

OPTION AGREEMENT

by and between

RE BARREN RIDGE 1 LLC
as "Seller"

and

THE CITY OF LOS ANGELES ACTING BY AND THROUGH
THE DEPARTMENT OF WATER AND POWER
as "Buyer"

Dated as of _____

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OPTION AGREEMENT

This OPTION AGREEMENT is entered into as of this ____ day of _____, 2014 (“*Effective Date*”), by and between RE BARREN RIDGE 1 LLC, a limited liability company organized and existing under the laws of the State of Delaware (“*Seller*”), and THE CITY OF LOS ANGELES ACTING BY AND THROUGH THE DEPARTMENT OF WATER AND POWER, a municipal corporation of the State of California (“*Buyer*”). Each of Buyer and Seller is referred to individually in this Agreement as a “*Party*” and together they are referred to as the “*Parties*.”

RECITALS

WHEREAS, Seller and Buyer have entered into that certain Power Purchase Agreement of even date herewith (the “*PPA*”), relating to the purchase by Buyer of all of the Facility Energy, Capacity Rights and associated Environmental Attributes (each as defined in the PPA and collectively defined therein as the “*Products*”) generated by a 60 MW (AC) solar photovoltaic facility to be developed, constructed, owned and operated by Seller in Mojave, California; and

WHEREAS, Seller desires to grant to Buyer, and Buyer wishes to have, an option, exercisable at various times as set forth herein, to purchase the Facility Assets (as defined herein) on the terms and subject to the conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein, Buyer entering into the PPA, and the agreements herein and in the other Operative Documents (as defined herein) and in reliance upon the representations and warranties therein and herein, Buyer and Seller, intending to be legally bound, hereby agree as follows:

ARTICLE I DEFINITIONS

1.1 Definitions. Except as otherwise expressly provided herein, capitalized terms used in this Agreement, including in its *Recitals*, *Schedules* and *Exhibits*, shall have the meanings given in *Exhibit 1.1*. Capitalized terms used herein but not defined in *Exhibit 1.1* shall have their meanings ascribed thereto in the PPA.

1.2 Rules of Interpretation. Except as otherwise expressly provided herein, the rules of interpretation set forth in *Exhibit 1.1* shall apply to this Agreement.

ARTICLE II OPTION TO PURCHASE; CLOSING

2.1 Option to Purchase. Seller hereby grants Buyer an option, on the terms and conditions set forth in this Agreement, to purchase all of Seller’s right, title and interest in and to the Facility Assets, but not the Excluded Assets, and to assume the Assumed Liabilities, but not the Excluded Liabilities, on and subject to the terms and conditions set forth in this Agreement

(the "*Project Purchase Option*"). The Project Purchase Option may only be exercised with respect to all of Seller's right, title and interest in and to the Facility Assets, and not with respect to only a portion thereof.

2.2 Exercise of Project Purchase Option. Buyer may exercise the Project Purchase Option in accordance with the provisions set forth in Section 2.4 at any time:

(a) during the six (6) month period commencing on the date that is eighteen (18) months prior to the sixth (6th) anniversary of the Commercial Operation Date (in which case the Closing Date shall be on the sixth (6th) anniversary of the Commercial Operation Date, subject to the terms and conditions of this Article II, Article VII, and Article VIII); or

(b) during the six (6) month period commencing on the date that is eighteen (18) months prior to the tenth (10th) anniversary of the Commercial Operation Date (in which case the Closing Date shall be on the tenth (10th) anniversary of the Commercial Operation Date, subject to the terms and conditions of this Article II, Article VII, and Article VIII); or

(c) during the six (6) month period commencing on the date that is eighteen (18) months prior to the fifteenth (15th) anniversary of the Commercial Operation Date (in which case the Closing Date shall be on the fifteenth (15th) anniversary of the Commercial Operation Date, subject to the terms and conditions of this Article II, Article VII, and Article VIII); or

(d) during the six (6) month period commencing on the date that is eighteen (18) months prior to the twentieth (20th) anniversary of the Commercial Operation Date (in which case the Closing Date shall be on the twentieth (20th) anniversary of the Commercial Operation Date, subject to the terms and conditions of this Article II, Article VII, and Article VIII); or

(e) during the sixty (60) day period commencing on the date on which a Termination Notice is provided by Buyer to Seller and Buyer has exercised its remedies pursuant to Section 13.2(d) of the PPA (in which case the Closing Date shall be the date designated by Buyer that is no later than the date that is six (6) months following delivery by Buyer of the Purchase Option Exercise Notice, subject to the terms and conditions of this Article II, Article VII, and Article VIII).

Each opportunity of Buyer to exercise the Project Purchase Option set forth in Sections 2.2(a) through (e) above shall be referred to herein as a "*Purchase Option Opportunity*."

Seller acknowledges that Buyer has no obligation to exercise the Project Purchase Option and that Buyer may decline to exercise the Project Purchase Option for any or no reason, as Buyer deems appropriate in its sole discretion.

2.3 Environmental Review. Seller acknowledges and agrees that the sale of the Transferred Assets could potentially be subject to environmental review pursuant to CEQA and the National Environmental Policy Act of 1969. Any additional costs and expenses incurred in

connection with any environmental reviews requested by Buyer or required because of Buyer's status as a public agency, in each case, in connection with the exercise of the Project Purchase Option, shall be borne by Buyer.

2.4 Tentative Exercise Notice. Buyer shall exercise the Project Purchase Option (if at all) by delivering to Seller a notice of exercise signed by Buyer (the "*Purchase Option Tentative Exercise Notice*") within the periods of time specified in Section 2.2. Within sixty (60) days after it receives a Purchase Option Tentative Exercise Notice (the "*Schedule Delivery Date*"), Seller will deliver to Buyer the following, dated as of the Schedule Delivery Date: *Schedule 3.3* (Real Property Matters); *Schedule 3.4* (Seller's Consents); *Schedule 3.5* (Certain Excluded Assets); *Schedule 3.7* (Environmental Matters); *Schedule 3.8* (Liabilities); *Schedule 3.9* (Tax Matters); *Schedule 3.10* (Compliance with Laws); *Schedule 3.11* (Litigation); *Schedule 3.12* (Assumed Contracts); *Schedule 3.13* (Intellectual Property); *Schedule 3.15* (Non-Environmental Permits); *Schedule 3.18* (Employee Matters); *Schedule 3.19* (Shared Facilities); and *Schedule 3.20* (Untrue Statements; Omissions) (collectively, the "*Seller Disclosure Schedules*"), each of which shall be applicable to the Facility and shall list, as required, any qualifications required to make the representations in Article III true and correct, and Buyer will deliver to Seller, dated as of the Schedule Delivery Date, *Schedule 4.3* (Buyer's Consents) (together with the Seller Disclosure Schedules, the "*Disclosure Schedules*").

2.5 Tentative Purchase Price; Exercise Notice.

(a) The Tentative Purchase Price shall be determined in accordance with *Exhibit 2.5* following the later to occur of (i) the delivery of the Seller Disclosure Schedules, and (ii) the Schedule Delivery Date.

(b) After the Disclosure Schedules have been delivered and the Tentative Purchase Price has been determined pursuant to Section 2.5(a), and prior to the Purchase Option Exercise Deadline, Buyer shall elect, in its sole discretion to (i) withdraw its exercise of the Project Purchase Option with respect to the applicable Purchase Option Opportunity by delivering notice thereof to Seller, or (ii) continue with the exercise of the Project Purchase Option by delivering notice to Seller thereof (the "*Purchase Option Exercise Notice*"). The delivery of a Purchase Option Exercise Notice by Buyer shall constitute a binding and irrevocable commitment by Buyer to purchase, and shall create a binding obligation of Seller to sell, the Facility Assets as specified herein (subject to the satisfaction or waiver of each of the conditions to Closing set forth in Article VII and Article VIII) by the applicable Closing Date.

(c) If Buyer (i) withdraws its exercise of the Project Purchase Option pursuant to Section 2.5(b)(i) or (ii) fails to timely deliver either a Purchase Option Tentative Exercise Notice or Purchase Option Exercise Notice with respect to any Purchase Option Opportunity within the deadlines therefor under Sections 2.4 or 2.5, respectively, then Buyer's right to exercise the Project Purchase Option with respect to such Purchase Option Opportunity shall expire and shall no longer be effective (but such expiration shall not affect Buyer's right to exercise any Project Purchase Option with respect to any future Purchase Option Opportunity).

2.6 Memorandum of Option. Promptly after the execution of the lease agreement between Seller and LandCo LLC, the Parties shall execute and acknowledge a memorandum of option in form and substance acceptable to Buyer, and Seller shall record such memorandum in the Official Records of Kern County, California. Seller shall be responsible for payment of all fees and Taxes associated with such recording.

2.7 Closing. In the event Buyer delivers a Purchase Option Exercise Notice, the closing of the purchase and sale of the Facility Assets (the "Closing") shall occur at 11:59 p.m., local time on the Closing Date (subject to the satisfaction or waiver of each of the conditions to Closing set forth in Article VII and Article VIII). The Closing shall be held at the offices of Buyer in Los Angeles, California, or such other location in California that Buyer designates in a timely notice to Seller, unless the Parties otherwise agree. All events at the Closing shall be deemed to occur simultaneously, unless otherwise provided herein. In the event the Closing has not occurred by the designated Closing Date in respect of a Purchase Option Opportunity because of the failure of any of the conditions to Closing set forth in Article VII or Article VIII to be satisfied by such designated Closing Date, then Buyer (in the case of the conditions set forth in Article VII) or Seller (in the case of the conditions set forth in Article VIII), upon notice to the other Party and without liability, may terminate the Project Purchase Option with respect to such Purchase Option Opportunity, and such Purchase Option Opportunity shall expire and shall no longer be effective (but such termination shall not effect Buyer's right to exercise any Project Purchase Option with respect to any future Purchase Option Opportunity); provided that a Party cannot terminate any Project Purchase Option with respect to a Purchase Option Opportunity if the failure of the Closing to occur is the result of the failure on the part of such Party to perform its obligations under this Agreement.

2.8 EXCLUSIVE WARRANTIES. OTHER THAN THE REPRESENTATIONS AND WARRANTIES EXPLICITLY SET FORTH IN THIS AGREEMENT OR ANY OPERATIVE DOCUMENT, NO REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, SHALL BE GIVEN OR DEEMED GIVEN AS TO THE FACILITY OR THE FACILITY ASSETS CONSTITUTING THE FACILITY IN CONNECTION WITH SELLER'S SALE OF THE FACILITY FOLLOWING THE EXERCISE OF THE PROJECT PURCHASE OPTION.

2.9 Assumed Liabilities. At the Closing, Buyer shall assume, and agree to pay for, perform, fulfill and discharge from and after the Closing, all liabilities and obligations relating to the Facility Assets or the Business arising or occurring after the Closing Date other than the Excluded Liabilities (collectively, the "Assumed Liabilities").

