalent" in accordance with EBO Regulation #4.
- All or some employees are covered by a collective bargaining agreement (CBA) or union trust fund. Consequently, I will provide Equal Benefits to all non-union represented employees, subject to the EBO, and will propose to the affected unions that they incorporate the requirements of the EBO into their CBA upon amendment, extension, or other modification of the CBA (Refer to Regulation #4).
- Health benefits currently provided do not comply with the EBO. However, I will make the necessary changes to provide Equal Benefits upon my next Open Enrollment period which begins (Date) _____.

SECTION 4. DECLARATION UNDER PENALTY OF PERJURY

I understand that I am required to permit the City of Los Angeles access to and upon request, must provide certified copies of all company records pertaining to benefits, policies and practices for the purpose of investigation or to ascertain compliance with the Equal Benefits Ordinance. Furthermore, I understand that failure to comply may be deemed a material breach of any City contract by the Awarding Authority; the Awarding Authority may cancel, terminate or suspend in whole or in part, the contract; monies due or to become due under a contract may be retained by the City until compliance is achieved. The City may also pursue any and all other remedies at law or in equity for any breach. The City may use the failure to comply with the Equal Benefits Ordinance as evidence against the Contractor in actions taken pursuant to the provisions of the Los Angeles Administrative Code Section 10.40, et seq., Contractor Responsibility Ordinance.

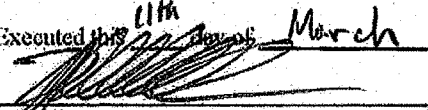
Beacon Solar 3, LLC will comply with the Equal Benefits Ordinance requirements

Company Name

as indicated above prior to executing a contract with the City of Los Angeles and will comply for the entire duration of the contract(s).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this 11th day of March, in the year 2016, at Salt Lake City, UT
(City) (State)
2180 South 1300 East, Suite 600
Mailing Address
Salt Lake City, Utah 84106
City, State, Zip Code
46-5681030
EIN/TIN


Signature
Ryan Creamer
Name of Signatory (please print)
Authorized Person
Title

**CITY OF LOS ANGELES
PLEDGE OF COMPLIANCE WITH CONTRACTOR RESPONSIBILITY ORDINANCE**

Los Angeles Administrative Code (LAAC) Section 10.40 et seq. (Contractor Responsibility Ordinance) provides that, unless specifically exempt, City contractors working under service contracts of at least \$25,000 and three months, contracts for services and for purchasing goods and products that involve a value in excess of twenty-five thousand dollars (\$25,000) and a term in excess of three months are covered by this Article; and construction contracts of any amount; public lessees; public licensees; and certain recipients of City financial assistance or City grant funds, shall comply with all applicable provisions of the Ordinance. Upon award of a City contract, public lease, public license, financial assistance or grant, the contractor, public lessee, public licensee, City financial assistance recipient, or grant recipient, and any its subcontractor(s), shall submit this Pledge of Compliance to the awarding authority.

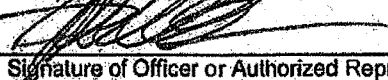
The contractor agrees to comply with the Contractor Responsibility Ordinance and the following provisions:

- (a) To comply with all federal, state, and local laws in the performance of the contract, including but not limited to laws regarding health and safety, labor and employment, wage and hours, and licensing laws, which affect employees.
- (b) To notify the awarding authority within 30 calendar days after receiving notification that any governmental agency has initiated an investigation which may result in a finding that the contractor did not comply with any federal, state, or local law in the performance of the contract, including but not limited to laws regarding health and safety, labor and employment, wage and hours, and licensing laws, which affect employees.
- (c) To notify the awarding authority within 30 calendar days of all findings by a governmental agency or court of competent jurisdiction that the contractor has violated any federal, state, or local law in the performance of the contract, including but not limited to laws regarding health and safety, labor and employment, wage and hours, and licensing laws which affect employees.
- (d) If applicable, to provide the awarding authority, within 30 calendar days, updated responses to the Responsibility Questionnaire if any change occurs which would change any response contained within the Responsibility Questionnaire and such change would affect the contractor's fitness and ability to continue the contract.
- (e) To ensure that subcontractors working on the City agreement (including contractors or subcontractors of a public lessee, licensee, sublessee, or sublicensee that perform or assist in performing services on the leased or licensed premises) shall comply with all federal, state, and local laws in the performance of the contract, including but not limited to laws regarding health and safety, labor and employment, wage and hours, and licensing laws, which affect employees.
- (f) To ensure that subcontractors working on the City agreement (including contractors or subcontractors of a public lessee, licensee, sublessee, sublicensee that perform or assist in performing services on the leased or licensed premises) submit a Pledge of Compliance.
- (g) To ensure that subcontractors working on the City agreement (including contractors or subcontractors of a public lessee, licensee, sublessee, or sublicensee that perform or assist in performing services on the leased or licensed premises) shall comply with paragraphs (b) and (c).

Failure to complete and submit this form to the Awarding Authority may result in withholding of payments by the City Controller, or contract termination.

Beacon Solar 3, LLC, 2180 South 1300 East, Salt Lake City, UT 84106 801-679-3500

Company Name, Address and Phone Number


Signature of Officer or Authorized Representative

3/4/16
Date

Ryan Creamer, Authorized Person

Print Name and Title of Officer or Authorized Representative

Department of Water and Power

Awarding City Department

BP-14-010

Contract Number

**CITY OF LOS ANGELES
PLEDGE OF COMPLIANCE WITH CONTRACTOR RESPONSIBILITY ORDINANCE**


Los Angeles Administrative Code (LAAC) Section 10.40 et seq. (Contractor Responsibility Ordinance) provides that, unless specifically exempt, City contractors working under service contracts of at least \$25,000 and three months, contracts for services and for purchasing goods and products that involve a value in excess of twenty-five thousand dollars (\$25,000) and a term in excess of three months are covered by this Article; and construction contracts of any amount; public lessees; public licensees; and certain recipients of City financial assistance or City grant funds, shall comply with all applicable provisions of the Ordinance. Upon award of a City contract, public lease, public license, financial assistance or grant, the contractor, public lessee, public licensee, City financial assistance recipient, or grant recipient, and any its subcontractor(s), shall submit this Pledge of Compliance to the awarding authority.

The contractor agrees to comply with the Contractor Responsibility Ordinance and the following provisions:

- (a) To comply with all federal, state, and local laws in the performance of the contract, including but not limited to laws regarding health and safety, labor and employment, wage and hours, and licensing laws, which affect employees.
- (b) To notify the awarding authority within 30 calendar days after receiving notification that any governmental agency has initiated an investigation which may result in a finding that the contractor did not comply with any federal, state, or local law in the performance of the contract, including but not limited to laws regarding health and safety, labor and employment, wage and hours, and licensing laws, which affect employees.
- (c) To notify the awarding authority within 30 calendar days of all findings by a governmental agency or court of competent jurisdiction that the contractor has violated any federal, state, or local law in the performance of the contract, including but not limited to laws regarding health and safety, labor and employment, wage and hours, and licensing laws which affect employees.
- (d) If applicable, to provide the awarding authority, within 30 calendar days, updated responses to the Responsibility Questionnaire if any change occurs which would change any response contained within the Responsibility Questionnaire and such change would affect the contractor's fitness and ability to continue the contract.
- (e) To ensure that subcontractors working on the City agreement (including contractors or subcontractors of a public lessee, licensee, sublessee, or sublicensee that perform or assist in performing services on the leased or licensed premises) shall comply with all federal, state, and local laws in the performance of the contract, including but not limited to laws regarding health and safety, labor and employment, wage and hours, and licensing laws, which affect employees.
- (f) To ensure that subcontractors working on the City agreement (including contractors or subcontractors of a public lessee, licensee, sublessee, sublicensee that perform or assist in performing services on the leased or licensed premises) submit a Pledge of Compliance.
- (g) To ensure that subcontractors working on the City agreement (including contractors or subcontractors of a public lessee, licensee, sublessee, or sublicensee that perform or assist in performing services on the leased or licensed premises) shall comply with paragraphs (b) and (c).

Failure to complete and submit this form to the Awarding Authority may result in withholding of payments by the City Controller, or contract termination.

Rosendin Electric 5572 Fresca de La Palma CA 714-521-8113
Company Name, Address and Phone Number

 3/5/16
Signature of Officer or Authorized Representative Date

David Lincoln Vice President
Print Name and Title of Officer or Authorized Representative

Awarding City Department

Contract Number

**CITY OF LOS ANGELES
CONTRACTOR CODE OF CONDUCT**

The City of Los Angeles has long supported the premise that employers should fairly compensate employees, that the health and safety of workers should be protected, and that no form of discrimination or abuse should be tolerated. Experience indicates that laws and regulations designed to safeguard basic tenets of ethical business practices are disregarded in some workplaces, commonly referred to as "sweatshops."

In its role as a market participant that procures equipment, goods, materials and supplies, the City seeks to protect its interests by assuring that the integrity of the City's procurement process is not undermined by contractors who engage in sweatshop practices and other employment practices abhorrent to the City. When the City inadvertently contracts with these contractors, the City's ethical contractors are placed at a distinct competitive disadvantage. Many times ethical contractors are underbid by unscrupulous contractors in competition for City contracts. These ethical contractors may be dissuaded from participating in future procurement contracts.

The City's proprietary contracting interests are served by doing business with contractors who make a good faith effort to ensure that they and their subcontractors shun sweatshop practices and adhere to workplace and wage laws. Seeking to protect these municipal interests, the City requires that all contractors subject to the Sweat-free Procurement Ordinance certify that they and, to the best of their knowledge, their subcontractors will comply with the City's Contractor Code of Conduct and to promise the following:

- (a) To comply with all applicable wage, health, labor, environmental and safety laws, legal guarantees of freedom of association, building and fire codes, and laws and ordinances relating to workplace and employment discrimination.
- (b) To comply with all human and labor rights and labor obligations that are imposed by treaty or law on the country in which the equipment, supplies, goods or materials are made or assembled, including but not limited to abusive forms of child labor, slave labor, convict or forced labor, or sweatshop labor.
- (c) To take good faith measures to ensure, to the best of the contractor's knowledge, that the contractor's subcontractors also comply with the City's Contractor Code of Conduct.
- (d) To pay employees working on contracts for garments, uniforms, foot apparel, and related accessories a procurement living wage, meaning for domestic manufacturers a base hourly wage adjusted annually to the amount required to produce, for 2,080 hours worked, an annual income equal to or greater than the U.S. Department of Health and Human Services most recent poverty guideline for a family of three plus an additional 20 percent of the wage level paid either as hourly wages or health benefits. For manufacturing operations in countries other than the United States, a procurement living wage which is comparable to the wage for domestic manufacturers as defined above, adjusted to reflect the country's level of economic development by using the World Bank's Gross National Income Per Capita Purchasing Power index.

CERTIFICATION UNDER PENALTY OF PERJURY

I certify under penalty of perjury under the laws of the State of California that I have read and understood the City's Contractor Code of Conduct and agree to comply with its requirements.



Signature of Officer or Authorized Representative

3/11/16

Date

Ryan Creamer, Authorized Person

Print Name and Title of Authorized Representative

Print Name and Title of Authorized Representative

Beacon Solar 3, LLC, 2180 South 1300 East, Suite 600, Salt Lake City, UT 84106

Print Company Name, Address and Phone Number

Print Company Name, Address and Phone Number

Living Wage Ordinance and Service Contractor Worker Retention Ordinance

Unless approved for an exemption, contractors under contracts primarily for the furnishing of services to or for the City and that involve an expenditure in excess of \$25,000 and a contract term of at least three (3) months, lessees and licensees of City property, and certain recipients of City financial assistance, shall comply with the provisions of Los Angeles Administrative Code Sections 10.37 et seq., Living Wage Ordinance (LWO) and 10.36 et seq., Service Contractor Worker Retention Ordinance (SCWRO). Bidders/Proposers shall refer to Attachment/Appendix ____, "Living Wage Ordinance and Service Contractor Worker Retention Ordinance" for further information regarding the requirements of the Ordinances.