2.10 Excluded Liabilities. Anything in this Agreement to the contrary notwithstanding, Buyer shall not assume, and shall not be deemed to have assumed, and shall have no liability with respect to (whether asserted before or after the Closing and regardless of whether the same or the basis therefor may have been disclosed to Buyer by Seller or otherwise be known to Buyer), any of the following liabilities or obligations of Seller (all such unassumed liabilities and obligations referred to in this Agreement as the "Excluded Liabilities");

- (a) Any liability or obligation of Seller in respect of Taxes attributable to Facility Assets for taxable periods ending on or prior to the Closing, including any supplemental tax liability related to activity or state of facts at the Facility conducted on or before the Closing that arises after the Closing, except that Buyer will be obligated to pay its prorated portion of current property taxes as provided below and all property taxes related to any periods beginning after the Closing;
- (b) Any liability or obligation of Seller relating to the Facility Assets or the Business, including arising out of Seller's ownership and operation of the Facility Assets, arising or occurring prior to the Closing;
- (c) Any liability or obligation of Seller arising out of Seller's ownership and operation of any assets other than the Facility Assets or any business other than the Business at any time;
- (d) Any liability or obligation of Seller arising from a breach by Seller, or any event, circumstance or condition occurring or existing prior to the Closing that, with notice or lapse of time, constitutes or results in a breach by Seller under this Agreement, the PPA (including the Ancillary Documents), or any of the Operative Documents;
- (e) Any liability or obligation of Seller under any Contract (including with respect to any contractors or subcontractors thereunder) other than an Assumed Contract or a permit other than a Transferred Permit;
- (f) Any liability or obligation under any Assumed Contract or a Transferred Permit to the extent such liability or obligation arises from or relates to any breach by Seller of any provision of any of such Assumed Contracts or Transferred Permits prior to the Closing;
- (g) Any liability or obligation under any Contract entered into during the Applicable Diligence Period and not assumed by Buyer pursuant to Section 5.10;
- (h) Any liability or obligation of Seller with respect to the employment or termination of any employee or group of employees by Seller, or the terms thereof, whether union or nonunion, whether the liability or obligation calls for performance or observance before or after the Closing and whether the liability or obligation arises from a collective bargaining agreement, pension trust fund plan, or other agreement or arrangement to which Seller is a party or by which Seller is bound (whether oral or written and whether express or implied in fact or in law) or any past practice or custom or otherwise, it being understood and agreed that after the Closing, Buyer will itself be specifying the terms on which it offers employment to any individual to whom it, in its sole discretion, chooses to offer employment and will not be bound by any term of employment in effect at or at any time prior to the Closing;
- (i) Any liability or obligation of Seller for pension fund payments or unfunded pension fund liabilities;

(j) Any liability or obligation arising from or associated with any of the Excluded Assets;

(k) Any liability or obligation of Seller or its Affiliates arising out of or related to any claim or loss against Seller or its Affiliates or any third-party claims or losses which adversely affects the Facility Assets and which shall have been asserted prior to the Closing or to the extent the basis of which shall have arisen exclusively prior to the Closing;

(l) Any liability or obligation of Seller or its Affiliates to a third party arising from any indemnification claim, injury to or death of any person or damage to or destruction of any property (and including workers' compensation claims, discrimination, wrongful discharge, or unfair labor practice), whether based on negligence, breach of warranty, strict liability, enterprise liability or any other legal or equitable theory arising from actions by, for or on behalf of Seller or its Affiliates arising prior to the Closing; and

(m) Any liability or obligation of Seller or its Affiliates representing Facility Debt incurred by Seller or its Affiliates or Liens or encumbrances other than Closing Permitted Encumbrances.

Seller agrees to pay or otherwise discharge, or cause the payment or discharge, of all Excluded Liabilities prior to the Closing, and shall provide Buyer with evidence thereof that is reasonably satisfactory to Buyer.

2.11 Schedule Updating; Final Purchase Price.

(a) No later than the date that is thirty (30) days prior to the designated Closing Date (the "*Updated Schedule Delivery Date*"), Seller shall have provided Buyer with updated Seller Disclosure Schedules, and such Seller Disclosure Schedules shall be used as the final Seller Disclosure Schedules for purposes of its representations and warranties made under Article III as of the Closing; *provided, however*, that if after the Updated Schedule Delivery Date, an event or circumstance occurs or exists that requires additional updates to the Seller Disclosure Schedules, Seller shall deliver such updates to Buyer as soon as practicable, and Buyer may, at its option, extend the Closing Date on a day-for-day basis for the period of time between the Updated Schedule Delivery Date and the date on which such updates were delivered to Buyer. Notwithstanding the foregoing, any update included in an updated Seller Disclosure Schedule delivered pursuant to this Section 2.11(a) shall have no effect for the purposes of determining the satisfaction of any condition to Closing set forth in Article VII and shall not alter or affect Buyer's right to terminate the Project Purchase Option with respect to the applicable Purchase Option Opportunity pursuant to Section 2.7; *provided, however*, that if a Closing occurs, then Buyer shall be deemed to have waived its right to indemnification under Section 12.1(a) with respect to any matter disclosed in any update.

(b) At the Closing, upon the terms and subject to the conditions set forth herein, Buyer shall, in exchange for the sale, transfer, assignment, conveyance and delivery of the Facility Assets by Seller, and the assumption by Buyer of the Assumed

Liabilities in accordance with this Agreement, pay Seller the Final Purchase Price determined in accordance with *Exhibit 2.5*. Such Final Purchase Price shall be paid by Buyer by wire transfer of immediately available funds to an account designated by Seller. The Final Purchase Price shall be allocated among the Facility Assets in the manner required by Section 1060 of the Code.

2.12 Proration. Without limiting Buyer's obligation to pay its portion of the Transfer Taxes under Section 2.13, Buyer and Seller agree that any items normally prorated, including those listed below, relating to the Business and the Facility Assets, shall be prorated as of the Closing, with Seller being liable therefor to the extent such items relate to periods on or prior to the Closing Date, and Buyer being liable to the extent such items relate to periods after the Closing with, to the extent practicable, a cash settlement on the Closing:

(a) personal property and real estate Taxes, assessments and other charges, if any, by the applicable municipality, on the basis of the applicable municipality's fiscal year, on or with respect to the Business;

(b) rent, Taxes and other items payable by or to Seller under any of the Assumed Contracts assigned to and assumed by Buyer hereunder which are associated with the Facility Assets;

(c) any Permit, registration, compliance, assurance fees or other fees with respect to any Transferred Permit comprising part of the Facility Assets; and

(d) sewer rents and charges for water, telephone, electricity and other utilities.

In connection with the prorations referred to in this Section 2.12, in the event that actual amounts for such items are not available on the Closing Date, the proration shall be based upon the actual Taxes or fees for the preceding year (or appropriate period) for which actual Taxes or fees are available and such Taxes or fees shall be re-prorated upon the request of Seller, on the one hand, or Buyer, on the other hand, within sixty (60) days of the date that the actual amounts become available. Seller and Buyer agree to furnish each other with such documents and other records as may be reasonably requested in order to confirm all adjustment and proration calculations made pursuant to this Section 2.12.

2.13 Closing Costs; Transfer Taxes and Fees. Each Party shall be solely liable for and shall pay (i) all recording, documentary and transfer Taxes and any sales, use or other Taxes imposed on such Party by reason of the transfer of the Facility Assets as provided hereunder (excluding Taxes imposed on or measured by the net income or profits of Seller), and any deficiency, interest or penalty asserted with respect thereto, under applicable Laws ("*Transfer Taxes*") and (ii) except as set forth in Section 2.3 and Section 2.12 all transaction costs incurred by it in connection with the exercise of the Project Purchase Option and the Closing (including, but not limited to, the costs and expenses of its outside legal counsel and advisors). Each Party shall provide the other Party with evidence satisfactory to such Party that such Transfer Taxes have been paid by such Party. The Parties acknowledge that a Party's obligation to collect Taxes from the other Party to whom such Taxes are imposed shall not constitute an imposition of such Taxes on such first Party.

2.14 Decommissioning and Other Costs. Unless a Closing occurs pursuant to the exercise by Buyer of the Project Purchase Option, Buyer shall not be responsible for any cost of decommissioning or demolition of the Facility or any environmental or other liability associated with such decommissioning or demolition, without regard to the timing or cause of such decommissioning or demolition.

2.15 Closing Obligations. At the Closing: (a) Seller will deliver (or will have delivered) to Buyer each of the certificates, instruments, documents and agreements referred to in Article VII to be provided by Seller on or prior to the Closing, and (b) Buyer will deliver (or will have delivered) to Seller (i) the Final Purchase Price, and (ii) each of the certificates, instruments, documents and agreements referred to in Article VIII to be provided by Buyer on or prior to the Closing.

2.16 Bulk Sales Law. Unless waived by Buyer, Seller shall, prior to the Closing, comply with the requirements of sellers under any applicable bulk sales law.

ARTICLE III REPRESENTATIONS AND WARRANTIES OF SELLER

Upon the exercise of the Project Purchase Option, and with the understanding that following the Schedule Delivery Date, Seller shall have the right, until it delivers final Seller Disclosure Schedules as provided in Section 2.11(a), to update any information contained in the Seller Disclosure Schedules if the occurrence of events or the discovery of new information makes the revision of such Seller Disclosure Schedules necessary or desirable (subject to a Purchase Price adjustment as set forth in Exhibit 2.5 and the limitations on the effect of such revisions set forth in Section 2.11(a)), Seller represents and warrants to Buyer as follows, as of the Schedule Delivery Date, the Closing Date, and, with respect to Section 3.1 and Section 3.2, the Effective Date:

3.1 Organization and Good Standing. Seller is a limited liability company duly organized, validly existing and in good standing under the laws of its state of organization and is qualified to do business in the State of California, and has the legal power and authority to own or to hold its interests in properties, to carry on its Business as now being conducted and to enter into and perform its obligations under this Agreement and each of the Operative Documents to which Seller is a party.

3.2 Authority; Absence of Conflict or Breach. The sale of the Facility Assets and the execution, delivery and performance by Seller of this Agreement and each of the Operative Documents to be executed and delivered by Seller in connection with such sale have been duly authorized by all necessary limited liability company action on the part of Seller and the owners of any interest in Seller and do not require any consent or approval other than those which have already been obtained or otherwise as disclosed in the Seller Disclosure Schedules. This Agreement and each of the Operative Documents to which Seller is a party constitutes the legal, valid and binding obligation of Seller, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws relating to or affecting the enforcement of creditors' rights generally or by general equitable principles, regardless of whether such enforceability is considered in a proceeding in equity or at law. The

execution and delivery of this Agreement and each of the Operative Documents to which Seller is a party, the consummation of the sale of the Facility Assets and the fulfillment of and compliance with the provisions of this Agreement and the Operative Documents to which Seller is a party do not conflict with or constitute a breach of or a default under, any of the terms, conditions or provisions of any Requirements of Law, or any Organizational Documents, agreement, deed of trust, mortgage, loan agreement, other evidence of indebtedness or any other agreement or instrument to which Seller is a party or by which it or any of its property is bound, or result in a breach of or a default under any of the foregoing or result in or require the creation or imposition of any Lien upon any of the properties or assets of Seller (except as contemplated hereby).

3.3 Real Property Matters.

(a) *Schedule 3.3(a)* contains a true, correct and complete list of any Contracts, including the Land Documents, that provide Seller with any rights in or to real property ("*Real Property Contracts*"), including rights in the nature of leases, easements, licenses, rights of way, franchise agreements, restrictive covenants, purchase agreements, agreements to relinquish or limit surface access rights with regards to minerals, options to purchase or lease, or applications for or bids to Governmental Authorities with respect to, any of the foregoing interests in real property (collectively, "*Real Property Interests*"), as well as leases (including farm and grazing leases) and other agreements in the possession of Seller, or of which Seller has Knowledge, that grant or purport to grant, or reserve or purport to reserve, to third parties, interests in or to the land which is subject to Real Property Interests, including grants of mineral and any other surface or access rights to third parties ("*Third Party Property Interests*"). True, correct and complete copies of the Real Property Contracts have been delivered to Buyer. Seller holds no Real Property Interests other than those that are set forth in such Real Property Contracts. Except as set forth in *Schedule 3.3*, to Seller's Knowledge, no counterparty thereto is in default in any material respect of any material obligation with respect to the Real Property Contracts. Except as set forth in *Schedule 3.3*, each of the Real Property Interests granted by a Real Property Contract provides legal, valid, and enforceable rights in favor of Seller to the extent set forth therein and, to Seller's Knowledge, constitutes a legal, valid and binding obligation of the other parties thereto. True, correct and complete copies of all title reports, surveys, mineral reports for any severed minerals (including any evaluation as to feasibility or likelihood of mineral extraction and any separate chain of title for severed minerals), material records searches (for any governmental records not included in any title reports) and exception documents referenced in such reports, policies, or searches have been delivered to Buyer.

(b) Except as set forth in *Schedule 3.3(b)*, Seller has not received any written notice of any appropriation, condemnation or like proceeding, or of any material violation of any applicable zoning or land use law, regulation or rule or other law, order, regulation, rule or requirement relating to or affecting any of the Real Property Interests.

(c) Except as set forth in *Schedule 3.3(c)*, Seller has not previously severed any mining, mineral or water rights from any of the Real Property Interests and has

disclosed to Buyer any material information in its possession regarding any severed mining, mineral or water rights affecting any of the Real Property Interests.

(d) Other than with respect to the Real Property Contracts or Permits and except as set forth in *Schedule 3.3(d)*, Seller has not received any written notice that any agreements with any Governmental Authority or public or private utility affect the Real Property Interests.

3.4 Consents. Except as set forth in *Schedule 3.4*, other than those that have been obtained or filed, no Consent of, or registration, qualification or filing with any Person, including any Governmental Authority, is required for the sale of the Facility Assets or the execution and delivery by Seller of this Agreement or any of the Operative Documents to which it is a party or in order for Seller to perform its obligations hereunder or thereunder.

3.5 Assets of the Business. Except as set forth in *Schedule 3.5*, the Facility Assets constitute all of the assets, properties, rights, privileges, claims and Contracts of every kind and nature, real or personal, tangible or intangible, absolute or contingent, wherever located, owned or used (including those necessary to access and utilize any common use facilities) comprising the Facility as owned and operated by Seller prior to the Closing.

3.6 Title to Facility Assets. Immediately prior to the Closing, Seller has good and marketable title to all real property interests comprising the Facility Assets, free and clear of all Liens, except for the Purchase Option Permitted Encumbrances. Immediately prior to the Closing, Seller has good and marketable title to the Facility Assets (other than the real property interests), free and clear of all Liens, except for the Purchase Option Permitted Encumbrances. Upon the Closing, to Seller's Knowledge, Buyer will acquire good and marketable title to the real property interests comprising the Facility Assets free and clear of all Liens, except for Closing Permitted Encumbrances. Upon the Closing, Buyer will acquire good and marketable title to the Facility Assets (other than the real property interests) free and clear of all Liens, except for the Closing Permitted Encumbrances.

3.7 Environmental. Except as set forth in *Schedule 3.7*:

(a) There are no pending, outstanding, or, to Seller's Knowledge, threatened Agency Actions concerning the Facility or the Premises with respect to Environmental Laws applicable to Seller, the Facility or the Premises, and Seller's ownership, operation and use of the Facility. Seller is, and at all times has been, and has owned and operated (or its designee has operated) the Facility and the Premises, in compliance with all applicable Environmental Laws. There are no writs, injunctions, decrees, orders or judgments outstanding or pending, or to Seller's Knowledge any notices, actions, suits, or Proceedings threatened involving Seller relating to (i) its compliance with any Environmental Laws with respect to any of the Facility Assets, the Premises, or any other asset owned or used by Seller or in which it has or had an interest in connection with the Facility, or (ii) the Release of any Hazardous Substances at the Premises.

(b) All Permits required by Environmental Laws and necessary for the operation of the Facility as currently configured and as operated by Seller have been

obtained, are currently in full force and effect and are transferrable to Buyer without the requirement of any third party consent; Seller's operations at the Premises and in connection with the Facility Assets are in compliance in all material respects with all the requirements of such Permits; and, to Seller's Knowledge, Seller is not subject to any pending notice of violation from any Governmental Authority or from any other Person alleging that Seller has committed any act, or failed to act, in any manner or under any circumstance that would preclude continued operation of the Facility Assets, including the Premises, under any of these Permits.

(c) Seller has delivered to Buyer all written reports, written notices or written inquiries from any Governmental Authority that are in Seller's possession relating to the Environmental Conditions at, upon or beneath the Facility or the Premises regardless of whether such Environmental Conditions were caused by or arose from Seller's operation of the Facility, except to the extent (i) such reports, notices or inquiries constitute communications from Seller's counsel to Seller that are subject to attorney-client privilege or (ii) the provision of such reports, notices or inquiries would conflict with any confidentiality obligations to which Seller is bound.

(d) To Seller's Knowledge, (i) each of the Facility Assets and Seller is in compliance with all Environmental Laws and (ii) there are no circumstances, conditions or proposed regulations that could reasonably be expected to prevent or substantially interfere with Buyer's compliance with Environmental Laws in connection with Buyer's operation of the Facility and use of the Premises in the foreseeable future in a manner consistent with Seller's operation of the Facility during the term of the PPA.

(e) To Seller's Knowledge, there are currently no circumstances or conditions existing on the Premises that could reasonably be expected to prevent or substantially adversely interfere with Seller's compliance with Environmental Laws in connection with Seller's current operation of the Facility Assets and use of the Premises.

(f) Seller has not, and to Seller's Knowledge, no third party has, generated, used, treated or stored on, or transported to or from any of the Premises any Hazardous Substances in violation of Environmental Laws.

(g) There is no asbestos contained in or forming any part of any building, building component, structure or other asset that is part of the Facility Assets, and no asbestos has been stored, disposed of, or otherwise been present at the Premises or on or in any of the Facility Assets, and Seller does not have any liability for asbestos in connection with the use, operation, renovation or demolition of any of the Facility Assets.

(h) There has been no Release or threatened Release of Hazardous Substances by Seller or any party under the reasonable control of Seller, and, to Seller's Knowledge, there has been no Release or threatened Release of Hazardous Substances by any other party at, on, under or from any of the Premises or at, on, under or from any property adjoining any of the Premises, other than in compliance with applicable Environmental Laws or as has previously been remediated in accordance with applicable Environmental Laws.

(i) In connection with its ownership and operation of the Facility Assets, Seller has disposed of all wastes, including those containing any Hazardous Substances, in compliance with all applicable Environmental Laws, and Seller has not received any notice or demand letter from any Person claiming Seller may be liable for any on- or off-site Release or threatened Release of Hazardous Substances.

(j) There are not now and, to Seller's Knowledge, never have been, any aboveground or underground storage tanks or PCB-containing transformers or equipment located at the Premises.

(k) Seller has provided Buyer with all written reports, surveys, studies, correspondence, investigations, tests and environmental sampling and analyses (whether commissioned by Seller or otherwise) that are in Seller's possession concerning the wildlife, cultural resources, natural resources and the environmental condition of any of the Facility Assets, Hazardous Substances in, on and under the Premises, or Seller's compliance with applicable Environmental Laws in the operation of the Facility or the use of the Facility Assets, except to the extent (i) such documents constitute communications from Seller's counsel to Seller that are subject to attorney-client privilege or (ii) the provision of such documents would conflict with any confidentiality obligations to which Seller is bound.

(l) Seller has not received any written request for information nor any written notification that it is a potentially responsible party under CERCLA or any similar state Environmental Law, including any such request or notification relating directly or indirectly to any of the Facility Assets, and none of the Premises is proposed to be listed or is listed on the National Priorities List under CERCLA or any similar state Environmental Law requiring environmental investigation or cleanup.

3.8 No Undisclosed Liabilities. Seller has no material liabilities (absolute, accrued, contingent or otherwise) in excess of Fifty Thousand Dollars (\$50,000.00) in the aggregate, except for (a) those set forth in *Schedule 3.5, Schedule 3.7, Schedule 3.8, Schedule 3.9, Schedule 3.10, or Schedule 3.11*, (b) those otherwise disclosed to Buyer or explicitly set forth in any of the Assumed Contracts or Transferred Permits, (c) those constituting Excluded Liabilities, or (d) those disclosed in the Financial Statements.

3.9 Taxes. Any Liens for Taxes are set forth in *Schedule 3.9*.

(a) There are no Liens for Taxes on any of the Facility Assets, except for (i) as of the Schedule Delivery Date, Purchase Option Permitted Encumbrances, and (ii) as of the Closing Date, Closing Permitted Encumbrances.

(b) The Facility Assets do not include any equity interest in any corporation or other entity.

(c) Seller has filed or caused to be filed with the appropriate Governmental Authorities all Tax Returns and reports relating to Seller required to be filed as of the Closing Date, all such Tax Returns were correct and complete in all respects and all

Taxes of Seller due and payable have been paid whether or not shown to be due on such Tax Returns and reports.

(d) Seller has not received any notice from any Governmental Authority of, and has no other Knowledge of, any outstanding claims or assessments with respect to any Tax relating to the Facility Assets and, to Seller's Knowledge, no such claim is pending or is presently being asserted against the Seller or with respect to any of the Facility Assets.

(e) Seller has no Knowledge of any proposed tax assessment against the Facility Assets that is not being actively contested by it in good faith and by appropriate proceedings.

(f) Seller has timely paid all Taxes shown to be due on such Tax Returns, all Tax assessments received, and all Taxes that have or may become due under applicable Law with respect to all periods or portions thereof ending on or prior to the Closing Date.

(g) Seller is not a party to any pending Tax audit, investigation, action or Proceeding with any Governmental Authority, and, to Seller's Knowledge, there is no threatened audit, investigation, action or Proceeding by any Governmental Authority with respect to any of the Facility Assets. Seller has not received notice of any claim by any Governmental Authority in any jurisdiction where it does not file Tax Returns or pay Taxes that it is or may be subject to Tax by that jurisdiction.

(h) Seller has timely withheld and timely paid all Taxes that are required to have been withheld and paid by it in connection with amounts paid or owing to any employee, independent contractor, creditor or other Person.

3.10 Compliance With Laws. Except as set forth in *Schedule 3.10*, (a) Seller is in compliance with all Laws applicable to the Facility Assets and operation and use of the Facility and (b) there are no condemnations or similar proceedings applicable to any part of the Facility.

3.11 Litigation. Except as set forth in *Schedule 3.11*:

(a) There are no Proceedings pending or, to Seller's Knowledge, threatened against Seller which could reasonably be expected to result, or have resulted in (i) the institution of legal proceedings to prohibit or restrain the operation of the Facility or any portion thereof, or the consummation of the transactions contemplated hereby, or (ii) a claim for damages for which Buyer could be liable or that could place any Lien on the Facility Assets;

(b) There are no existing Orders, writs, injunctions, judgments or decrees of any court, arbitrator, tribunal or other Governmental Authority issued against Seller which could reasonably be expected to result, or have resulted in (i) the institution of legal proceedings to prohibit or restrain the operation of the Facility or any portion thereof, or the consummation of the transactions contemplated hereby, or (ii) a claim for damages for which Buyer could be liable or that could place any Lien on the Facility Assets.