Bidders/Proposers who believe that they meet the qualifications for one of the exemptions described in the LWO List of Statutory Exemptions shall apply for exemption from the Ordinance by submitting with their proposal the Bidder/Contractor Application for Non-Coverage or Exemption (Form OCC/LW-10), or the Non-Profit/One-Person Contractor Certification of Exemption (OCC/LW-13). The List of Statutory Exemptions, the Application and the Certification are included in the Attachment/Appendix.

CITY OF LOS ANGELES
LIVING WAGE ORDINANCE
(Los Angeles Administrative Code Section 10.37 et seq.)

1. What is the Living Wage Ordinance?

The Living Wage Ordinance (LWO) requires employers who have agreements with the City to pay their employees at least a minimum "living wage" and to provide certain benefits. If the agreement is subject to the LWO, the employer must do the following:

- Pay employees working on the subject agreement a wage rate that is at least equal to the "living wage" rate. The "living wage" is adjusted annually and becomes effective July 1 of each year. Employers can obtain information about the living wage rate currently in effect by going to Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance (OCC) website at www.lacity.org/bca/OCCmain.html.
- Provide employees with at least 12 paid days off per year for sick leave, vacation, or personal necessity; and at least 10 unpaid sick days off per year.
- Tell employees who make less than \$12.00 per hour that they may qualify for the federal Earned Income Tax Credit and provide them with the forms required to apply for the credit.
- Cooperate with the City by providing access to the work site and to payroll and related documents so that the City can determine if the employer is complying with the LWO.
- Pledge to comply with federal laws prohibiting an employer from retaliating against employees for union organizing.
- Not retaliate against any employee who makes claims about non-compliance with the LWO.

2. When was the Ordinance adopted?

The LWO was adopted in May, 1997 and amended in January, 1999.

3. What types of agreements are subject to the Ordinance?

Generally, the LWO covers the following types of agreements:

- An agreement in an amount over \$25,000.00 and for at least three months in which an employer will provide services to or for the City.
- An agreement for the lease or license of City property if the service being performed on the property is something that City employees would otherwise do.
- An agreement for the lease or license of City property that is in a location where a substantial number of the general public might visit.
- An agreement in which the City gives financial assistance for the purpose of promoting economic development or job growth.
- An agreement in which the City determines that applying the LWO would be in the best interest of the City.

4. Is an agreement subject to the LWO if it was entered into before May, 1997?

Agreements executed after May, 1997 are subject to the LWO. An agreement entered into before May, 1997 may become subject to LWO if it is later amended or modified in order to add time or money to the original agreement.

5. Are there any requirements that would apply to an employer who does not have an agreement with City that is subject to the LWO?

All employers are required to comply with the LWO's prohibition against retaliation, even if the employer does not have an agreement with the City that is subject to the Ordinance.

6. Are all employees covered by the Ordinance?

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7. Are an employer's subcontractors subject to the requirements of the Ordinance?

A subcontractor may be covered by the Ordinance if the subcontractor performs work on the subject agreement. If so, the subcontractor must also comply with the requirements of the LWO, including all reporting requirements. The prime contractor is responsible for the making sure that the subcontractor complies with the LWO.

8. What happens if an employer is found to be in violation of the Ordinance?

Payments due may be withheld. Also, the employer may be deemed to be in material breach of the agreement. When that happens, the City may take the following steps:

- Terminate the agreement and pursue all available contractual remedies.
- Debar the employer from doing business with the City for three (3) years or until all penalties and restitution have been fully paid, whichever occurs last.
- Bring a lawsuit against the employer for all unpaid wages and health benefit premiums and/or seek a fine of up to one hundred dollars (\$100.00) for each day the violation remains uncorrected.

9. What if a subcontractor is found to be in violation of the Ordinance?

Because the prime contractor is responsible for making sure that all its subcontractors comply with the LWO, the sanctions listed in answer #8 may be applied to the prime contractor if the subcontractor does not correct the violation(s).

10. What can an employee do if an employer is in violation of the Ordinance?

The employee can submit a complaint to the Office Contract Compliance which will investigate the complaint. Also, the employee can bring his or her own lawsuit against the employer for:

- Back pay for failing to pay the correct wages or correct health benefit premiums.
- Reinstatement and back pay for retaliation.
- Triple the amount of the back pay that is owed if the violation was found by the court to be willful.

11. Are there any exemptions available under the Ordinance?

An employer may apply for an exemption based on the following categories:

- Service agreements that are less than 3 months or \$25,000 or less.
- Agreements for the purchase of goods, property, or the leasing of property (with City as the lessee).
- Construction contracts that do not meet the definition of a service agreement.
- Employees who are required to have an occupational license in order to provide services to or for the City are exempt.
- Employers who are party to a collective bargaining agreement (CBA) that has language stating that the CBA shall supersede the LWO.
- Financial assistance recipients who meet the requirements stated in Section 10.37.1(c) of the LWO.
- Employers (contractors, subcontractors, financial assistance recipients) organized under IRS Code, Section 501(c)(3) whose chief executive officer's hourly wage rate is less than eight times the hourly wage rate of the lowest paid worker are be exempt. However, this exemption does not apply to child care workers.
- Lessees or licensees who have no more than a total of seven employees and who have annual gross revenue of less than \$454, 016 (effective July 1, 2010). The qualifying annual gross revenue is adjusted every July.
- One-person contractors, lessees, licensees or financial assistance recipients who employ no workers.
- Agreements that involve other governmental entities.

12. Who is responsible for the administration and enforcement of the Ordinance?

The Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance, located at 1149 S. Broadway Street, Suite 300, Los Angeles, CA 90015. For additional information, please call (213) 847-2625, or go to the Office of Contract Compliance website at <http://bca.lacity.org>.

LIVING WAGE ORDINANCE STATUTORY EXEMPTIONS

Living Wage Ordinance (LWO) statutory exemptions are now divided into the following three categories:

1. Exemptions that do not require approval from the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance (OCC).
2. Exemptions that do not require OCC approval but require a Contractor Certification of Exemption.
3. Exemptions that require submission of an Application for Exemption and OCC approval of the Application.

1. **The following exemptions do not require OCC approval or any Contractor Certification:** Departments only need to indicate the exemption in the appropriate category on the LWO Departmental Determination of Coverage Form.

- a. **Less than three months OR less than \$25,000 (LAAC 10.37.1(j)).** Service contracts or Authority for Expenditures that do not meet these thresholds are not covered by the LWO.
- b. **Other governmental entities (LAAC 10.37.1(g)).** Agreements with other governmental entities such as Los Angeles County, the State of California, or the University of California, are not covered by the LWO. Subcontractors to these entities are also not covered by the LWO.
- c. **Purchase of goods, property, or the leasing of property, with the City as lessee (LAAC 10.37.1(j)).** Such contracts are categorically exempt from the LWO unless they include a service component that is more than just incidental (regular and recurring services is required). Examples of such categorically exempt contracts include contracts to purchase office supplies or to lease space to be occupied by City departments.
- d. **Construction contracts, not conforming to the definition of a service contract (LAAC 10.37.1(j)).** Such contracts are categorically exempt from the LWO. Examples include construction of buildings and infrastructure.
- e. **City financial assistance not meeting thresholds (LAAC 10.37.1(c)).** Agreements to provide a contractor with City financial assistance (which typically mean grants or loans provided at interest rates that are lower than the Applicable Federal Rate) are categorically exempt from the LWO if they meet both of the following:
 - (1) The assistance given in a 12-month period is below \$1,000,000 AND less than \$100,000 per year.
 - (2) The assistance is not for economic development or job growth.
- f. **Business Improvement Districts (BID) (LWO Regulation #11).** Service agreements are categorically exempt from the LWO if the services are funded with the BID's assessment money collected by the City after the formation of the BID. Service contracts in which City money is used to hire firms to help in forming the BID remain subject to the LWO unless the contractor otherwise qualifies for an exemption.

2. **The following exemption categories do not require OCC approval, but the contractor must still submit a Contractor Certification of Exemption from Living Wage (OCC/LW-13).** No OCC approval is required for the exemption to be valid. However, the department must include the Contractor Certification of Exemption with the contract.

- a. **501(c)(3) Non-profit organizations (LAAC 10.37.1(g)).** Employers (contractors, subcontractors, financial assistance recipients) organized under IRS Code Section 501(c)(3) are exempt from the LWO if the hourly wage rate of the corporation's highest paid employee is less than eight times the hourly wage rate of the corporation's lowest paid worker. However, the exemption does not extend to Child Care Workers as defined in the LWO Rules and Regulations (an employee "whose work on an agreement involves the care or supervision of children 12 years of age and under."). A copy of the IRS 501(c)(3) Exemption Letter will be required.
- b. **One-person contractors with no employees (LAAC 10.37.1(f)).** Contractors, lessees, licensees or financial assistance recipients who employ no workers are exempt from the LWO.

LIVING WAGE ORDINANCE STATUTORY EXEMPTIONS (Continued)

3. The following exemption categories require submission of an application for exemption and OCC approval of the application to be valid.

- a. **Collective bargaining agreements (CBA) that supersede the LWO (LAAC 10.37.12):** Contractors whose employees are covered by a CBA that supersedes the requirements of the LWO are not subject to the LWO. A copy of the CBA with the superseding language or a letter from the union indicating that the union has agreed to allow the CBA to supersede the LWO will be required to be submitted. Example: Labor agreement between parking contractor and a labor union with language that wages and benefits in the CBA shall supersede the LWO. Contractors must use the LWO Application for Non-Coverage or Exemption form (Form OCC/LW-10) and submit a copy of the CBA or a letter from the union.
- b. **Occupational license (LAAC 10.37.1(f)):** Employees required to possess an occupational license in order to provide the services under the City agreement are not subject to the LWO. However, only the individual employees who are required to possess an occupational license are exempt. Employees who work on the City contract and are not required to possess an occupational license remain subject to the LWO. Example: Under California Labor Code Sections 7375 – 7380, a person must be licensed by the State of California in order to inspect and certify cranes and derricks used in lifting services. Contractors must use the LWO Application for Non-Coverage or Exemption form (Form OCC/LW-10) and submit a listing of the employees who possess occupational licenses and a copy of the licenses.
- c. **Small business exemptions for Public Lessees/Licensees (LAAC 10.37.1(i)):** Small business that lease property from the City may apply for OCC approval for LWO exemption if the lessee or licensee: (1) employs no more than a total of seven employees; and (2) has annual gross revenues of less than \$454,016 (adjusted July 1, 2010). This applies only to lessees with lease agreements executed after February 24, 2001, and to amendments executed after February 24, 2001 that add monies or extend term. Use the Application for "Small Business" Exemption (Form OCC/LW-20) and submit the application with the documents requested on that form.
- d. **City financial assistance agreements that exceed the LWO monetary thresholds may apply for one of the exemptions below.** Applicants and departments should refer to Regulation #3(c) for the requirements and the documents that must be submitted with the LWO Application for Non-Coverage or Exemption (OCC/LW-10).
 - (1) The City financial assistance recipient (CFAR) is in its first year of operation (LAAC 10.37.1(c)).
 - (2) The CFAR employs fewer than five employees (LAAC 10.37.1(c)).
 - (3) The CFAR would face undue hardship because it employs the long-term unemployed or provides trainee positions to prepare employees for permanent positions (LAAC 10.37.1(c)). REQUIRES COUNCIL APPROVAL.

LWO – EMPLOYEE INFORMATION FORM
 REQUIRED DOCUMENTATION FOR ALL CONTRACTS SUBJECT TO LWO

This form must be submitted to the AWARDING DEPARTMENT within 30 DAYS of contract execution. INCOMPLETE SUBMISSIONS WILL BE RETURNED.

THE LIVING WAGE ORDINANCE (LWO) REQUIRES THAT SUBJECT EMPLOYERS PROVIDE TO EMPLOYEES:

- As of July 1, 2014 a wage of at least \$11.03 per hour with health benefits of \$1.25 per hour, or \$12.28 per hour without health benefits (to be adjusted annually on July 1) (Regulation #4);
- At least 12 compensated days off per year for sick leave, vacation or personal necessity at the employee's request (pro-rated for part-time employees) (Regulation #4); and
- At least 10 additional days off per year of uncompensated time off for personal or immediate illness only (pro-rated for part-time employees) (Regulation #4). Refer to the LWO Rules and Regulations, available from the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance (OCC) website, for details regarding the wage and benefit requirements of the Ordinance.
- Making less than \$12.00 per hour information of their possible right to the federal Earned Income Tax Credit (EITC) and make available the forms required to secure advance EITC payments from the employer (Regulation #4).

THE LIVING WAGE ORDINANCE (LWO) ALSO REQUIRES EMPLOYERS:

- Not to retaliate against any employee claiming non-compliance with the provisions of these Ordinances and to comply with federal law prohibiting retaliation for union organizing (Regulation #4).

TO BE FILLED OUT BY THE CONTRACTOR

1. Company Name: _____ Email Address: _____
2. STATE the number of employees working ON THIS CITY CONTRACT: _____
3. ****ATTACH** a copy of your company's 1st PAYROLL under THIS CITY CONTRACT.
4. ****INDICATE** (highlight, underline) on the payroll which employees are working ON THIS CITY CONTRACT.
5. ****Do you provide health benefits (such as medical, dental, vision, mental health, and disability insurance) to your employees?** Yes No
- If YES, STATE how much, if any, employees pay for co-premiums: \$ _____

FAILURE TO COMPLY WITH THESE REQUIREMENTS WILL RESULT IN WITHHOLDING OF PAYMENTS BY THE CITY CONTROLLER, OR A RECOMMENDATION TO THE AWARDING AUTHORITY FOR CONTRACT TERMINATION. ALL INFORMATION SUBMITTED IS SUBJECT TO VERIFICATION, AND FALSE INFORMATION MAY RESULT IN CONTRACT TERMINATION.

I understand that the employee information provided herein is confidential and will be used by the City of Los Angeles, Office of Contract Compliance for the purpose of monitoring the Living Wage Ordinance.

Print Name of Person Completing This Form

Signature of Person Completing This Form

Title

Phone #

Date

AWARDING DEPARTMENT USE ONLY

Dept: _____ Dept Contact: _____ Contact Phone: _____ Contract #: _____

LWO – SUBCONTRACTOR INFORMATION FORM

REQUIRED DOCUMENTATION FOR ALL CONTRACTS SUBJECT TO LWO

This form must be submitted to the AWARDED DEPARTMENT within 30 DAYS of contract execution. INCOMPLETE SUBMISSIONS WILL BE RETURNED.

SECTION I: CONTRACTOR INFORMATION

- 1) Company Name: _____ Contact Person: _____ Phone Number: _____
- 2) Do you have subcontractors working on this City contract? Yes No
 If NO, This form is now complete – SIGN THE BOTTOM OF PAGE 2 AND SUBMIT TO THE AWARDED DEPARTMENT.
 If YES, a) **STATE** the number of your subcontractors ON THIS CITY CONTRACT: _____
 b) Fill in PART A for EACH subcontractor in Section II, continue to Section III & IV (if applicable), AND SIGN Section V.

SECTION II: SUBCONTRACTOR INFORMATION

PART A	PART B					
	CHECK OFF ONLY ONE BOX (I-VI) FOR EACH SUBCONTRACTOR (IF APPLICABLE) THEN CONTINUE ONTO SECTION III:					
	I 501 (c)(3) ¹	II One- Person Contractor ²	III CBA ³	IV Occupational License ⁴	V Small Business ⁵	VI Gov. entity ⁶
1. Subcontractor Name: _____ 2. Contact Person: _____ Phone #: _____ 3. Address: _____ 4. Purpose of Subcontract: _____ 5. Amount of Subcontract: \$ _____ 6. Term: Start Date ____/____/____ End Date ____/____/____ 7. Does the subcontract exceed \$25,000? <input type="checkbox"/> Yes <input type="checkbox"/> No 8. Is the length of the subcontract at least three (3) months? <input type="checkbox"/> Yes <input type="checkbox"/> No If you checked off YES for Questions 7 AND 8, this subcontract IS SUBJECT TO THE LWO . Continue onto Part B . If you checked off NO for any questions 7 OR 8, this subcontract IS NOT SUBJECT TO THE LWO . Continue to fill in Part A for additional subs below.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1. Subcontractor Name: _____ 2. Contact Person: _____ Phone #: _____ 3. Address: _____ 4. Purpose of Subcontract: _____ 5. Amount of Subcontract: \$ _____ 6. Term: Start Date ____/____/____ End Date ____/____/____ 7. Does the subcontract exceed \$25,000? <input type="checkbox"/> Yes <input type="checkbox"/> No 8. Is the length of the subcontract at least three (3) months? <input type="checkbox"/> Yes <input type="checkbox"/> No If you checked off YES for Questions 7 AND 8, this subcontract IS SUBJECT TO THE LWO . Continue onto Part B . If you checked off NO for any questions 7 OR 8, this subcontract is NOT SUBJECT TO THE LWO . Continue to fill in Part A for additional subs below.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1. Subcontractor Name: _____ 2. Contact Person: _____ Phone #: _____ 3. Address: _____ 4. Purpose of Subcontract: _____ 5. Amount of Subcontract: \$ _____ 6. Term: Start Date ____/____/____ End Date ____/____/____ 7. Does the subcontract exceed \$25,000? <input type="checkbox"/> Yes <input type="checkbox"/> No 8. Is the length of the subcontract at least three (3) months? <input type="checkbox"/> Yes <input type="checkbox"/> No If you checked off YES for Questions 7 AND 8, this subcontract IS SUBJECT TO THE LWO . Continue onto Part B . If you checked off NO for any questions 7 OR 8, this subcontract is NOT SUBJECT TO THE LWO . Continue to fill in Part A for additional subs below.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

SECTION II: SUBCONTRACTOR INFORMATION (continued)

PART A	PART B					
	CHECK OFF ONLY ONE BOX (I-VI) FOR EACH SUBCONTRACTOR (IF APPLICABLE) THEN CONTINUE ONTO SECTION III:					
	I 501 (c)(3) ¹	II One- Person Contractor ²	III CBA ³	IV Occupational License ⁴	V Small Business ⁵	VI Gov. entity ⁶
1. Subcontractor Name: _____ 2. Contact Person: _____ Phone #: _____ 3. Address: _____ 4. Purpose of Subcontract: _____ 5. Amount of Subcontract: \$ _____ 6. Term: Start Date ____/____/____ End Date ____/____/____ 7. Does the subcontract exceed \$25,000? <input type="checkbox"/> Yes <input type="checkbox"/> No 8. Is the length of the subcontract at least three (3) months? <input type="checkbox"/> Yes <input type="checkbox"/> No If you checked off YES for Questions 7 AND 8, this subcontract IS SUBJECT TO THE LWO . Continue onto Part B . If you checked off NO for any questions 7 OR 8, this subcontract is NOT SUBJECT TO THE LWO . Continue to fill in Part A for additional subs below.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1. Subcontractor Name: _____ 2. Contact Person: _____ Phone #: _____ 3. Address: _____ 4. Purpose of Subcontract: _____ 5. Amount of Subcontract: \$ _____ 6. Term: Start Date ____/____/____ End Date ____/____/____ 7. Does the subcontract exceed \$25,000? <input type="checkbox"/> Yes <input type="checkbox"/> No 8. Is the length of the subcontract at least three (3) months? <input type="checkbox"/> Yes <input type="checkbox"/> No If you checked off YES for Questions 7 AND 8, this subcontract IS SUBJECT TO THE LWO . Continue onto Part B . If you checked off NO for any questions 7 OR 8, this subcontract is NOT SUBJECT TO THE LWO .	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

SECTION III: SUBCONTRACTS SUBJECT TO THE LWO (AND MAY BE ELIGIBLE FOR EXEMPTIONS)

- 1) If you checked off any boxes in Part B, your Subcontractor(s) is subject to the LWO, but may qualify for an LWO exemption. Review the exemptions below, and have your subcontractor fill out the form in the corresponding right-hand column. Continue to Section V, and submit this form and all supporting documentation to the Awarding Department for approval.
- 2) If you did NOT check any boxes in Part B or your subs DO NOT qualify for an exemption, Continue to Section IV.

EXEMPTION	SUPPORTING DOCUMENTATION REQUIRED
One-person contractors, lessee, licensee 501(c)(3) non-profit organization	LW 13 – Departmental Exemption Form http://bca.lacity.org/index.cfm?nxt=ee&nxt_body=div_occ_lwo_forms.cfm
Occupational license required Collective bargaining agreement w/supersession language	LW 10 – OCC Exemption Form http://bca.lacity.org/index.cfm?nxt=ee&nxt_body=div_occ_lwo_forms.cfm
Small Business	LW 26 – Small Business Exemption Form (English & Spanish) http://bca.lacity.org/index.cfm?nxt=ee&nxt_body=div_occ_lwo_forms.cfm
Governmental Entity	NONE REQUIRED.

SECTION IV: SUBCONTRACTS SUBJECT TO THE LWO (AND NOT ELIGIBLE FOR EXEMPTIONS)

Please have EACH of your Subcontractors that ARE SUBJECT to the LWO fill out the three forms below. Submit LW-6 and LW-18 ONLY to the Awarding Department (and supporting documentation, where applicable) and RETAIN LW-5 in your office.

- | | |
|--|---|
| 1) Employee Information Form | LW 6 - http://bca.lacity.org/index.cfm?nxt=ee&nxt_body=div_occ_lwo_forms.cfm |
| 2) Subcontractor Information Form | LW 18 - http://bca.lacity.org/index.cfm?nxt=ee&nxt_body=div_occ_lwo_forms.cfm |
| 3) Subcontractor Declaration of Compliance Form (retain) | LW 5 - http://bca.lacity.org/index.cfm?nxt=ee&nxt_body=div_occ_lwo_forms.cfm |

SECTION V: SIGNATURE

I understand that the Subcontractor Information provided herein is confidential and will be used by the City of Los Angeles, Office of Contract Compliance for the purpose of monitoring the Living Wage Ordinance.

Print Name of Person Completing This Form _____	Signature of Person Completing This Form _____
Title _____	Date _____
Phone # _____	

AWARDING DEPARTMENT USE ONLY:

Dept: _____ Dept Contact: _____ Contact Phone: _____ Contract #: _____

ENDNOTES FOR LWO SUBCONTRACTOR INFORMATION FORM

¹ **Non-Profit 501(c)(3) Organizations:** A corporation claiming exemption under Section 10.37.1(g) of the LWO as a corporation organized under Section 501 (c)(3) of the United States Internal Revenue Code must provide the following additional documents in support of the application for exemption:

(A) A copy of the most recent IRS letter indicating that the contractor has been recognized as a non-profit corporation organized under section 501 (c)(3) of the United States Internal Revenue Code.