3.12 Assumed Contracts. Seller has delivered or made available to Buyer true and complete copies of all Contracts. Except as set forth in *Schedule 3.12*, all Assumed Contracts are in full force and effect, and neither Seller, nor any other party thereto, is in default under or in breach of any of them, nor does any event or condition exist that after notice or lapse of time or both could constitute a default thereunder or breach thereof on the part of Seller or any other party thereto (except for defaults, events of default and other events as to which requisite waivers have been, or prior to the Closing will have been, obtained). No approval, consent, or waiver of or by any Person that has not already been obtained is needed in order that the Assumed Contracts continue in full force and effect following the consummation of the transactions contemplated by this Agreement, and no Assumed Contract includes any provision, the effect of which may be to terminate (or give rise to a right of termination under) such Assumed Contract, to give rise to, enlarge, or accelerate any obligations of Seller thereunder, or to give additional rights to any other Person, upon or by reason of the consummation of the transactions contemplated by this Agreement.

3.13 Intellectual Property.

(a) Except as set forth in *Schedule 3.13*, Seller is the licensee of, or has such rights under the patents, patent applications, inventions, improvements, computer programs, computer applications, operating programs, other programs and software, including system documentation and instructions, engineering, construction and other drawings (other than drawings not needed for the operation, maintenance or repair of the Facility), designs, technology, know-how, trade secrets, trademarks, trademark applications, trade names, copyrights and other proprietary rights and proprietary information (to the extent any of the foregoing are necessary to operate or maintain the Facility in substantially the same manner as it has been operated and maintained during the Operations Period, collectively, the "*Intellectual Property Assets*"). Except as set forth in *Schedule 3.13*, Seller has not received notice that any of the Intellectual Property Assets infringes on or conflicts with the intellectual property of others. Seller has the right to use the Intellectual Property Assets in connection with its ongoing operation and maintenance of the Facility.

(b) Except as set forth in *Schedule 3.13*, there have been no claims, and, to Seller's Knowledge, there is no basis for any claim, challenging the scope, validity or enforceability of any of the Intellectual Property Assets. Except as set forth in *Schedule 3.13*, there are no instances where it has been held, or to Seller's Knowledge, claimed or alleged, whether directly or indirectly, and, to Seller's Knowledge, there is no basis upon which a claim may be made, that any activity of Seller relating to the operation or maintenance of the Facility, infringes or may infringe upon, is in violation of, or misappropriates, any rights of a third party.

(c) *Schedule 3.13* lists all of the Intellectual Property Assets, including the software used in connection with the operation of the Facility as of the Schedule Delivery Date, including control room operating system software, all of which shall, except as set forth in *Schedule 3.13*, remain available at the Facility for use by Buyer.

3.14 Brokers or Finders. Neither Seller nor any of its officers, directors, employees, shareholders or Affiliates has employed or made any agreement with any broker, finder or similar agent or any Person which will result in the obligation of Buyer or any of its Affiliates to pay any finder's fee, brokerage fees or commission or similar payment in connection with the transactions contemplated hereby.

3.15 Permits. Except as set forth in *Schedule 3.15*, all non-environmental Permits currently required by Law and necessary for the operation of the Facility as configured and operated by Seller have been obtained, are currently in effect, are final and non-appealable, and are transferrable to Buyer without the requirement of any third-party Consent. Seller's operations at the Premises and in connection with the Facility Assets are in compliance with all the requirements of such Permits, and as of Closing, Seller is not in possession of, and, to Seller's Knowledge, there is no reasonable basis for the issuance of, any written notice of violation or other notification from any Governmental Authority or from any other Person alleging that Seller has committed any act, or failed to act, in any manner or under any circumstance that could preclude continued operation of the Facility Assets, including the Premises, by Buyer under any of these Permits. Seller has made available to Buyer complete and correct copies of each such Permit, together with all amendments thereto. No suspension, cancellation or termination of any such Permit is threatened or imminent.

3.16 Investment Company Act. Seller is not an "investment company" or a company "controlled" by an "investment company" within the meaning of the Investment Company Act.

3.17 Regulatory Status. The Facility is either (a) a "Qualifying Facility" within the meaning of 18 C.F.R. § 292.101, holding all of the exemptions from regulation provided for under 18 C.F.R. §§ 292.601(c), 292.602(b), and 292.602(c), or (b) an "Exempt Wholesale Generator," as that term is defined under 18 C.F.R. § 366.1, which is also a "public utility" under the Federal Power Act, and the regulations of the Federal Energy Regulatory Commission ("*FERC*") thereunder (all collectively, the "*FPA*"). The status of Seller and the Facility under either subsection (a) or (b) hereof is final, non-appealable, and not subject to any pending or threatened challenge, petition or investigation by or before the FERC. Seller requires no authorization under the FPA to execute, deliver, and perform its obligations under this Agreement, apart from such authorizations from FERC which have already been received. The Facility is interconnected to the electrical grid pursuant to a valid and effective agreement for such interconnection, which agreement is sufficient to permit the delivery of the Facility's entire net electrical output to the therein-specified point of interconnection.

3.18 Employees and Employee Benefit Plans. Except as set forth in *Schedule 3.18*, Seller does not have and has never had any employees, and Seller does not maintain or contribute to, and has not ever maintained or contributed to, any pension, profit-sharing, deferred compensation, bonus, stock, option, share, appreciation right, severance, group or individual health, dental, medical, life, insurance, survivor benefit or similar plan, policy or arrangement for the benefit of any director, officer, consultant or employee, whether active or terminated, of Seller.

3.19 No Shared Facilities. There are no shared facilities (including control rooms, interties, buildings, or rights of way) required for the use or operation of the Facility or all or any

portion of the Facility Assets, except for those that are required by Law and set forth in *Schedule 3.19*.

3.20 General Representation. Except as set forth on *Schedule 3.20*, no representation or warranty made by Seller, its agents and representatives in this Agreement or any of the Operative Documents or in any certificate or other agreement delivered by Seller to Buyer in connection with the transactions contemplated hereby or thereby contains any untrue statement of a material fact, or omits to state a material fact necessary in order to make the statements contained herein, in light of the circumstances in which they were made, not materially misleading. All material information contained in the Provided Materials is or will be materially consistent with the information which has been used by Seller in the management of the Business and also with what has been reported to Seller's management, equity holders and the Facility Lender in connection with the Business.

ARTICLE IV REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller as follows as of the Closing Date:

4.1 Organization. Buyer is a validly existing charter city of the State of California formed under the laws of the State of California and has the legal power and authority to own its properties, to carry on its business as now being conducted and to enter into and perform its obligations under this Agreement and each of the Operative Documents to which Buyer is a party.

4.2 Authority; Binding Nature. The purchase of the Facility Assets and the execution, delivery and performance by Buyer of this Agreement and each of the Operative Documents executed and delivered by Buyer in connection with such purchase have been duly authorized by all necessary action, and do not require any consent or approval of Buyer's regulatory/governing bodies, other than that which has been obtained; provided that further authorizations from Buyer's Board of Commissioners and the Los Angeles City Council will be required for Buyer to exercise the Project Purchase Option. This Agreement and each of the Operative Documents to which Buyer is a party constitute the legal, valid and binding obligation of Buyer enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws relating to or affecting the enforcement of creditors' rights generally or by general equitable principles, regardless of whether such enforceability is considered in a proceeding in equity or at law. The execution and delivery of this Agreement and each of the Operative Documents to which Buyer is a party, the consummation of the purchase of the Facility Assets and the fulfillment of and compliance with the provisions of this Agreement and each of the Operative Documents to which Buyer is a party do not and will not conflict with or constitute a breach of or a default under, any of the terms, conditions or provisions of any Requirements of Law, or any Organizational Documents, agreement, deed of trust, mortgage, loan agreement, other evidence of indebtedness or any other agreement or instrument to which Buyer is a party or by which it or any of its property is bound, or result in a breach of or a default under any of the foregoing, in each case, which breaches or defaults, individually or in the aggregate, could reasonably be expected to result in a material adverse effect on the ability of Buyer to perform any of its obligations under this Agreement.

4.3 Consents. Except as set forth in *Schedule 4.3*, other than those that have been obtained or filed, no Consent of, or registration, qualification or filing with any Person, including any Governmental Authority, is required for the purchase of the Facility Assets or the execution and delivery by Buyer of any of the Operative Documents to which it is a party or in order for Buyer to perform its obligations hereunder.

4.4 Brokers or Finders. Neither Buyer nor any of Buyer's officers, directors, or employees has employed or made any agreement with any broker, finder or similar agent or any Person which will result in the obligation of Seller or any of its Affiliates to pay any finder's fee, brokerage fees, or commission or similar payment in connection with the transactions contemplated hereby.

4.5 Litigation. There are no Proceedings pending, or to Buyer's knowledge, threatened, against Buyer which could reasonably be expected to materially adversely affect its ability to perform its obligations with respect to the purchase of the Facility Assets pursuant to the Project Purchase Option.

ARTICLE V COVENANTS OF SELLER PRIOR TO CLOSING DATE

5.1 Access to Materials. Prior to the Schedule Delivery Date, Seller will furnish to Buyer all information required to be furnished pursuant to Section 3.7(c). Between the Schedule Delivery Date and the Closing Date (or such earlier date upon which the applicable Purchase Option Opportunity has been declined, expired or is no longer in effect, or when the Agreement has terminated) (such period, the "*Applicable Diligence Period*"), upon reasonable advance notice, Seller will (a) afford Buyer and its Representatives (and the Qualified Appraiser) full and complete access during normal business hours to the Facility and to Seller's personnel, Assumed Contracts, Transferred Permits, Books and Records, properties and other documents and data (provided that Buyer shall observe, and shall cause its Representatives to observe, all of Seller's security protocols), (b) furnish Buyer and Buyer's Representatives (and the Qualified Appraiser) with copies of all such Assumed Contracts, Transferred Permits, Books and Records, and other existing documents and data in Seller's possession or to which Seller has access with respect to the Facility or pertaining to the design of the Facility (including design schematics, blueprints or other similar documents) and other Facility Assets as Buyer or the Qualified Appraiser may reasonably request, and (c) furnish Buyer and its Representatives (and the Qualified Appraiser) with such additional financial, operating, and other data and information of or pertaining to the Business in Seller's possession or to which Seller has access as Buyer and its representatives (and the Qualified Appraiser) may reasonably request (all such Assumed Contracts, Transferred Permits, Books and Records, documents, data and information required to be furnished by Seller under this Section 5.1 shall hereinafter be referred to as "*Provided Materials*"). Buyer shall have the right to diligently review the Provided Materials. The Provided Materials may be redacted as necessary to allow for disclosure to Buyer and the Qualified Appraiser to the extent any Provided Materials are (i) subject to confidentiality, non-disclosure or similar agreements in favor of third parties whose consent to disclose cannot be obtained by the Closing, (ii) legally-privileged information of Seller, (iii) concerning any alleged dispute or pending litigation, investigation or Proceeding involving Seller or its Affiliates that is protected by or subject to a court order or the

attorney-client privilege, or (iv) restricted by an agreement entered into in connection with such dispute, litigation, investigation or Proceeding or an order entered by any court.