(B) An application for non-coverage or exemption, including the non-profit salary certification on the form referred to in Appendix A. The salary certification must list the salary of the corporation's chief executive officer (CEO), computed on an hourly basis, and the hourly wage rate of the lowest paid worker in the corporation. The salary of the CEO, when computed on an hourly basis, must be less than 8 times what the lowest paid worker is paid on an hourly basis. For purposes of this exemption, the "chief executive officer (CEO)" means the CEO of the 501(c)(3) corporation that entered into the agreement

² **One-Person Contractor:** A contractor may apply for exemption under Section 10.37.1(f) of the LWO if that contractor has no employees. The one-person contractor shall submit an application for non-coverage or exemption to the awarding authority on the form referred to in Appendix A with the appropriate one-person contractor certification. If, subsequent to the approval of the exemption application, the contractor hires any employees, the exemption is no longer valid. Any employee the contractor hires becomes covered by the LWO to the extent that the employee performs work on the City agreement. In such cases, the contractor shall notify the awarding authority of the change in circumstances and submit to the awarding authority all the necessary forms to comply with the LWO reporting requirements, including the employee and subcontractor information forms.

³ **Exemption by Collective Bargaining Agreement – LAAC 10.37.12:** An employer subject to provisions of the LWO may, by collective bargaining agreement (CBA), provide that the CBA, during its term, shall supersede the requirements of the LWO for those employees covered by the CBA. The provisions of the LWO should not be interpreted to require an employer to reduce the wages and benefits required by a collective bargaining agreement. All parties to the CBA must specifically waive in full or in part the benefits required by the LWO. An employer applying for this exemption shall submit a copy of the CBA. If the CBA does not specifically indicate that the LWO has been superseded, the employer shall submit written confirmation from the union representing the employees working on the agreement that the union and the employer have agreed to let the CBA supersede the LWO.

(A) **Provisional Exemption from LWO during negotiation of CBA:** An employer subject to the LWO may apply for Provisional Exemption from the LWO if the employer can document that: (1) the union and the employer are currently engaged in negotiations regarding the terms of the CBA; and (2) the issue of allowing the CBA to supersede the LWO has been proposed as an issue to be addressed during the negotiations. If granted, Provisional Exemption status is valid until the end of the negotiation process, including, if applicable, impasse resolution proceedings. During the negotiation process, the employer shall provide, upon request from the OCC, status reports on the progress of negotiations. At the end of the negotiation process, the employer shall provide the OCC with a copy of the final CBA to verify whether the LWO has been superseded, and the effective dates of the CBA.

(i) If the final CBA signed by the employer and the union supersedes the LWO, the employer shall be considered to be exempt from the LWO's wage and benefits provisions for the time period covered by the effective dates of the superseding CBA. The employer remains subject to all applicable provisions of the LWO for the time period not covered by the superseding CBA. If the employer has not complied with the LWO requirements during the time period not covered by the superseding CBA, the employer shall be required to make retroactive corrections for any period of non-compliance, which may include making retroactive payments to affected employees for the relevant periods of non compliance.

(ii) If the final CBA signed by the employer and the union does not supersede the LWO, the employer shall be required to comply with all applicable LWO requirements, including the wage and benefits provisions. Compliance shall also be required retroactively to the date that the employer first became subject to the LWO. If necessary, the employer shall provide retroactive payments to affected employees for any time period during which the employer did not comply with the LWO.

⁴ **Occupational license - LAAC 10.37.1(f): Exemptions for Employees Requiring Occupational Licenses:** If an employer claims that the LWO does not apply to an employee pursuant to section 10.37.1(f) because an occupational license is required of the employee to perform the work, the employer shall submit to the awarding authority, along with the application for non-coverage or exemption, a list of the employees required to possess an occupational license, the type of occupational license required, and a copy of the occupational license itself. An exemption granted under this provision exempts only the employee who must possess an occupational license to perform work on the City agreement. If an occupational license is not required of an employee to perform the work, the employee remains covered by the LWO.

⁵ **Small Business Exemptions for Public Lessees and Licensees – LAAC 10.37.1(i):** A public lessee or licensee claiming exemption from the LWO under section 10.37.1(i) shall submit the small business application for exemption form referred to in Appendix A along with supporting documentation to verify that it meets both of the following requirements:

(A) The lessee's or licensee's gross revenues from all business(es) conducted on the City premises for the calendar year prior to the date of the application for exemption do not exceed the gross annual revenue amount set by the LWO in Section 10.37.1(i). That gross revenue amount shall be adjusted annually according to the requirements of the LWO. The gross revenue amount used in evaluating whether the lessee or licensee qualifies for this exemption shall be the gross revenue amount in effect at the time the OCC receives the application for exemption.

A public lessee or licensee beginning its first year of operation on a specific City property will have no records of gross annual revenue on the City property. Under such circumstances, the lessee or licensee may qualify for a small business exemption by submitting proof of its annual gross revenues for the last tax year prior to application no matter where the business was located, and by satisfying all other requirements pursuant to these regulations and the LWO.

A lessee or licensee beginning its first year of operation as a business will have no records of gross annual revenue. Under such circumstances, the lessee or licensee may qualify for a small business exemption by satisfying all other requirements pursuant to these regulations and the LWO.

(B) The lessee or licensee employs no more than seven (7) employees.

(i) For purposes of this exemption, a lessee or licensee shall be deemed to employ a worker if the worker is an employee of a company or entity that is owned or controlled by the lessee or licensee, regardless of where the company or entity is located; or if the worker is an employee of a company or entity that owns or controls the lessee or licensee, regardless of where the company or entity is located.

Whether the lessee or licensee meets the seven (7) employee limit provided for in Section 10.37.1(i) of the LWO shall be determined using the total number of workers employed by all companies or businesses which the lessee or licensee owns or controls, or which own or control the lessee or licensee. Control means that one company owns a controlling interest in another company.

(ii) If a business operated by the lessee or licensee is part of a chain of businesses, the total number of employees shall include all workers employed by the entire chain of businesses unless the business operated by the lessee or licensee is an independently owned and operated franchise.

(iii) A public lessee or licensee shall be deemed to employ no more than seven (7) employees if its entire workforce (inclusive of those employees falling within the guidelines stated in subsections (i) and (ii) immediately above) worked an average of no more than 1,214 hours per month for at least three-fourths of the time period that the revenue limitation provided for in section 10.37.1(i) is measured.

Until the OCC approves the application for exemption, the lessee or licensee shall be subject to the LWO and shall comply with its requirements. If the OCC approves the application, the lessee or licensee shall be exempt from the requirements of the LWO for a period of two years from the date of the approval. The exemption will expire two years from the date of approval, but may be renewable in two-year increments upon meeting the requirements.

⁶ **Governmental Entities – LAAC 10.37.1(g):** Agreements with governmental entities are exempt from the requirements of the LWO. If an agreement is exempt from the LWO because the contractor is a governmental entity, subcontractors performing work for the governmental entity on the agreement are also exempt.

LWO – OCC NON-COVERAGE/EXEMPTION APPLICATION

OCC DETERMINATION/APPROVAL REQUIRED

This application for non-coverage/exemption must be submitted by the Contractor along with its bid or proposal to the AWARDING DEPARTMENT. Awarding Departments may also apply for an exemption for OCC approval. INCOMPLETE SUBMISSIONS WILL BE RETURNED.

Los Angeles Administrative Code 10.37, the Living Wage Ordinance (LWO), presumes all City contractors (including service contractors, subcontractors, financial assistance recipients, lessees, licensees, sublessees and sublicensees) are subject to the LWO unless an exemption applies.

CONTRACTOR INFORMATION:	
1. Company Name: _____	Phone Number: _____
2. Company Address: _____	
3. Are you a Subcontractor? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, state the name of your Prime Contractor: _____	
4. Type of Service Provided: _____	
NON-COVERAGE INFORMATION: TO BE REQUESTED BY AWARDING DEPARTMENTS OR CONTRACTORS	
REQUEST FOR NON-COVERAGE DETERMINATION	SUPPORTING DOCUMENTATION REQUIRED
<input type="checkbox"/> Per Section 10.37.13 of the LWO, contractors may request a determination of non-coverage on any basis allowed by this article, including, but not limited to: non-coverage, for failure to satisfy definition of "City financial assistance recipient", "public lease/license", or "service contract".	A <i>detailed</i> memorandum explaining the basis of the request, which may include, but is not limited to: the terms of a city financial assistance agreement, purpose of the contract, location, and work performed. OCC may request further information to issue a determination.
EXEMPTION INFORMATION:	
CHECK OFF ONE BOX BELOW THAT BEST DESCRIBES THE TYPE OF EXEMPTION YOU ARE APPLYING FOR AND ATTACH THE SUPPORTING DOCUMENTATION LISTED ON THE RIGHT:	
TO BE REQUESTED BY AWARDING DEPARTMENTS ONLY	
EXEMPTION	SUPPORTING DOCUMENTATION REQUIRED
<input type="checkbox"/> Grant Funded Services, provided that the grant funding agency indicates in writing that the provisions of the Ordinances should not apply.	Provide a copy of grant-funding agency's determination to the OCC.
TO BE REQUESTED BY CONTRACTORS ONLY	
EXEMPTION	SUPPORTING DOCUMENTATION REQUIRED
<input type="checkbox"/> Collective bargaining agreement with supersession language - (LAAC 10.37.12): Contractors who are party to a collective bargaining agreement (CBA) which contains specific language indicating that the CBA will supersede the LWO may receive an exemption as to the employees covered under the CBA.	A copy of the CBA with the superseding language clearly marked OR A letter from the union stating that the union has agreed to allow the CBA to supersede the LWO.
<input type="checkbox"/> Occupational license required - (LAAC 10.37.1(f)): Only the individual employees who are required to possess an Occupational license to provide services to or for the City are exempt.	A listing of the employees required to possess occupational licenses to perform services to or for the City AND Copies of each of these employees' occupational licenses.
By signing, the contractor certifies under penalty of perjury under the laws of the State of California that the information submitted in support of this application is true and correct to the best of the contractor's knowledge.	
Print Name of Person (Contractor) Completing This Form _____	Signature of Person (Contractor) Completing This Form _____
Title _____	Phone # _____
_____	Date _____
ANY DETERMINATION/APPROVAL IS APPLICABLE ONLY TO THE LISTED CONTRACTOR FROM THE LWO DURING THE PERFORMANCE OF THIS CONTRACT. A SUBCONTRACTOR PERFORMING WORK ON THIS CONTRACT IS NOT EXEMPT UNLESS THE OFFICE OF CONTRACT COMPLIANCE HAS APPROVED A SEPARATE APPLICATION FOR THE INDIVIDUAL SUBCONTRACTOR.	
AWARDING DEPARTMENT USE ONLY:	
Dept: _____	Dept Contact: _____
Contact Phone: _____	Contract #: _____
OCC USE ONLY:	
Approved / Not Approved – Reason: _____	
By OCC Analyst: _____	Date: _____

LWO –DEPARTMENTAL EXEMPTION APPLICATION

EXEMPTIONS THAT REQUIRE AWARDING DEPARTMENT APPROVAL

This application for exemption must be submitted along with your bid or proposal to the AWARDING DEPARTMENT. INCOMPLETE SUBMISSIONS WILL BE RETURNED.

Los Angeles Administrative Code 10.37, the Living Wage Ordinance (LWO), presumes all City contractors (including service contractors, subcontractors, financial assistance recipients, lessees, licensees, sublessees and sublicensees) are subject to the LWO unless an exemption applies.