5.2 Investigations. During the Applicable Diligence Period, upon reasonable advance notice (but not less than twenty-four (24) hours), Seller shall afford Buyer and its Representatives (and the Qualified Appraiser), with reasonable access to the Facility Assets for the purpose of inspecting the same, to conduct any performance tests or physical inspections or otherwise (including to conduct a Phase 1 environmental site assessment), during normal business hours and in such manner so as not to materially disturb or interfere with the normal operations of the Facility Assets. While on the Premises, Buyer shall cause its Representatives to comply with all of Seller's rules and regulations applicable to individuals at the Premises. In the event Buyer is dissatisfied with the Facility Assets for any reason, Buyer may elect, in its sole discretion, to withdraw its exercise of the Project Purchase Option with respect to the applicable Purchase Option Opportunity by delivering notice thereof to Seller on or before delivery by Buyer to Seller of a Purchase Option Exercise Notice.

5.3 Financial Statements. On the Schedule Delivery Date, Seller will deliver to Buyer unaudited balance sheets and unaudited statements of income and cash flow of Seller for the three (3) most recent fiscal years of Seller, prepared in compliance with GAAP and certified by an officer of Seller. From and after the Schedule Delivery Date, as soon as available and in any event during the Applicable Diligence Period or the end of each fiscal quarter of Seller, Seller will provide Buyer with unaudited statements of income and cash flow for such quarter, setting forth in comparative form figures for the corresponding period of the preceding fiscal year, accompanied by a certificate signed by an authorized officer of Seller stating that such financial statements present fairly in all material respects the financial condition of Seller and that the same have been prepared in material compliance with GAAP. Seller will also deliver to Buyer copies of all financial statements or other financial information delivered to any Facility Lender during the Applicable Diligence Period contemporaneously with the delivery thereof to such Facility Lender; provided that Seller shall have the right to redact financial information provided to any such Facility Lender that is unrelated to the Facility. The financial statements required to be provided by Seller to Buyer under this Section are collectively referred to as the "*Financial Statements*."

5.4 Operation of the Business. During the Applicable Diligence Period, Seller will conduct its Business with respect to the Facility in all material respects in accordance with the ordinary course of business consistent with past practices and Prudent Utility Practices.

5.5 Disposition of Assets. During the Applicable Diligence Period, unless required by any Assumed Contract existing prior to the Schedule Delivery Date, Seller shall not (a) sell or otherwise dispose of or encumber (other than Purchase Option Permitted Encumbrances) any of the Facility Assets or any other property or assets which are primarily related to the operation, maintenance and use of the Facility (other than sales, leases, transfers or dispositions in the ordinary course of business consistent with past practice and Prudent Utility Practices), or (b) except as may be required by their terms, and except in the ordinary course of business consistent with past practice, modify, subordinate, amend, terminate, cancel, sever or surrender, or permit or suffer the modification, subordination, amendment, termination, cancellation,

severance or surrender of any Assumed Contract, Transferred Permit or Warranties, without the prior approval of Buyer.

5.6 Required Approvals. As promptly as practicable following Buyer's delivery of the Purchase Option Exercise Notice until the end of the Applicable Diligence Period, Seller will make, and thereafter diligently pursue during the Applicable Diligence Period, all registrations, qualifications or filings to be identified in *Schedule 3.4* or necessary or appropriate to obtain all the Consents therein identified.

5.7 Notification. During the Applicable Diligence Period, Seller shall give prompt notice (each notice, a "*Breach Notice*") to Buyer of the occurrence or non-occurrence of any event, change, effect or development of any kind which would or might cause (a) any representation or warranty of Seller contained in any Operative Document or this Agreement to be untrue or incorrect in any material respect on the date such representation or warranty is to be made, (b) a Material Adverse Effect, or (c) a breach of any of Seller's covenants under this Agreement or any Operative Document. Each Breach Notice must include a detailed description of the event, change, effect, development or failure and a description of the action Seller has taken and proposes to take with respect thereto. The delivery of, or the failure to deliver, a Breach Notice will not be deemed to (i) modify any representation or warranty hereunder, (ii) modify any condition set forth in Article VII, or (iii) limit or otherwise affect the remedies available hereunder to Buyer.

5.8 Reasonable Efforts. Following Buyer's delivery of the Purchase Option Exercise Notice and until the end of the Applicable Diligence Period, Seller will, or will cause its Affiliates to use all commercially reasonable efforts to satisfy the conditions in Article VII and Article VIII to be performed by Seller or such Affiliates.

5.9 Waivers of Claims. During the Applicable Diligence Period, Seller shall not cancel or compromise any debt or claim, or waive or release any material right relating to the Facility Assets and the Assumed Liabilities, other than such adjustments with respect to Persons involved with this transaction.

5.10 Additional Contracts. Any Contract entered into by Seller during the Applicable Diligence Period shall be an Excluded Liability unless Buyer agrees in writing to include such Contract as an Assumed Contract.

5.11 Transitional Services. At Buyer's option during the period between Buyer's delivery of the Purchase Option Tentative Exercise Notice until the earliest to occur of (a) Buyer's delivery of the Purchase Option Exercise Notice, (b) the Purchase Option Exercise Deadline, (c) termination of the relevant Purchase Option Opportunity, or (d) termination of this Agreement, Buyer and Seller shall negotiate in good faith an agreement for transition operation and maintenance services from Seller to Buyer or Buyer's designee upon terms and conditions to be mutually agreed upon by both Parties, in form and substance consistent with Exhibit 5.11.

ARTICLE VI
COVENANTS OF BUYER PRIOR TO CLOSING DATE

6.1 Required Approvals. As promptly as practicable following Buyer's delivery of the Purchase Option Exercise Notice and until the end of the Applicable Diligence Period, Buyer will make, and thereafter during the Applicable Diligence Period pursue, all registrations, qualifications or filings identified in *Schedule 4.3* or necessary or appropriate to obtain any Consent therein identified, consistent with and based upon Seller's acknowledgement and agreement in Section 2.3, and Seller shall provide assistance to Buyer in connection therewith.

6.2 Reasonable Efforts. Following Buyer's delivery of the Purchase Option Exercise Notice until the end of the Applicable Diligence Period, Buyer will use reasonable efforts to cause the conditions in Article VII and Article VIII to be performed by Buyer, to be satisfied.

ARTICLE VII
CONDITIONS PRECEDENT TO BUYER'S OBLIGATION TO CLOSE

Buyer's obligation to purchase the Facility Assets and to take the other actions required to be taken by Buyer at the Closing Date is subject to the satisfaction, at or prior to the Closing, of each of the following conditions (any of which may be waived by Buyer in its sole discretion, in whole or in part):

7.1 Accuracy of Representations. (a) All of Seller's representations and warranties in this Agreement and the other Operative Documents (considered collectively) shall be true and correct, (b) each of these representations and warranties (considered individually) that are qualified with respect to materiality shall be true and correct as so qualified, and (c) each of these representations and warranties that are not so qualified shall be true and correct in all material respects, in each case, as of the date when deemed made.

7.2 Seller's Performance. All of the covenants and obligations that Seller is required to perform or to comply with pursuant to this Agreement or any of the other Operative Documents at or prior to the Closing (considered collectively), and each of these covenants and obligations (considered individually), must have been duly performed and complied with in all material respects.

7.3 Consents. Each of the Consents identified in *Schedule 3.4* and *Schedule 4.3* must have been obtained and must be in full force and effect.

7.4 Additional Seller Documents. Seller shall deliver each of the following documents to Buyer:

(a) an opinion of Seller's counsel, dated the Closing Date, with respect to the sale of the Facility Assets pursuant to this Agreement and related matters in form and substance acceptable to Buyer;

(b) a written certificate, in form and substance satisfactory to Buyer, executed and delivered by Seller by its authorized officer, certifying that each of the conditions specified in Sections 7.1, 7.2, and 7.3 have been satisfied;

(c) a Bill of Sale, dated as of the Closing Date, in form and substance reasonably acceptable to Buyer ("*Bill of Sale*"), and executed by Seller by its authorized officer;

(d) agreements and related documentation in a form reasonably acceptable to Buyer effective to transfer to Buyer the Transferred Permits, the Assumed Contracts, the Real Property Contracts, and any other Facility Assets (together with the Bill of Sale, the "*Asset Assignment Documents*"), executed by Seller by its authorized officer;

(e) an irrevocable commitment by a title company acceptable to Buyer to issue an extended coverage owner's policy of title insurance based upon a recent ALTA survey, including such endorsements as Buyer may reasonably require, insuring Buyer in the amount of the Final Purchase Price, that title to the Premises (in fee, leasehold or easement, as applicable) is vested in Buyer, subject only to those exceptions that are Closing Permitted Encumbrances;

(f) confirmation in writing by Seller that any existing operations and maintenance agreement with respect to the Facility shall terminate upon the Closing Date (unless (i) Buyer elects to assume such agreement, in which case such agreement shall be deemed an Assumed Contract or (ii) the operations and maintenance provider under the operations and maintenance agreement will be providing transition services in connection with the services to be provided by Seller pursuant to a transition services agreement entered into in accordance with Section 5.11, in which case such operations and maintenance agreement shall terminate upon the termination of the transition services agreement);

(g) duly executed pay-off letters for the release or termination of all Liens securing Facility Debt that acknowledge repayment in full of such Facility Debt (unless Buyer otherwise agrees in writing that any such Liens shall not be released or terminated); and

(h) such other customary documents as Buyer may reasonably request for the purpose of (i) evidencing the accuracy of any of Seller's representations and warranties, (ii) evidencing the performance by Seller of, or the compliance by Seller with, any covenant or obligation required to be performed or complied with by Seller, including under Section 2.3, or (iii) evidencing the satisfaction of any condition referred to in this Article VII.

7.5 Litigation. No Proceeding shall have been instituted or any other action taken or Law or Environmental Law enacted, promulgated or deemed applicable by any Governmental Authority or by any other Person and, at what would otherwise have been the Closing Date, remain pending, to delay, restrain or prohibit any part of the transactions contemplated by this Agreement or to seek any divestiture or to revoke or suspend any Permit by reason of any or all of the transactions contemplated by this Agreement; nor shall any Governmental Authority have notified either Party or any of their respective Affiliates that consummation of any part of the transactions contemplated by this Agreement would constitute a violation of the Laws or Environmental Laws of any jurisdiction or that it intends to commence a Proceeding to restrain

or prohibit any part of the transactions contemplated by this Agreement or to require such divestiture, revocation or suspension; unless, in any such case, such Governmental Authority or other Person shall have withdrawn such notice and abandoned such Proceeding, action, Law or Environmental Law to the satisfaction of Buyer.

7.6 Liens. Title to the Facility Assets shall be free and clear at the Closing of all Liens other than Closing Permitted Encumbrances. Following the Schedule Delivery Date and prior to the determination of the Tentative Purchase Price, Buyer shall provide Seller with a notice setting forth Buyer's approval of any Liens with respect to the Facility Assets which Buyer expressly approves for inclusion as Closing Permitted Encumbrances.

7.7 No Material Adverse Effect. During the Applicable Diligence Period, no action shall have been taken or omitted and no event shall have occurred or be threatened which has had or could reasonably be expected to result in a Material Adverse Effect.