TO BE FILLED OUT BY THE CONTRACTOR:

1. Company Name: _____ Phone Number: _____
2. Company Address: _____
3. Are you a Subcontractor? Yes No If YES, state the name of your Prime Contractor: _____
4. Type of Service Provided: _____

EXEMPTION INFORMATION:

CHECK OFF ONE BOX BELOW THAT BEST DESCRIBES THE TYPE OF EXEMPTION YOU ARE APPLYING FOR AND ATTACH THE SUPPORTING DOCUMENTATION LISTED ON THE RIGHT:

EXEMPTION	SUPPORTING DOCUMENTATION REQUIRED
<input type="checkbox"/> 501(c)(3) Non-Profit Organizations: <ul style="list-style-type: none"> ▪ A corporation organized under 501(c)(3) of the IRS Code qualifies for an exemption from the LWO if the highest paid employee makes less than eight times the hourly wage of the lowest paid employee. ▪ The exemption is valid for all employees except Child Care Workers. ▪ Therefore, even if a 501(c)(3) organization meets the salary test, Child Care Workers performing work on the City agreement must still be provided with the LWO required wage and time off benefits. ▪ Under the LWO's Rules and Regulations, a Child Care Worker is an employee "whose work on an agreement involves the care or supervision of children 12 years of age and under." ▪ This is read broadly so that the term would include, for example, tutors working with children 12 or under. 	<ol style="list-style-type: none"> 1. ATTACH a copy of your 501(c)(3) letter from the IRS. 2. ANSWER the following questions: <ol style="list-style-type: none"> A. STATE the hourly wage of HIGHEST paid employee in the organization: \$ _____ B. STATE the hourly wage of LOWEST paid employee in the organization: \$ _____ C. MULTIPLY B by 8: \$ 0 _____ 3. Based on Question 2 above, is A less than C? <input type="checkbox"/> YES <input type="checkbox"/> NO If NO, your company is NOT eligible for an exemption. If YES, sign and submit this application for final approval. 4. Will there be any Child Care Workers (as defined by the LWO Regulations) working on this Agreement? <input type="checkbox"/> YES <input type="checkbox"/> NO 5. Fill & Submit LW-18 Subcontractor Information Form.
<input type="checkbox"/> One-Person Contractors: Contractors that have no employees are exempt from the LWO. If you have employees in the future, you must comply with the Ordinance.	Fill and Submit the LW-18 Form.

I declare under penalty of perjury under the laws of the State of California that: (1) I am authorized to bind the entity listed above; (2) the information provided on this form is true and correct to the best of my knowledge; and (3) the entity qualifies for exemption from the LWO on the basis indicated above. By signing below, I further agree that should the entity listed above cease to qualify for an exemption because of a change in salary structure, non-profit status, the hiring of employees, or any other reason, the entity will notify the Awarding Department and the OCC of such change and comply with the LWO's wage and time off requirements.

Print Name of Person Completing This Form _____

Signature of Person Completing This Form _____

Title _____ Phone # _____

Date _____

ANY APPROVAL OF THIS APPLICATION EXEMPTS ONLY THE LISTED CONTRACTOR FROM THE LWO DURING THE PERFORMANCE OF THIS CONTRACT. A SUBCONTRACTOR PERFORMING WORK ON THIS CONTRACT IS NOT EXEMPT UNLESS THE OFFICE OF CONTRACT COMPLIANCE HAS APPROVED A SEPARATE EXEMPTION FOR THE INDIVIDUAL SUBCONTRACTOR.

AWARDING DEPARTMENT USE ONLY:

Dept: _____ Dept Contact: _____ Contact Phone: _____ Contract #: _____

Approved / Not Approved – Reason: _____

By Analyst: _____ Date: _____

LWO – OCC SMALL BUSINESS EXEMPTION APPLICATION

EXEMPTION THAT REQUIRES OCC APPROVAL

This application for exemption is for lessees and licensees only and must be submitted along with your bid or proposal to the AWARDDING DEPARTMENT. If approved, it will EXPIRE TWO (2) YEARS from the date of approval. This may be renewable in two (2) year increments upon meeting the requirements. INCOMPLETE SUBMISSIONS WILL BE RETURNED.

Los Angeles Administrative Code 10.37, the Living Wage Ordinance (LWO), presumes all City contractors (including service contractors, subcontractors, financial assistance recipients, lessees, licensees, sublessees and sublicensees) are subject to the LWO unless an exemption applies.

TO BE FILLED OUT BY THE CONTRACTOR:

1. Company Name: _____ Phone Number: _____
2. Company Address: _____
3. Are you a Subcontractor? Yes No If YES, state the name of your Prime Contractor: _____
4. STATE the total number of businesses you have (inside and outside the City of Los Angeles premises): _____
5. STATE the total number of businesses you have inside the City of Los Angeles premises only: _____

SECTION I: BUSINESS INFORMATION

CHECK OFF ONE BOX IN PART A THAT BEST DESCRIBES YOUR BUSINESS AND ATTACH DOCUMENTATION LISTED IN PART B:

PART A	PART B: SUPPORTING DOCUMENTATION REQUIRED
<input type="checkbox"/> I am a lessee or licensee beginning my first year of operation as a business.	None Required.
<input type="checkbox"/> I have other businesses, but this is my first year of operation on City premises. Effective July 1, 2011, my gross annual revenues for all of my businesses are less than \$459,464 for the 2010 calendar year.	ATTACH 2010 IRS Tax Returns listing gross revenues for ALL of your business(es).
<input type="checkbox"/> I have (a) business(es) on City premises, and effective July 1, 2011, my gross annual revenues from all my business(es) on City premises are less than \$459,464 for the 2010 calendar year.	ATTACH 2010 IRS Tax Returns listing gross revenues for ALL of your business(es) ON CITY PREMISES.

If you **DID NOT** check off ANY boxes in PART A, your company IS **NOT ELIGIBLE FOR AN EXEMPTION.**
If you checked off ANY boxes in PART A, continue to Section II.

SECTION II: EMPLOYEE INFORMATION

CHECK OFF ANY BOX(ES) IN PART C THAT BEST DESCRIBE YOUR BUSINESS AND ATTACH DOCUMENTATION LISTED IN PART D:

PART C	PART D: SUPPORTING DOCUMENTATION REQUIRED
<input type="checkbox"/> I have LESS than Seven (7) employees in the entire company (inside AND outside the City of Los Angeles premises). <input type="checkbox"/> My company's workforce worked an average of no more than 1,214 hours per month for at least three-fourths of the calendar year.	Submit a completed Employee Worksheet for Small Business Exemption (Form OCC/LW-26B). Information on the Employee Worksheet may subsequently require verification through payroll records. OR Payrolls for the nine (9) months you would like to have reviewed.

If you **DID NOT** check off ANY boxes in PART C, your company IS **NOT ELIGIBLE FOR AN EXEMPTION.**

If you checked off ANY box in PART C, **ATTACH** supporting documentation, **SIGN, AND SUBMIT EXEMPTION FORM.**

By signing, the contractor certifies under penalty of perjury under the laws of the State of California that the information submitted in support of this application is true and correct to the best of the contractor's knowledge.

Print Name of Person Completing This Form _____

Signature of Person Completing This Form _____

Title _____

Phone # _____

Date _____

ANY APPROVAL OF THIS APPLICATION EXEMPTS ONLY THE LISTED CONTRACTOR FROM THE LWO DURING THE PERFORMANCE OF THIS CONTRACT. A SUBCONTRACTOR PERFORMING WORK ON THIS CONTRACT IS NOT EXEMPT UNLESS THE OFFICE OF CONTRACT COMPLIANCE HAS APPROVED A SEPARATE EXEMPTION FOR THE INDIVIDUAL SUBCONTRACTOR.

AWARDDING DEPARTMENT USE ONLY:

Dept: _____ Dept Contact: _____ Contact Phone: _____ Contract #: _____

OCC USE ONLY:

Approved / Not Approved – Reason: _____

By OCC Analyst: _____ Date: _____

LWO – APLICACION PARA EXENCION DEL SUELDO DIGNO PARA NEGOCIOS PEQUEÑOS

ESTA APLICACIÓN REQUIERE LA APROBACIÓN DE OCC PARA SER VÁLIDA

Esta aplicación de exención es para los arrendatarios y los concesionarios solamente y debe ser sometida junto con su oferta o propuesta al DEPARTAMENTO QUE CONCEDE. Si es aprobada, la exención terminará dos años después de la fecha aprobada, pero puede ser renovada en incrementos de dos años al cumplir con los requisitos. DOCUMENTOS INCOMPLETOS NO SERÁN ACEPTADOS.

El código administrativo 10.37, la Ordenanza del Sueldo Digno (LWO) de Los Ángeles, requiere que todos los contratistas de la ciudad (incluyendo contratistas de servicio, los subcontratistas, los recipientes de ayuda económica, los arrendatarios, los concesionarios, los subarrendatarios y los subconcesionarios) cumplan con el LWO a menos que una exención se aplique.

PARA SER COMPLETADO POR EL CONTRATISTA:

1. Nombre de Compañía: _____ Teléfono: _____
 2. Dirección de Compañía: _____
 3. ¿Es usted subcontratista? Sí No Si es, indique el nombre del contratista principal: _____
 4. **INDIQUE** el número total de negocios que usted tiene (dentro y fuera de establecimientos de la Ciudad de Los Ángeles): _____
 5. **INDIQUE** el número total de negocios que usted tiene solamente en establecimientos de la Ciudad de Los Ángeles: _____

SECCIÓN I: INFORMACIÓN DEL NEGOCIO

MARQUE UNA CAJA EN LA PARTE A QUE DESCRIBE MEJOR SU NEGOCIO Y ADJUNTE LA DOCUMENTACIÓN ENUMERADA EN LA PARTE B:

PARTE A	PARTE B: DOCUMENTACIÓN JUSTIFICATIVA REQUERIDA
<input type="checkbox"/> Yo soy arrendatario o poseedor de licencia empenzando mi primer año de operar como un negocio.	Ningunos requeridos.
<input type="checkbox"/> Yo tengo otros negocios, pero es mi primer año operando en propiedades de la Ciudad. Mis ingresos brutos para todos mis negocios fueron menos de \$459,464 (ajustado el 1 de julio 2011) por el año 2010.	Adjunte las declaraciones de impuestos del IRS del año 2010 que enumeran los réditos brutos de TODOS sus negocios.
<input type="checkbox"/> Yo tengo un negocio o negocios en establecimientos de la Ciudad de los Angeles, y mis ingresos brutos por todos mis negocios en propiedades de la Ciudad fueron menos de \$459,464 (hasta el 1 de julio de 2011) para el año 2010.	Adjunte las declaraciones de impuestos del IRS del año 2010 que enumeran los réditos brutos de TODOS sus negocios en establecimientos de la Ciudad de Los Angeles.

Si usted no marcó **NINGUNA** caja en la PARTE A, su compañía **NO ES ELEGIBLE PARA UNA EXENCIÓN.**Si usted marcó **ALGUNAS** cajas en la PARTE A, continúe a la sección II.**SECCIÓN II: INFORMACIÓN DEL EMPLEADO**

MARQUE CUALQUIER CAJA EN LA PARTE C QUE DESCRIBA MEJOR SU NEGOCIO Y ADJUNTE LA DOCUMENTACIÓN ENUMERADA EN LA PARTE D:

PARTE C	PARTE D: DOCUMENTACIÓN JUSTIFICATIVA REQUERIDA
<input type="checkbox"/> Tengo MENOS de siete (7) empleados en la compañía entera (dentro Y fuera de las premisas de Los Angeles).	Someta la forma OCC/LW-26B. La información reportada en le Reporte de Horas Trabajadas puede requerir, posteriormente, la verificación a través de expedientes sobre las nóminas de pago a los empleados.
<input type="checkbox"/> La empleados de mi compañía trabajaron un promedio de no más de 1.214 horas por mes por un periodo menos tres cuartos del año.	Nóminas de pago por los nueve (9) meses que usted desea que sean evaluados.