7.8 Final Purchase Price. All adjustments to the Tentative Purchase Price required under Section 3 of *Exhibit 2.5* shall have been made, including any adjustments required as a result of updates to the Seller Disclosure Schedules delivered by Seller pursuant to Section 2.11(a).

ARTICLE VIII CONDITIONS PRECEDENT TO SELLER'S OBLIGATION TO CLOSE

Seller's obligation to sell the Facility Assets and to take the other actions required to be taken by Seller at the Closing Date is subject to the satisfaction, at or prior to the Closing, of each of the following conditions (any of which may be waived by Seller in its sole discretion, in whole or in part):

8.1 Accuracy of Representations. (a) All of Buyer's representations and warranties in this Agreement (considered collectively), (b) each of these representations and warranties (considered individually) that are qualified with respect to materiality shall be true and correct as so qualified, and (c) each of these representations and warranties that are not so qualified shall be true and correct in all material respects, in each case, as of the date of this Agreement and as of the date when deemed made.

8.2 Buyer's Performance.

(a) All of the covenants and obligations that Buyer is required to perform or to comply with pursuant to this Agreement or any of the other Operative Documents at or prior to the Closing (considered collectively), and each of these covenants and obligations (considered individually), must have been performed and complied with in all material respects.

(b) Buyer must have paid the Final Purchase Price to Seller.

8.3 Consents. Each of the Consents identified in *Schedule 3.4* and *Schedule 4.3* must have been obtained and must be in full force and effect.

8.4 Asset Assignment Documents. Buyer shall deliver to Seller a Bill of Sale and other Asset Assignment Documents executed by Buyer by its authorized Representative.

8.5 Litigation. No Proceeding shall have been instituted or any other action taken or Law or Environmental Law enacted, promulgated or deemed applicable by any Governmental Authority or by any other Person and, at what would otherwise have been the Closing Date, remain pending to delay, restrain or prohibit any material part of the transactions contemplated by this Agreement; nor shall any Governmental Authority have notified either Party or any of their respective Affiliates that consummation of any part of the transactions contemplated by this Agreement would constitute a violation of the Laws or Environmental Laws of any jurisdiction or that it intends to commence a Proceeding to restrain or prohibit any part of the transactions contemplated by this Agreement, unless, in any such case, such Governmental Authority or other Person shall have withdrawn such notice and abandoned such Proceeding, action, Law or Environmental Law to the satisfaction of Seller.

ARTICLE IX MUTUAL COVENANTS, TAXES AND OTHER MATTERS

9.1 Tax Matters. Seller, at its own expense, will file, to the extent required by applicable Law, all necessary Tax Returns and other documentation with respect to its portion of any Transfer Taxes, and, if required by applicable Law, Seller will join in the execution of any such Tax Returns or other documentation and will take such positions in such returns as are reasonably requested by Buyer.

(a) With respect to Taxes to be prorated in accordance with Section 2.12 only, Buyer shall prepare and timely file all Tax Returns required to be filed with respect to the Facility Assets, if any, and shall duly and timely pay all such Taxes, whether imposed on Buyer or Seller, shown to be due on such Tax Returns. Buyer's preparation of any such Tax Returns shall be subject to Seller's approval, which approval shall not be unreasonably withheld. Buyer shall make such Tax Returns available for Seller's review and approval no later than fifteen (15) Business Days prior to the due date for filing such Tax Return. Within ten (10) Business Days after receipt of such Tax Return, Seller shall pay to Buyer Seller's proportionate share of the amount shown as due on such Tax Return, determined in accordance with Section 2.12.

(b) Each of Buyer and Seller shall provide the other with such assistance as may reasonably be requested by the other Party in connection with the preparation of any Tax Return, any audit or other examination by any taxing authority, or any judicial or administrative Proceeding relating to liability for Taxes, and each will retain and provide the requesting Party with any records or information which may be relevant to such return, audit or examination, Proceedings or determination. Each Party will take any and all commercially reasonable steps, act in good faith, and cooperate fully, to permit the other Party to comply with its obligations and secure its rights to indemnification hereunder.

(c) Seller will be entitled to any refunds or credits of Taxes relating to the Facility Assets for the period on or prior to the Closing Date (and such refunds and

credits shall be Excluded Assets), and Buyer shall be entitled to such refunds or credits of Taxes relating to the Facility Assets for the period on and after the Closing Date. Each of Buyer and Seller will promptly notify and forward to the other Party the amounts of any such refunds or credits received by such Party, but to which the other Party is entitled, within sixty (60) days after receipt thereof.

(d) After the Closing, Buyer will notify Seller, within thirty (30) days after its receipt, of any correspondence, notice or other communication from a taxing authority or any representative thereof, of any pending or threatened tax audit, or any pending or threatened Proceeding that involves Taxes relating to the Facility Assets for the period prior to the Closing, and furnish Seller with copies of all correspondence received from any taxing authority in connection with any audit or information request with respect to any such Taxes relating to the Facility Assets for the period prior to the Closing. After the Closing, Seller will notify Buyer, within thirty (30) days after its receipt, of any correspondence, notice or other communication from a taxing authority or any representative thereof, of any pending or threatened tax audit, or any pending or threatened judicial or administrative Proceeding that involves Taxes relating to the Facility Assets for the period after the Closing, and furnish Buyer with copies of all correspondence received from any taxing authority in connection with any audit or information request with respect to any such Taxes relating to the Facility Assets for the period after the Closing.

(e) Notwithstanding any provision of this Agreement to the contrary, with respect to any claim for refund, audit, examination, notice of deficiency or assessment or any Proceeding that involves Taxes relating to the Facility Assets (collectively, "*Tax Claim*"), each of Buyer and Seller will reasonably cooperate with the other Party in prosecuting or contesting any Tax Claim, including making available original books, records, documents and information for inspection, copying and, if necessary, introduction of evidence at any such Tax Claim contest or Proceeding and making employees available on a mutually convenient basis to provide additional information or explanation of any material provided hereunder with respect to such Tax Claim or to testify at Proceedings relating to such Tax Claim. Seller will control all Proceedings taken in connection with any Tax Claim that pertains entirely to any period prior to the Closing, and Buyer will control all Proceedings taken in connection with any Tax Claim that pertains to any period commencing after the Closing, and Seller and Buyer will jointly control all Proceedings taken in connection with any Tax Claim pertaining to any period commencing prior to and ending after the Closing; provided, however, that Buyer may request that Seller take any action reasonably necessary to remove any Liens on the Facility Assets relating to any Tax Claim that pertains to the period prior to or including the Closing. Buyer shall have no right to settle or otherwise compromise any Tax Claim which pertains entirely to the period prior to the Closing; Seller shall have no right to settle or otherwise compromise any Tax Claim which pertains entirely to the period after the Closing and neither Buyer nor Seller shall have the right to settle or otherwise compromise any Tax Claim which pertains to the period both prior to and after the Closing without the other Party's prior consent, which consent shall not be unreasonably withheld or delayed.

9.2 Seller Cooperation Post-Closing. To the extent consistent with the transition services agreement to be executed in connection with Section 5.11, Seller agrees that, for a period of two (2) years after the Closing, it will use good faith efforts to respond to Buyer's inquiries relating to the Facility or the Facility Assets.

9.3 Risk of Loss.

(a) If, during the Applicable Diligence Period, all or any portion of the Facility is damaged or destroyed in whole or in part or becomes subject to or threatened with any condemnation or eminent domain proceeding (the "*Affected Portion*"), the Tentative Purchase Price shall be reduced by an amount that is equal to the greater of the (i) fair market value of the Affected Portion (such value to be determined as of the date immediately prior to such damage, destruction or actual or threatened condemnation or eminent domain proceeding) or (ii) the cost of repair of the Affected Portion, as determined by the Qualified Appraiser(s); provided, that if Seller elects to repair the Affected Portion prior to the Closing Date, the Tentative Purchase Price shall be adjusted to reflect the reasonable value of the repairs performed by Seller. For the avoidance of doubt, any insurance proceeds received by Seller with respect to the Facility during the Applicable Diligence Period shall belong to the Seller, subject to application in accordance with the requirements of the Facility Debt.

(b) If, during the Applicable Diligence Period, all or any portion of the Facility is damaged or destroyed in whole or in part or becomes subject to or threatened with any condemnation or eminent domain proceeding, such that it cannot reasonably be expected (as determined by the Qualified Appraiser(s)) that, (i) in the case of damage or destruction, the Facility will be fully repaired within sixty (60) days after the Closing Date or (ii) in the case of a condemnation or eminent domain proceeding, such condemnation or eminent domain proceeding would have a Material Adverse Effect, then Buyer may, in its sole discretion, elect to terminate the Project Purchase Option with respect to the applicable Purchase Option Opportunity.

9.4 Liabilities.

(a) After Closing, Buyer shall assume, shall pay, perform and discharge when due, and, as between Buyer and Seller, shall be solely responsible for, the Assumed Liabilities. Seller shall have no liability or obligation for the Assumed Liabilities after the Closing Date.

(b) Except for the Assumed Liabilities, Buyer shall not assume by virtue of this Agreement or the transactions contemplated by this Agreement, and shall have no liability under this Agreement for, the Excluded Liabilities.

**ARTICLE X
TERM AND TERMINATION**

10.1 Term. This Agreement shall become effective when it is executed by each of the Parties and delivered to the other Party and the term of this Agreement shall continue for the Agreement Term (including the survival periods of those provisions with survivability under

Section 2.3 of the PPA), or such other period as may be provided for in this Agreement, unless terminated earlier as provided in Section 10.2, or as provided elsewhere under this Agreement; *provided* that (a) the term of this Agreement shall in any event extend up to and including the Closing so long as Buyer shall be entitled under the terms of this Agreement to exercise its Project Purchase Option and (b) the provisions of this Agreement shall survive any Closing or termination of this Agreement as set forth in Section 10.3(b) and Section 11.1.

10.2 Termination Events. This Agreement may, by notice given prior to the Closing, be terminated:

(a) by either Buyer or Seller upon (i) a failure by the other Party to perform any of its duties or obligations under this Agreement when and as due which is not cured to the reasonable satisfaction of the performing Party by the earlier of the Closing Date or the date that is thirty (30) days after receipt of notice thereof from the other Party, or (ii) an inaccuracy in any material respect of any representation, warranty, certification or other statement made by the other Party herein or in any other document contemplated hereby or in any Operative Document at any time given by a Party pursuant hereto or thereto, or in connection herewith or therewith at the time made or deemed to be made;

(b) either (i) by Buyer if satisfaction of any of the conditions in Article VII has become impossible due to an event outside of Buyer's reasonable control despite the exercise of due care and diligence (and in no event through the failure of Buyer to comply with its obligations under this Agreement) and Buyer has not previously waived such condition; or (ii) by Seller if satisfaction of any of the conditions in Article VIII has become impossible due to an event outside of Seller's reasonable control despite the exercise of due care and diligence (and in no event through the failure of Seller to comply with its obligations under this Agreement) and Seller has not previously waived such condition on or before the Closing Date; or

(c) (i) by Seller, if a Default of Buyer shall have occurred under the PPA and the PPA is terminated prior to or concurrently with this Agreement, (ii) by either Party, in the event that the PPA shall fail to be in full force and effect in accordance with its terms for any reason, or (iii) by either Party, if the other Party or such other Party's Affiliates shall contest the validity or enforceability of the PPA or any provision thereof in writing or deny that it has any further liability thereunder.