Si usted no marcó **NINGUNA** caja en la PARTE C, su compañía **NO ES ELEGIBLE PARA UNA EXENCIÓN.**Si usted marcó **ALGUNA** caja en la PARTE C, adjunte la documentación necesaria,**FIRME, Y ENTREGUE ESTA APLICACIÓN DE EXENCIÓN.**

Firmando, el contratista certifica bajo pena de perjurio bajo las leyes del estado de California que la información que presenta en esta aplicación es verídica y correcta con el mayor conocimiento del contratista.

Nombre _____ Firma _____
 Título: _____ Teléfono _____ Fecha _____

CUALQUIER APROBACIÓN DE ESTA APLICACIÓN EXENTA SOLAMENTE AL CONTRATISTA MENCIONADO DE LOS REQUESITOS DEL LWO DURANTE EL RENDIMIENTO DE ESTE CONTRATO. UN SUBCONTRATISTA QUE PROPOCIONA TRABAJO SOBRE ESTE CONTRATO NO ES EXENTO A MENOS QUE LA OFICINA DE LA CONFORMIDAD DE CONTRATOS HAYA APROBADO UNA EXENCIÓN SEPARADA PARA EL SUBCONTRATISTA INDIVIDUAL.

PARA USO DEL DEPARTAMENTO DE CONCESIONES SOLAMENTE:

Dept: _____ Dept Contact: _____ Contact Phone: _____ Contract #: _____

PARA LA OFICINA OCC SOLAMENTE

Approved / Not Approved – Reason: _____

By OCC Analyst: _____ Date: _____

LWO/SCWRO – SUBCONTRACTOR DECLARATION OF COMPLIANCE FORM
REQUIRED DOCUMENTATION FOR ALL SUBCONTRACTS SUBJECT TO LWO

This form must be signed within 90 DAYS of the execution of the subcontract and RETAINED by the PRIME CONTRACTOR.

TO BE FILLED OUT BY THE PRIME CONTRACTOR:	
1. Company Name: _____	Company Phone Number: _____
2. Company Address: _____	
3. Awarding Department: _____	
4. Project Name: _____	
<p><small>IF A SUBCONTRACTOR FAILS TO COMPLETE AND SUBMIT THIS FORM TO PRIME CONTRACTOR ON THE CITY CONTRACT, THE PRIME CONTRACTOR MAY BE DEEMED TO BE IN VIOLATION OF THE LWO AND SCWRO FOR FAILING TO ENSURE ITS SUBCONTRACTOR'S COMPLIANCE WITH THE ORDINANCES. THIS MAY RESULT IN WITHHOLDING OF PAYMENTS DUE THE PRIME CONTRACTOR, OR TERMINATION OF THE PRIME CONTRACTOR'S AGREEMENT WITH THE CITY.</small></p>	

THE PRIME CONTRACTOR MUST INFORM THEIR SUBCONTRACTORS OF THE FOLLOWING:

THE LIVING WAGE ORDINANCE (LWO) REQUIRES:

That a subcontractor (including a sublessee, a sublicensee, or a service contractor to a City financial assistance recipient) that works on or under the authority of an agreement subject to the Service Contractor Worker Retention Ordinance (SCWRO) and Living Wage Ordinance (LWO) must comply with all applicable provisions of the Ordinances unless specifically approved for an exemption.

THE SERVICE CONTRACTOR WORKER RETENTION ORDINANCE (SCWRO) REQUIRES:

In case of a successor service contractor, a successor prime contractor and its subcontractors shall retain for a 90-day transition employment period, certain employees who have been employed by the terminated prime contractor and its subcontractor, if any, for the preceding 12 months or longer. Refer to the SCWRO Rules and Regulations, available from the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance (OCC) website - <http://bca.lacity.org>, for details regarding the wage and benefit requirements of the Ordinance.

THE LIVING WAGE ORDINANCE (LWO) REQUIRES THAT SUBJECT EMPLOYERS PROVIDE TO EMPLOYEES:

- As of July 1, 2011 a wage of at least \$10.42 per hour with health benefits of \$1.25 per hour, or \$11.67 per hour without health benefits (to be adjusted annually) (Regulation #4);
- At least 12 compensated days off per year for sick leave, vacation or personal necessity at the employee's request (pro-rated for part-time employees) (Regulation #4);
- At least 10 additional days off per year of uncompensated time off for sick leave (pro-rated for part-time employees) (Regulation #4); and
- Making less than \$12.00 per hour information of their possible right to the federal Earned Income Tax Credit (EITC) and make available the forms required to secure advance EITC payments from the employer (Regulation #4).

THE LIVING WAGE ORDINANCE (LWO) ALSO REQUIRES EMPLOYERS:

- To permit access to work sites for authorized City representatives to review the operation, payroll and related documents, and to provide certified copies of the relevant records upon request by the City.
- Not to retaliate against any employee claiming non-compliance with the provisions of these Ordinances and to comply with federal law prohibiting retaliation for union organizing (Regulation #4). Refer to the LWO Rules and Regulations, available from the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance (OCC) website - <http://bca.lacity.org>, for details regarding the wage and benefit requirements of the Ordinance.

TO BE FILLED OUT BY THE SUBCONTRACTOR:	
1. Company Name: _____	Company Phone Number: _____
2. Company Address: _____	
3. Type of Service Provided by Subcontractor to Prime: _____	
4. Amount of Subcontract: _____	Subcontract Start Date: ___/___/___ End Date: ___/___/___
<p><small>By signing this Declaration of Compliance, the subcontractor certifies that it will comply with all applicable provisions of the SCWRO, LWO, and their implementing Rules and Regulations, including any amendments or revisions to the Ordinances and Regulations.</small></p>	
Print Name of Person Completing This Form _____	Signature of Person Completing This Form _____
Title _____	Phone # _____ Date _____

LWO – DEPARTMENTAL DETERMINATION FORM

REQUIRED DOCUMENTATION FOR ALL CONTRACTS

This form will aid Awarding Departments with determining whether or not a contract is subject to the LWO. It must be completed by the AWARDING DEPARTMENT and submitted to the Office of Contract Compliance AFTER THE CONTRACT HAS BEEN EXECUTED. INCOMPLETE SUBMISSIONS WILL BE RETURNED. Please refer to the endnotes for more details.

AWARDING DEPARTMENT INFO
Dept: _____ Contract Administrator: _____ Contact Phone: _____ MS# _____

CONTRACT INFO
Contractor Name: _____ Contract # _____
Contractor Address: _____ City: _____ State: _____ Zip: _____
Project/Contract Name: _____
Purpose of Contract: _____
Contract Amount: \$ _____ Term: Start Date ____/____/____ End Date ____/____/____

**SECTION I:
DETERMINING APPLICABILITY TO LWO**

1 Check off **ONE** box that best describes the contract, then Continue to #2: This is a New Contract Contract Amndmt # --
2 If you checked off "New Contract" above, SKIP to Question #5 to determine whether this New contract is subject to the LWO.
3 If you checked off "Contract Amendment" Please answer the following questions about the original contract:
a Was the original contract subject to the LWO? Yes No
b Was the original contract approved for an exemption? Yes No If YES, please note what type of exemption it received: _____
4 If you checked off YES to 3a OR 3b, THIS FORM IS NOW COMPLETE – PLEASE SUBMIT PAGE 1 ONLY TO OCC.
If you checked off NO to 3a AND 3b, Continue to #5 to determine whether this Contract Amendment is subject to the LWO.
5 Check off **ONE** box in Parts A, B, C or D below that best describes the contract, then Continue to #6:

These are contracts NOT SUBJECT, NOT APPLICABLE to LWO:		These contracts MAY or MAY NOT BE SUBJECT, or MAY or MAY NOT BE APPLICABLE to LWO:		
PART A		PART B	PART C	PART D
<input type="checkbox"/> Service contract that is less than 3 months <u>OR</u> \$25,000 or less ¹	<input type="checkbox"/> Other governmental entity ²	<input type="checkbox"/> Service contract that is at least 3 months AND over \$25,000.	<input type="checkbox"/> Public leases or licenses	<input type="checkbox"/> City Financial Assistance Recipient (CFAR) ⁷
<input type="checkbox"/> Purchase or rental of goods, equipment, property ³	<input type="checkbox"/> Construction contract ⁴			
<input type="checkbox"/> Funded by Business Improvement District (BID) assessment money ⁵	<input type="checkbox"/> Financial assistance is below both LWO CFAR thresholds: ⁶ (a) Financial assistance must be less than \$1 Million in a 12-month period AND (b) Is less than \$100,000 if on a continuing basis (such as a loan at a rate lower than the Applicable Federal Rate).			

6 If you checked off any box in Part A - THIS FORM IS NOW COMPLETE -- PLEASE SUBMIT PAGE 1 ONLY TO OCC.
7 If you checked off a box in Part B or C, SKIP TO #9.
8 If you checked off the box in Part D, SKIP TO #13.

9 If you have a service contract, answer questions a, c and d ONLY, then Continue to #10. If you have a public lease/license, answer questions b, c and d ONLY, then Continue to #10.

	YES	NO
a Are some of the services rendered by employees whose work site is on property owned by the City?	<input type="checkbox"/>	<input type="checkbox"/>
b Are the services rendered on premises at least a portion of which is visited by substantial numbers of the public on a frequent basis (including, but not limited to, airport passenger terminals, parking lots, golf courses, recreational facilities)?	<input type="checkbox"/>	<input type="checkbox"/>
c Could the services feasibly be performed by City employees if the awarding authority had the requisite financial and staffing resources?	<input type="checkbox"/>	<input type="checkbox"/>
d Has the DAA determined in writing that coverage would further the proprietary interests of the City?	<input type="checkbox"/>	<input type="checkbox"/>

10 If you checked off **ANY boxes** in the YES column, this contract is **APPLICABLE TO THE LWO** (it is **SUBJECT**). Continue onto SECTION II. Otherwise, continue to #11.

11 You DID NOT check off **ANY boxes** in the YES column. This contract is **NOT APPLICABLE TO THE LWO** (it is **NOT SUBJECT**). Fill and submit LW-10, OCC Exemption Application for approval prior to contract execution found here: http://bca.lacity.org/index.cfm?nxt=ee&nxt_body=div_occ_lwo_forms.cfm, then Continue to #12.

12 Has the exemption been approved? If YES, THIS FORM IS NOW COMPLETE – Once the contract has been executed, SUBMIT LW-1, Page 1 ONLY and the APPROVED EXEMPTION FORM to OCC. If NO, Continue onto SECTION IV.

13 Answer the following question to determine whether the CFAR is subject to the LWO, then Continue to #14.

	YES	NO
a Does the agreement intend to promote economic development?	<input type="checkbox"/>	<input type="checkbox"/>

14 If you checked off NO this contract is **NOT APPLICABLE TO THE LWO** (it is **NOT SUBJECT**). PLEASE SUBMIT PAGE 1 ONLY TO OCC. Otherwise, Continue to Question #15.

15 Answer the following questions to determine whether the CFAR is subject to the LWO:

	YES	NO
a Is the Financial Assistance given in a 12-month period and above \$1 Million?	<input type="checkbox"/>	<input type="checkbox"/>
b Is the Financial Assistance \$100,000 or more on a continuing basis?	<input type="checkbox"/>	<input type="checkbox"/>

16 If you checked off **ANY boxes** in the YES column, this contract is **APPLICABLE TO THE LWO** (it is **SUBJECT**). Continue onto SECTION II. Otherwise, this contract is **NOT APPLICABLE TO THE LWO** (it is **NOT SUBJECT**). PLEASE SUBMIT PAGE 1 ONLY TO OCC.

SECTION II:

CONTRACTS APPLICABLE/SUBJECT TO THE LWO

1	Your contract is applicable/subject to the LWO. However, it may be eligible for an exemption. Check off ONE box in Parts A, B, or C that best describes the contract that MAY be eligible for an exemption, then Continue to the stated part in the corresponding right column found in SECTION III.		
PART A SERVICE CONTRACTS ONLY	PART B PUBLIC LEASES OR LICENSES ONLY	PART C CITY FINANCIAL ASSISTANCE RECIPIENTS ONLY	
<input type="checkbox"/> One-person contractor ⁸ D	<input type="checkbox"/> Collective bargaining agreement w/ supersession language ¹³ B	<input type="checkbox"/> Collective bargaining agreement w/ supersession language ¹⁵ B	<input type="checkbox"/> 501(c)(3) non-profit organization ¹⁶ D
<input type="checkbox"/> 501(c)(3) non-profit organization ⁹ D	<input type="checkbox"/> Small Business ¹⁴ C	PART C - Continued	
<input type="checkbox"/> Grant-Funded Services ¹⁰ A		If you did not check off any boxes above, continue to answer the following questions:	
<input type="checkbox"/> Occupational license required ¹¹ B		a	Is the contractor a City financial assistance recipient (CFAR) in the first year of operation? ¹⁷
<input type="checkbox"/> Collective bargaining agreement with LWO supersession language ¹² B		b	Is the contractor a CFAR with less than five (5) employees? ¹⁸
		c	Is the contractor a CFAR that employs long-term, unemployed or provides training for permanent positions requesting hardship waiver? ¹⁹
		d	Does the contractor have employees who spend less half of their time on the City funded project or the employees of its service contractor? ²⁰
			YES NO
			<input type="checkbox"/> <input type="checkbox"/>
			<input type="checkbox"/> <input type="checkbox"/>
			<input type="checkbox"/> <input type="checkbox"/>
			<input type="checkbox"/> <input type="checkbox"/>
2	If you did NOT check off any box above in Part A or Part B, this contract IS NOT eligible for an exemption. Continue onto SECTION IV.		If ANY boxes are checked YES , Continue onto SECTION III-A. If you checked off NO to ALL boxes, Continue onto SECTION IV.

SECTION III:

CONTRACTS NOT SUBJECT / CONTRACTS ELIGIBLE FOR EXEMPTIONS

1	Your contract MAY be eligible for an exemption that may be requested by your Department OR the Contractor PRIOR TO CONTRACT EXECUTION as indicated below:		
TO BE REQUESTED BY AWARDING DEPARTMENTS ONLY – REQUIRES OCC APPROVAL			
Fill out the form in the right-hand column below, send it to OCC for final approval (DO NOT send LW-1), and then Continue to #2 in this Section.			
A	Grant Funded Services CFAR	LW 10 – OCC Exemption Form ONLY http://bca.lacity.org/index.cfm?nxt=ee&nxt_body=div_occ_lwo_forms.cfm	
TO BE REQUESTED BY CONTRACTORS ONLY – REQUIRES OCC APPROVAL			
Have the contractor fill out the forms in the right-hand column below and have them submit it to your department for further review. Once the form is complete, send it to OCC for final approval (DO NOT send LW-1), and then Continue to #2 in this Section.			
B	Occupational license required Collective bargaining agreement w/supersession language	LW 10 – OCC Exemption Form AND LW 18 – Subcontractor Information Form (SIF) http://bca.lacity.org/index.cfm?nxt=ee&nxt_body=div_occ_lwo_forms.cfm	
C	Small Business	LW 26 – OCC Small Business Exemption Form (English) OR LW 26 – OCC Small Business Exemption Form (Spanish): http://bca.lacity.org/index.cfm?nxt=ee&nxt_body=div_occ_lwo_forms.cfm	
TO BE REQUESTED BY CONTRACTORS ONLY – REQUIRES AWARDING DEPARTMENT APPROVAL			
Have the contractor fill out the forms in the right-hand column below and have them submit it to your department for further review. Once an approval/non-approval has been made by your department, Continue to #2 in this Section.			
D	One-person contractors, lessee, licensee 501(c)(3) non-profit organization	LW 13 – Departmental Exemption Form AND LW 18 – Subcontractor Information Form (SIF) http://bca.lacity.org/index.cfm?nxt=ee&nxt_body=div_occ_lwo_forms.cfm	
2	Has the exemption been approved? If YES, THIS FORM IS NOW COMPLETE –SUBMIT PAGES 1 and 2 of LW-1 and the APPROVED EXEMPTION FORM TO OCC <u>once the contract has been executed</u> . If NO, Continue onto SECTION IV.		
SECTION IV:			
CONTRACTS SUBJECT TO THE LWO (AND NOT ELIGIBLE FOR EXEMPTIONS)			
1	Your contract IS SUBJECT TO THE LWO AND NOT ELIGIBLE FOR EXEMPTIONS . Have the contractor fill out the two (2) corresponding forms below and submit them (and forms from any of their subcontractors subject to the LWO) to your department for further review. Once these forms are complete, Continue onto #2 in this Section.		
	Employee Information Form (EIF) Subcontractor Information Form (SIF)	LW 6 – Employee Information Form AND LW 18 – Subcontractor Information Form http://bca.lacity.org/index.cfm?nxt=ee&nxt_body=div_occ_lwo_forms.cfm	
2	THIS FORM IS NOW COMPLETE – PLEASE SUBMIT PAGES 1, 2, EIF and SIF TO OCC <u>once the contract has been executed</u> .		

¹ **Less than three months OR less than \$25,000 - LAAC 10.37.1(j):** Service contracts or Authority for Expenditures that do not meet these thresholds are not categorically exempt from the LWO.

² **Governmental Entities – LAAC 10.37.1(g):** Agreements with governmental entities are exempt from the requirements of the LWO. If an agreement is exempt from the LWO because the contractor is a governmental entity, subcontractors performing work for the governmental entity on the agreement are also exempt.

³ **Purchase of Goods, Property, or a Lease of Property with City as Lessee – LAAC 10.37.1(j):** Such contracts are categorically exempt from the LWO unless they include a service component that is more than just incidental. - "Incidental services" means services that are: (1) part of an agreement for which the primary purpose is to purchase or rent goods or equipment; and (2) performed on a non-recurring and irregular basis. Services are not incidental, even if the primary purpose of the agreement is to purchase goods or equipment, if the agreement provides that services are to be performed on a regular schedule, or if the awarding authority anticipates that services will be needed on a regular basis during the life of the agreement.

⁴ **Construction contracts LAAC 10.37.1(j):** Construction contracts that do not conform to the definition of a service contract are categorically exempt from the LWO.

⁵ **Business Improvement Districts (BID):** Service agreements funded with the BID's assessment monies are categorically exempt from the LWO (see also Regulation #11). Agreements to provide services related to a BID that are not funded with the BID's assessment money remain subject to the LWO unless they otherwise qualify for an exemption.

⁶ **City Financial Assistance Below LWO Thresholds - LAAC 10.37.1(c):** Agreements that provide a contractor with City financial assistance intended to promote economic development or job growth are categorically exempt from the LWO if they do not meet either of the monetary thresholds described in the LWO.

Thus, such agreements are categorically exempt from the LWO if the assistance given in a 12-month period is below \$1,000,000 and less than \$100,000 per year on a continuing basis. Example: The City approves a loan to a contractor of \$5,000,000 for the development of shopping center that will create new jobs. The loan is for 20 years at an interest rate of 4%. At the time the awarding authority grants approval for the loan, the Applicable Federal Rate (AFR) referenced in the LWO is 4.6%.

This contract is not subject to the LWO because it does not meet the financial thresholds, as explained below: The amount of financial assistance used to determine whether the contractor meets the LWO thresholds is amount the contractor saves in interest payments. To determine the amount of savings on interest payments (the financial assistance), the annual savings on interest rate is calculated as follows:

Financial Assistance = (Amount of Loan @ AFR) – (Amount of Loan @ City rate)

Financial Assistance = (\$5,000,000 x 4.6%) – (\$5,000,000 x 4%)

Financial Assistance = \$230,000 – \$200,000

Financial Assistance = \$30,000

Thus, the contractor receives \$30,000 in financial assistance per year for the next 20 years. This is less than \$1 Million in a year, and less \$100,000 per year on a continuing basis. Therefore, the contractor is exempt from the LWO. No approval from the OCC is required, and the awarding department may indicate this exemption on the Departmental Determination of Coverage form.

⁷ **City Financial Assistance Recipient –** Means any person who receives from the City discrete financial assistance for economic development or job growth expressly articulated and identified by the City, as contrasted with generalized financial assistance such as through tax legislation, in accordance with the following monetary limitations. Assistance given in the amount of one million dollars (\$1,000,000) or more in any twelve-month period shall require compliance with this article for five years from the date such assistance reaches the one million dollar (\$1,000,000) threshold. For assistance in any twelve-month period totaling less than one million dollars (\$1,000,000) but at least one hundred thousand dollars (\$100,000), there shall be compliance for one year if at least one hundred thousand dollars (\$100,000) of such assistance is given in what is reasonably contemplated at the time to be on a continuing basis, with the period of compliance beginning when the accrual during such twelve-month period of such continuing assistance reaches the one-hundred thousand dollar (\$100,000) threshold.

Categories of such assistance include, but are not limited to, bond financing, planning assistance, tax increment financing exclusively by the City, and tax credits, and shall not include assistance provided by the Community Development Bank. City staff assistance shall not be regarded as financial assistance for purposes of this article. A loan shall not be regarded as financial assistance. The forgiveness of a loan shall be regarded as financial assistance. A loan shall be regarded as financial assistance to the extent of any differential between the amount of the loan and the present value of the payments thereunder, discounted over the life of the loan by the applicable federal rate as used in 26 U.S.C. §9 1274(d), 7872(f). A recipient shall not be deemed to include lessees and sublessees.

⁸ **One-Person Contractor:** A contractor may apply for exemption under Section 10.37.1(f) of the LWO if that contractor has no employees. The one-person contractor shall submit an application for non-coverage or exemption to the awarding authority on the form referred to in Appendix A with the appropriate one-person contractor certification. If, subsequent to the approval of the exemption application, the contractor hires any employees, the exemption is no longer valid. Any employee the contractor hires becomes covered by the LWO to the extent that the employee performs work on the City agreement. In such cases, the contractor shall notify the awarding authority of the change in circumstances and submit to the awarding authority all the necessary forms to comply with the LWO reporting requirements, including the employee and subcontractor information forms.

⁹ **Non-Profit 501(c)(3) Organizations:** A corporation claiming exemption under Section 10.37.1(g) of the LWO as a corporation organized under Section 501 (c)(3) of the United States Internal Revenue Code must provide the following additional documents in support of the application for exemption:

(A) A copy of the most recent IRS letter indicating that the contractor has been recognized as a non-profit corporation organized under section 501 (c)(3) of the United States Internal Revenue Code.

(B) An application for non-coverage or exemption, including the non-profit salary certification on the form referred to in Appendix A. The salary certification must list the salary of the corporation's chief executive officer (CEO), computed on an hourly basis, and the hourly wage rate of the lowest paid worker in the corporation. The salary of the CEO, when computed on an hourly basis, must be less than 8 times what the lowest paid worker is paid on an hourly basis. For purposes of this exemption, the "chief executive officer (CEO)" means the CEO of the 501(c)(3) corporation that entered into the agreement with the City, or the highest paid person employed by the corporation if the CEO is not the highest paid employee. The "lowest paid worker" refers to the lowest paid worker employed by the 501(c)(3) corporation that entered into the agreement with the City, regardless of whether the person works on the City agreement. In calculating the salary of the CEO and the wage rate of the lowest paid worker, the corporation may not include items such as cash allowances for car expenses, meals, parking, or the value of pension plan contributions.