10.3 Effect of Termination.

In the event of termination of this Agreement:

(a) Upon a request from the other Party, each Party will redeliver all documents, work papers and other material of any other Party relating to the transactions contemplated hereby or by the other Operative Documents to the Party furnishing the same, whether so obtained before or after the execution hereof, and each Party will withdraw any applications for approval of transfer of Permits and surrender any Permits already transferred, as necessary;

(b) The provisions of Article XII shall survive and continue in full force and effect;

(c) Neither Party shall have any liability or further obligation to the other Party, except as stated in Sections 10.3(a) and (b), and except for any breach of representation, warranty or obligation arising under this Agreement or otherwise occurring prior to the proper termination of this Agreement. The foregoing provisions shall not limit or restrict the availability of specific performance or other injunctive relief to the extent that specific performance or such other relief would otherwise be available to a Party hereunder; and

(d) The PPA shall remain in full force and effect in accordance with its terms.

ARTICLE XI LIMITATION OF LIABILITY

11.1 Survival of Representations, Etc. The representations, warranties, covenants, and agreements, and indemnities of the Parties contained herein shall survive the consummation of the transactions contemplated hereby and the Closing Date, without regard to any investigation made by either of the Parties or the fact that the damaged Party had knowledge of any misrepresentation or breach of warranty or covenant at the time of Closing or at any other time, until the expiration of the applicable statute of limitations (and shall thereafter terminate, at which time the other Party shall be precluded from making a claim or commencing a cause of action with respect thereto). The termination of any representation and warranty provided herein shall not affect the rights of a Party in respect of a Claim made by such Party with specificity and in a writing received by the other Party prior to the expiration of the applicable survival period provided herein.

11.2 Limitation of Liability. Notwithstanding anything contained in this Agreement to the contrary, in no event shall Seller's aggregate liability under this Agreement or any Operative Document to Buyer under any theory of liability (whether contract, tort, strict liability or otherwise) exceed one hundred percent (100%) of the Final Purchase Price, provided that the foregoing limitation shall not apply (A) to the extent based upon a breach of any representation or warranty made in Section 3.1, 3.2, 3.3, 3.4, 3.7, 3.13 or 3.18, or (B) to death, bodily injury or personal injury to any person or damage or destruction to any property of either Party or third persons arising from activities conducted on any Premises on or prior to the Closing Date or from Hazardous Substances that were present at or on the Premises on or prior to the Closing Date or that were released by Seller or any other person for whose conduct Seller is responsible at any time on or prior to the Closing Date.

ARTICLE XII GENERAL PROVISIONS

12.1 Indemnification.

(a) Subject to Article XI, Seller undertakes and agrees to indemnify and hold harmless Buyer, its Affiliates, the Board of Commissioners, and the City of Los Angeles, and all of their respective commissioners, officers, agents, employees, attorneys,

consultants, advisors, representatives, and assigns and successors in interest (collectively, "Indemnitees") from and against any and all charges, damages, demands, judgments, civil fines and penalties, or losses of any kind or nature whatsoever, arising by reason of any (a) breach of this Agreement by Seller, (b) failure of any representation, warranty or guarantee made by Seller herein or in any of the other Operative Documents that is qualified by materiality to be true, (c) failure of any representation, warranty or guarantee made by Seller herein or in any of the other Operative Documents that is not so qualified by materiality to be true in all material respects, or (d) Excluded Liability; provided, however, that before making a Claim based on any misrepresentation or inaccuracy of Seller's representations in Section 3.6 with respect to Seller's title to the real property interests in the Facility Assets, Buyer shall have exhausted its remedies with respect to the title policy issued pursuant to Section 7.4(e).

(b) Buyer shall promptly notify Seller of any action, suit, proceeding, demand, or breach (a "Claim") with respect to which Buyer claims indemnification; *provided, however,* that failure of Buyer to give such notice shall not relieve Seller of its obligations under this Section 12.1. If such Claim relates to any action, suit, proceeding, or demand instituted by a third party (a "Third Party Claim"), upon receipt of such notice from Buyer, Seller shall be entitled to participate in the defense of such Third Party Claim, and if and only if each of the conditions set forth in clauses (i) through (iv) below is satisfied, Seller shall assume the defense of such Third Party Claim, and in the case of such an assumption, Seller shall have the authority, with consent of Buyer, to negotiate, compromise, and settle such Third Party Claim;

(i) Seller confirms in writing, without qualification of any kind, that it is obligated to indemnify the Indemnitees with respect to such Third Party Claim;

(ii) Seller has selected counsel to handle the defense who is acceptable to the Los Angeles City Attorney;

(iii) Buyer does not give Seller notice that it has determined, in the exercise of its reasonable discretion, that matters of policy or a conflict of interest make separate representation by Buyer's own counsel advisable; and

(iv) Seller establishes to the reasonable satisfaction of Buyer that Seller has (and will continue to have) adequate financial resources to satisfy and discharge such action or claim.

(c) Buyer shall retain the right to participate in the defense of any Third Party Claim, the defense of which has been assumed by Seller pursuant hereto, but Buyer shall bear and shall be solely responsible for its own costs and expenses in connection with such participation. In the event Seller shall fail or not be entitled to assume the defense of any Third Party Claim, then Buyer shall control the defense and settlement thereof at Seller's cost and expense, and any judgment on or settlement of such Third Party Claim shall be conclusive and binding on Seller for all purposes.

(d) The provisions of this Section 12.1 shall not be construed so as to relieve any insurer of its obligation to pay any insurance proceeds in accordance with the terms and conditions of valid and collectible insurance policies.

(e) No individual Representative of either Party shall be personally liable for any losses under the provisions contained in this Section 12.1. Except as set forth in Section 12.1(d), nothing herein shall relieve either Party of any liability to make any payment expressly required to be made by such Party pursuant to this Agreement.

12.2 Expenses. Except as otherwise expressly provided in this Agreement, each Party will bear its respective expenses incurred in connection with the preparation, execution, and performance of this Agreement and the transactions contemplated by this Agreement, including all fees and expenses of agents, representatives, counsel, and accountants. Both Parties agree that, in any action to enforce the terms of this Agreement, each Party shall be responsible for its own attorney fees and costs. Each of the Parties was represented by its respective legal counsel during the negotiation and execution of this Agreement.

12.3 Ambiguity. The Parties acknowledge that this Agreement was jointly prepared by them, by and through their respective legal counsel, and any uncertainty or ambiguity existing herein shall not be interpreted against either Party on the basis that the Party drafted the language, but otherwise shall be interpreted in accordance with Exhibit 1.1 and according to the application of the rules on interpretation of contracts.

12.4 Voluntary Execution. The Parties acknowledge that they have read and fully understand the content and effect of this Agreement and that the provisions of this Agreement have been reviewed and approved by their respective counsel. The Parties further acknowledge that they have executed this Agreement voluntarily, subject only to the advice of their own counsel, and do not rely on any promise, inducement, representation or warranty that is not expressly stated herein.

12.5 Notices. All notices, requests, demands, consents, approvals, waivers, and other communications which are required or may be given under this Agreement shall be in writing (regardless of whether the applicable provision expressly requires a writing) and shall be deemed to have been duly given when given in the manner set forth in Section 14.2 of the PPA.

12.6 Entire Agreement; Amendments.

(a) This Agreement (including all Schedules and Exhibits) and the PPA contain the entire understanding concerning the subject matter herein and supersede and replace any prior negotiations, discussions or agreements between the Parties concerning that subject matter, whether written or oral, except as expressly provided for herein. Each Party acknowledges that no other party, representative or agent has made any promise, representation or warranty, express or implied, that is not expressly contained in this Agreement or the other documents of even date herewith between the Parties that induced the other Party to sign this document.

(b) This Agreement may be amended or modified only by an instrument in writing signed by each Party.

12.7 Further Assurances. The Parties agree to furnish upon request to the other Party such further information, to execute and deliver to the other Party such other documents, and to do such other acts and things, all as the other Party may reasonably request for the purpose of carrying out the intent of this Agreement and the other Operative Documents, including in the case of Seller, to assist Buyer in pursuing and obtaining any Consents or Permits required to be obtained in the name of Buyer after the Closing Date.

12.8 Waiver. The failure of either Party to enforce or insist upon compliance with or strict performance of any of the terms or conditions hereof, or to take advantage of any of its rights hereunder, shall not constitute a waiver or relinquishment of any such terms, conditions or rights, but the same shall be and remain at all times in full force and effect.

12.9 Severability. In the event all or part of any of the terms, covenants or conditions of this Agreement, or the application of any such terms, covenants or conditions, shall be held invalid, illegal or unenforceable by any court having jurisdiction, all other terms, covenants and conditions of this Agreement and their application not adversely affected thereby shall remain in force and effect; provided, however, that the remaining valid and enforceable provisions materially retain the essence of the Parties' original bargain.

12.10 Consequential or Punitive Damages. Neither Party shall be liable to the other Party for special, incidental, exemplary, indirect, punitive or consequential damages arising out of a Party's performance or non-performance under this Agreement, whether based on or claimed under contract, tort (including such Party's own negligence) or any other theory at law or in equity, including damages for lost revenues, income or profits.

12.11 Equitable Remedies. The Parties acknowledge that money damages may not be an adequate remedy for violations of this Agreement by Seller and that Buyer may, in its sole discretion, seek and obtain from a court of competent jurisdiction specific performance or injunctive or such other equitable relief as such court may deem just and proper to enforce this Agreement or to prevent any violation hereof. The Parties hereby waive any objection to specific performance or injunctive or other equitable relief.

12.12 Time of Essence. With regard to all dates and time periods set forth or referred to in this Agreement, time is of the essence.

12.13 Governing Law. This Agreement shall be interpreted, governed by, and construed under the laws of the State of California without consideration of conflicts of law principles. The venue for any litigation relating to this Agreement shall be in Los Angeles, California and each Party hereby waives any objections on the basis of *forum non-conveniens* or otherwise with respect to the venue of any such action being heard in Los Angeles, California.

12.14 Execution in Counterparts. This Agreement may be executed in counterparts and upon execution by each signatory, each executed counterpart shall have the same force and effect as an original instrument and as if all signatories had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signature thereon, and may be attached to another counterpart of this Agreement identical in form hereto by having attached to it one or more signature pages.

12.15 Relationship of the Parties. This Agreement shall not be interpreted to create an association, joint venture or partnership between the Parties or to impose any partnership obligation or liability upon either such Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as an agent or representative of, the other Party.

12.16 Third Party Beneficiaries. This Agreement shall not be construed to create rights in, or to grant remedies to, any third party as a beneficiary of this Agreement or any duty, obligation or undertaking established herein.

12.17 Provisions of PPA. The provisions of Section 14.3 ("Dispute Resolution"), Section 14.7 ("Assignment of Agreement"), Section 14.21 ("Confidentiality"), and Section 14.22 ("Mobile Sierra") of the PPA are incorporated herein in their entirety, *mutatis mutandis*.

12.18 First Priority Interests. The rights of Buyer under this Agreement shall be prior and superior to the rights of the Facility Lender, and prior and superior to any other person or entity that subsequently acquires an interest in the Facility.