Child care workers: Even if a corporation meets the requirements for exemption as a 501(c)(3) non-profit organization, if the corporation provides child care services as part of the City agreement or employs child care workers who will work on the City agreement, the corporation must pay all child care workers working on the subject agreement the required LWO wage rate. The LWO requirements regarding compensated and uncompensated days off are also applicable to those child care workers.

¹⁰ **Grant-funded Services:** Agreements let by the City involving federal or state grant funds shall be subject to the LWO unless the grant-funding agency indicates in writing that the provisions of the Ordinances should not apply. The awarding authority shall provide a copy of grant-funding agency's determination to the OCC.

¹¹ **Occupational license - LAAC 10.37.1(f): Exemptions for Employees Requiring Occupational Licenses:** If an employer claims that the LWO does not apply to an employee pursuant to section 10.37.1(f) because an occupational license is required of the employee to perform the work, the employer shall submit to the awarding authority, along with the application for non-coverage or exemption, a list of the employees required to possess an occupational license, the type of occupational license required, and a copy of the occupational license itself. An exemption granted under this provision exempts only the employee who must possess an occupational license to perform work on the City agreement. If an occupational license is not required of an employee to perform the work, the employee remains covered by the LWO.

¹² **Exemption by Collective Bargaining Agreement – LAAC 10.37.12:** An employer subject to provisions of the LWO may, by collective bargaining agreement (CBA), provide that the CBA, during its term, shall supersede the requirements of the LWO for those employees covered by the CBA. The provisions of the LWO should not be interpreted to require an employer to reduce the wages and benefits required by a collective bargaining agreement. All parties to the CBA must specifically waive in full or in part the benefits required by the LWO. An employer applying for this exemption shall submit a copy of the CBA. If the CBA does not specifically indicate that the LWO has been superseded, the employer shall submit written confirmation from the union representing the employees working on the agreement that the union and the employer have agreed to let the CBA supersede the LWO.

(A) **Provisional Exemption from LWO during negotiation of CBA:** An employer subject to the LWO may apply for Provisional Exemption from the LWO if the employer can document that: (1) the union and the employer are currently engaged in negotiations regarding the terms of the CBA; and (2) the issue of allowing the CBA to supersede the LWO has been proposed as an issue to be addressed during the negotiations. If granted, Provisional Exemption status is valid until the end of the negotiation process, including, if applicable, impasse resolution proceedings. During the negotiation process, the employer shall provide, upon request from the OCC, status reports on the progress of negotiations. At the end of the negotiation process, the employer shall provide the OCC with a copy of the final CBA to verify whether the LWO has been superseded, and the effective dates of the CBA.

(i) If the final CBA signed by the employer and the union supersedes the LWO, the employer shall be considered to be exempt from the LWO's wage and benefits provisions for the time period covered by the effective dates of the superseding CBA. The employer remains subject to all applicable provisions of the LWO for the time period not covered by the superseding CBA. If the employer has not complied with the LWO requirements during the time period not covered by the

superseding CBA, the employer shall be required to make retroactive corrections for any period of non-compliance, which may include making retroactive payments to affected employees for the relevant periods of non compliance.

(ii) If the final CBA signed by the employer and the union does not supersede the LWO, the employer shall be required to comply with all applicable LWO requirements, including the wage and benefits provisions. Compliance shall also be required retroactively to the date that the employer first became subject to the LWO. If necessary, the employer shall provide retroactive payments to affected employees for any time period during which the employer did not comply with the LWO.

¹³ See Endnote #12

¹⁴ **Small Business Exemptions for Public Lessees and Licensees – LAAC 10.37.1(i):** A public lessee or licensee claiming exemption from the LWO under section 10.37.1(i) shall submit the small business application for exemption form referred to in Appendix A along with supporting documentation to verify that it meets both of the following requirements:

(A) The lessee's or licensee's gross revenues from all business(es) conducted on the City premises for the calendar year prior to the date of the application for exemption do not exceed the gross annual revenue amount set by the LWO in Section 10.37.1(i). That gross revenue amount shall be adjusted annually according to the requirements of the LWO. The gross revenue amount used in evaluating whether the lessee or licensee qualifies for this exemption shall be the gross revenue amount in effect at the time the OCC receives the application for exemption.

A public lessee or licensee beginning its first year of operation on a specific City property will have no records of gross annual revenue on the City property. Under such circumstances, the lessee or licensee may qualify for a small business exemption by submitting proof of its annual gross revenues for the last tax year prior to application no matter where the business was located, and by satisfying all other requirements pursuant to these regulations and the LWO.

A lessee or licensee beginning its first year of operation as a business will have no records of gross annual revenue. Under such circumstances, the lessee or licensee may qualify for a small business exemption by satisfying all other requirements pursuant to these regulations and the LWO.

(B) The lessee or licensee employs no more than seven (7) employees.

(i) For purposes of this exemption, a lessee or licensee shall be deemed to employ a worker if the worker is an employee of a company or entity that is owned or controlled by the lessee or licensee, regardless of where the company or entity is located; or if the worker is an employee of a company or entity that owns or controls the lessee or licensee, regardless of where the company or entity is located.

Whether the lessee or licensee meets the seven (7) employee limit provided for in Section 10.37.1(i) of the LWO shall be determined using the total number of workers employed by all companies or businesses which the lessee or licensee owns or controls, or which own or control the lessee or licensee. Control means that one company owns a controlling interest in another company.

(ii) If a business operated by the lessee or licensee is part of a chain of businesses, the total number of employees shall include all workers employed by the entire chain of businesses unless the business operated by the lessee or licensee is an independently owned and operated franchise.

(iii) A public lessee or licensee shall be deemed to employ no more than seven (7) employees if its entire workforce (inclusive of those employees falling within the guidelines stated in subsections (i) and (ii) immediately above) worked an average of no more than 1,214 hours per month for at least three-fourths of the time period that the revenue limitation provided for in section 10.37.1(i) is measured.

Until the OCC approves the application for exemption, the lessee or licensee shall be subject to the LWO and shall comply with its requirements. If the OCC approves the application, the lessee or licensee shall be exempt from the requirements of the LWO for a period of two years from the date of the approval. The exemption will expire two years from the date of approval, but may be renewable in two-year increments upon meeting the requirements.

¹⁵ See Endnote #12

¹⁶ See Endnote #9

¹⁷ **CFAR: First Year Financial Assistance Recipients – 10.37.1(c):** A first-year City financial assistance recipient (CFAR) applying for exemption under Section 10.37.1(c) of the LWO shall submit proof of its start up date and workforce documentation with its application for exemption. If the OCC grants an exemption on this basis, the first year CFAR is exempt from the LWO for a period of one year from the date the exemption is approved.

¹⁸ **CFAR: Employing Fewer Than Five Employees – 10.37.1(c):** A City financial assistance recipient (CFAR) claiming exemption on the basis that it employs fewer than five (5) employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year shall submit with its application for exemption payroll registers for that twenty (20) week period to verify eligibility.

¹⁹ **CFAR: Hardship waivers for job training and preparation programs –10.37.1(c):** A City financial assistance recipient (CFAR) that employs the longterm unemployed or provides trainee positions intended to prepare employees for

permanent positions may request an economic hardship waiver pursuant to Section 10.37.1(c). The CFAR must submit to the awarding authority documentation of the program's demonstrated and projected results and the potential adverse impact due to compliance with this article. The awarding authority will forward the documentation and its recommendation to the City Council for consideration. A copy of such a recommendation shall be forwarded to the OCC.

²⁰ **CFAR: Employee Exemption – 10.37.1(c):** A City financial assistance recipient (CFAR) that claims exemption pursuant to Section 10.37.1(e) for its employees who expend less than half of their time on the City funded project or the employees of its service contractor, if any, who expend less than half of their time on the premises of the CFAR directly involved with the activities funded by the City, shall be responsible for maintaining records of applicable hours and descriptions of work performed to substantiate the exemption.

EXHIBIT A
TO INTERCONNECTION AGREEMENT

EXHIBIT A

SELLER GENERATION DATA SHEETS

Facility Name: Beacon Solar 3

Address: Mojave, Kern County, California

Owner/Company: Beacon Solar 3, LLC

Contact Person: Serge Theroux Phone: 415-872-0765

Unit Start-Up Date: June 30, 2017

SYSTEM CHARACTERISTICS

Capacities: Nameplate Rating 56,000 kWac PTC

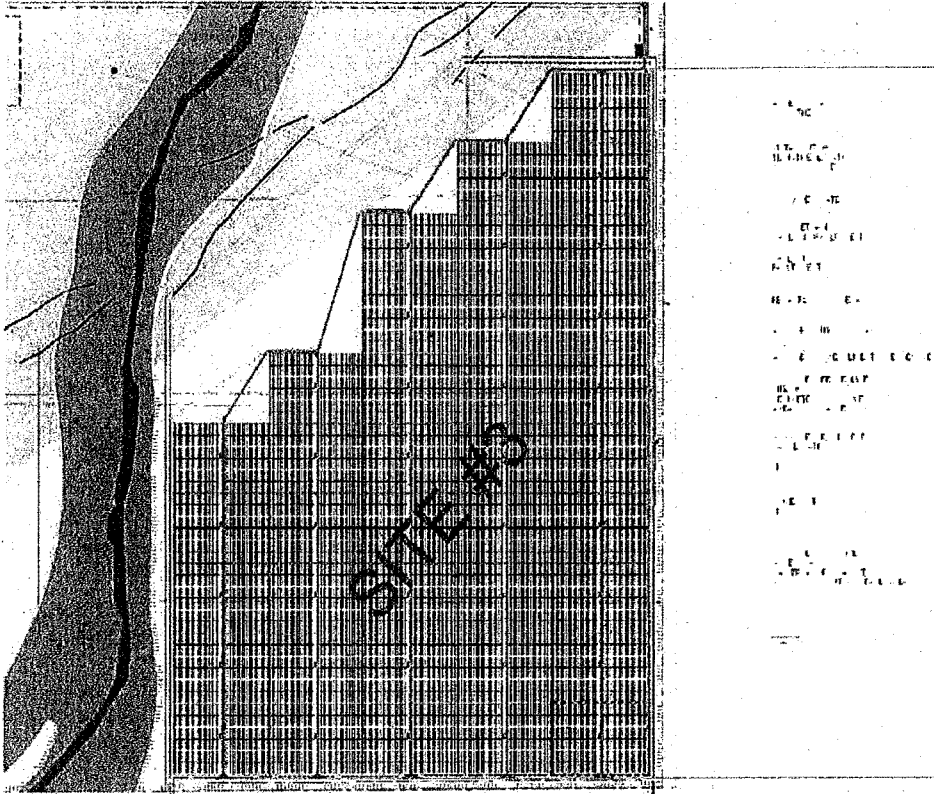
Operations: Schedule 12 (average) hours/day 365 days/year

Typical Daily Profile, O = On and X = Off

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	Control Mode:
X	X	X	X	X	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	X	X	X	X	X

GENERATION FACILITY DESCRIPTION

Schematic Diagram



Written Description

Ground-mounted solar PV installation, 56MW AC (PTC), utilizing trackers.

ANNUAL PLAN PRODUCTION/USE CHARACTERISTICS

OUTPUT: 143,503,700 (Year 1 output) _____ kWh

ECONOMIC CHARACTERISTICS

Capital Costs \$110 million (approximate) O&M Costs \$850,000 (approximate) \$/year

Cost of Generated Electricity \$0.04997 cents/kWh