12.19 Exhibits and Schedules. The Exhibits and Schedules referred to in and attached to this Agreement are incorporated herein in full by this reference. To the extent that the terms and conditions of an Exhibit or Schedule conflict with the terms and conditions of the main body of this Agreement, the terms and conditions of the main body of this Agreement shall control.

12.20 Relationship with PPA; Right of First Offer and Right of First Refusal. Except as otherwise specifically stated herein, this Agreement is independent of the PPA and, as a separate agreement, shall survive the amendment, modification, or termination of the PPA, except as otherwise provided herein. In the event of a conflict between this Agreement and the PPA, this Agreement shall control. Notwithstanding the foregoing, this Agreement shall not be deemed to limit Buyer's Right of First Offer or Right of First Refusal set forth in the PPA.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement as of the date first written above.

CITY OF LOS ANGELES acting by and through
the DEPARTMENT OF WATER AND POWER

By BOARD OF WATER AND POWER
COMMISSIONERS OF THE CITY OF
LOS ANGELES

Date: _____

By: _____
Marcie L. Edwards,
GENERAL MANAGER

And: _____
Barbara E. Moschos,
BOARD SECRETARY

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

MAY 23 2014

BY _____
VAUGHN MINASSIAN
DEPUTY CITY ATTORNEY

RE BARREN RIDGE 1 LLC

Date: May 23, 2014

By: Michael Metzner
Its: Chief Financial Officer

EXHIBIT 1.1
to
OPTION AGREEMENT
dated as of _____, 2014
by and between
RE BARREN RIDGE 1 LLC
and
THE CITY OF LOS ANGELES ACTING BY AND THROUGH
THE DEPARTMENT OF WATER AND POWER

DEFINITIONS; RULES OF INTERPRETATION

“Affected Portion” shall have the meaning ascribed to it in Section 9.3(a).

“Affiliate” means, as to any Person, any other Person that, directly or indirectly, is in control of, is controlled by or is under common control with, such Person, or is a director or officer of such Person or of an Affiliate of such Person. As used in this Agreement, “control” shall mean the possession, directly or indirectly, of the power to direct or cause the direction of management, policies or activities of a Person, whether through ownership of voting securities, by contract or otherwise.

“Agency Action” means any notice of violation, complaint, order, consent order, consent agreement, assessment of a fine or penalty or other similar demand for action brought by a Governmental Authority having the requisite authority and jurisdiction to bring such action.

“Agreement” means this Option Agreement.

“Applicable Diligence Period” shall have the meaning ascribed to it in Section 5.1.

“Asset Assignment Documents” shall have the meaning ascribed to it in Section 7.4(d).

“Assumed Contracts” means the Contracts to which Seller is a party or to which the Facility is subject, listed in *Schedule 3.3* and *Schedule 3.12*.

“Assumed Liabilities” shall have the meaning ascribed to it in Section 2.9.

“Bill of Sale” means the document described in Section 7.4(c).

“Board of Commissioners” means the Board of Water and Power Commissioners of the City of Los Angeles created pursuant to Section 600 and 670 of the Charter of the City of Los Angeles.

“Books and Records” means, to the extent relating to any period of time prior to the Closing, (a) all books, records, purchasing records, lists, files and papers in the possession of Seller or its agents pertaining to the Facility Assets and the Facility, and all records and lists concerning suppliers to and personnel of the Facility or Taxes with respect thereto; (b) all ledgers, and reports, plans, drawings, maps, photographs, technical manuals and operating records of every kind maintained by Seller with respect to the Facility, whether in hard copy or

electronic format; and (c) all software used by Seller primarily in connection with the operation of the Facility, in each case to the extent transferable; provided that Books and Records may include inextricable information or data unrelated to the Facility, in which case such information or data may be redacted.

"Breach Notice" shall have the meaning ascribed to it in Section 5.7.

"Business" means the business of owning and operating the Facility.

"Business Day" means any calendar day that is not a Saturday, a Sunday, or a day on which commercial banks are authorized or required to be closed in Los Angeles, California, or New York, New York.

"Buyer" shall have the meaning ascribed to it in the first paragraph of this Agreement.

"CEQA" means the California Environmental Quality Act.

"CERCLA" means the federal Comprehensive Environmental Response, Compensation and Liability Act.

"Claim" shall have the meaning ascribed to it in Section 12.1(b).

"Closing" shall have the meaning ascribed to it in Section 2.7.

"Closing Date" means the date on which the Closing is required to take place, as set forth in Section 2.2.

"Closing Permitted Encumbrances" means any Purchase Option Permitted Encumbrances other than those that secure any form of Facility Debt or any other monetary obligation (other than Liens for Taxes not yet due).

"Code" means the Internal Revenue Code of 1986.

"Commercial Operation Date" shall have the meaning ascribed to it in the PPA.

"Consent" means any approval, consent, ratification, waiver, license, permit, certification, registration or other authorization (including any Governmental Approval).

"Contract" means any agreement, arrangement, lease, commitment, sales order, purchase order, indenture, mortgage, right, warrant or instrument, which provides for ownership or operation of the Facility and is intended to, or purports to be, or is required to be binding and enforceable as contemplated under this Agreement, other than the Permits.

"Disclosure Schedules" shall have the meaning ascribed to it in Section 2.4.

"Effective Date" shall have the meaning ascribed to it in the preamble to this Agreement.

"Environment" includes (a) the navigable waters, the contiguous zone, and the ocean waters of which the natural resources are under the exclusive management authority of the

United States under the Magnuson-Stevens Fishery Conservation and Management Act and (b) any other surface water, ground water, drinking water supply, stream sediments, soil, land surface or subsurface strata, or ambient air, plant and animal life, and any other environmental medium or natural resource within the United States, or a foreign nation or under jurisdiction of the United States or a foreign nation.

"Environmental Conditions" means the presence of Hazardous Substances which have been Released into the Environment or the presence of Hazardous Substances that could reasonably be expected to pose a threat of Release of Hazardous Substances into the Environment.

"Environmental Law" means any applicable current or future treaty, constitution, law, statute, ordinance, rule, order, decree, regulation or other directive which is legally binding and has been enacted, issued or promulgated by any Governmental Authority that imposes liability for or standards of conduct or compliance or other requirements or obligations concerning protection of health, or safety (in each case, to the extent relating to exposure to Hazardous Substances), natural resources or the Environment and includes all Hazardous Substances Law.

"Excluded Assets" means, notwithstanding any other provision of this Agreement, the following assets:

- (a) cash, certificates of deposit and other bank deposits, treasury bills and other cash equivalents or other investments, on hand or in bank accounts, and all of Seller's bank accounts, intercompany accounts and accounts receivable;
- (b) accounts and notes receivable relating to the period prior to the Closing Date, including amounts owing under the PPA;
- (c) all of Seller's rights under the PPA and any other Contract between Seller and Buyer or between Seller and any other third party for the sale of Facility Energy or Capacity Rights from the Facility;
- (d) any Contract between Seller and its Affiliates, other than for on-going operations and maintenance of the Facility;
- (e) any Contract that is not an Assumed Contract and any Permit that is not a Transferred Permit;
- (f) any computers not used primarily in connection with the Facility, any communication or data network systems not used primarily in connection with the Facility, and any other equipment not reasonably required to operate the Facility;
- (g) all refunds or credits, if any, of Taxes due to or from Seller and (i) accrued prior to the Closing or (ii) which otherwise cannot be assigned by Law;
- (h) all corporate, financial and tax records of Seller which (i) do not relate in whole or in part to the Facility, (ii) relates solely to any Excluded Asset, (iii) relates solely to any Excluded Liability, (iv) relates to the organization, existence, capitalization

or debt financing of Seller, (v) relates to information about Seller or its Affiliates pertaining to energy or project evaluation methodologies, economic evaluation of the Facility Assets (other than the Financial Statements), energy or natural gas price curves or projections or other economic predictive models, or (vi) do not constitute Books and Records;

(i) all rights to claims, refunds or adjustments against Buyer or any other third parties arising out of the period prior to the Closing Date;

(j) Seller's insurance policies; and

(k) the assets identified as "Excluded Assets" in *Schedule 3.5*.

"*Excluded Liabilities*" shall have the meaning set forth in Section 2.10.

"*Facility Assets*" means the following assets (excluding those assets constituting Excluded Assets):

1. the Premises;
2. all Assumed Contracts;
3. all Fixtures and Equipment;
4. all Books and Records;
5. all Transferred Permits;
6. all Intellectual Property Assets;
7. all Supplies;
8. all Transmission Assets;
9. all Warranties; and
10. all other assets, properties, rights, privileges, claims and Contracts of every kind and nature, real or personal, tangible or intangible, absolute or contingent, wherever located, owned or used (including those necessary to access to utilize any common use facilities), comprising the Facility.

"*Fair Market Value*" shall mean, with respect to a particular time of calculation, the amount a willing buyer would pay for the Facility Assets and all rights and interests associated therewith, in an arm's-length transaction, to a willing seller under no compulsion to sell on the applicable Closing Date, taking into account all relevant facts and circumstances relating to the Facility Assets, the Excluded Assets, the Assumed Liabilities, the Excluded Liabilities and the Disclosure Schedules, as of the Closing Date, and assuming that the Facility is able to generate revenue for the then-remaining Agreement Term at a price per MWh equal to the Contract Price set forth in the PPA and thereafter for the remaining useful life of the Facility Assets at a price per MWh equal to the then fair market price for Energy, Capacity Rights, Environmental Attributes and other Products generated by the Facility (except in the case Buyer is exercising its Project Purchase Option as a result of an Event of Default of Seller under the PPA, in which case the Energy, Capacity Rights, Environmental Attributes and other Products generated by the Facility will be assumed to be sold at their fair market value price as of the Closing Date for the remaining useful life of the Facility Assets), as determined in accordance with *Exhibit 2.5*.

"FERC" shall have the meaning ascribed to it in Section 3.17.

"Final Purchase Price" shall have the meaning ascribed to it in *Exhibit 2.5*.

"Financial Statements" shall have the meaning ascribed to it in Section 5.3.

"Fixtures and Equipment" means the fixtures, equipment (including solar panels, control rooms and other auxiliaries, furniture, office equipment, communications equipment, fixtures, furnishings, machinery, vehicles, computers, air conditioning ventilation and heating equipment and control stations) but excluding any Supplies, and other tangible personal property located on the Premises and owned or used by Seller in connection with the operation of the Facility.

"FPA" shall have the meaning ascribed to it in Section 3.17.

"GAAP" means generally accepted accounting principles that are consistent with the principles promulgated or adopted by the Financial Accounting Standards Board and its predecessors in effect for the applicable period of Seller.

"Governmental Approval" means any Consent issued, granted, given, or otherwise made available by or under the authority of any Governmental Authority or pursuant to any Law or Environmental Law.

"Governmental Authority" means any federal, state, regional, city or local government, any intergovernmental association or political subdivision thereof, or other governmental, regulatory or administrative agency, court, commission, administration, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority, or any Person acting as a delegate or agent of any Governmental Authority. The term "Governmental Authority" shall not include either Party.

"Hazardous Substances" means any substance, material or waste that is regulated by or forms the basis of liability now or hereafter under, any Hazardous Substances Law, including any material, substance or waste that is (a) defined as a "solid waste," "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," "restricted hazardous waste," "pollutant," "contaminant," "hazardous constituent," "special waste," "toxic substance" or other similar term or phrase under any Environmental Law, (b) petroleum or any fraction or by-product thereof, asbestos, polychlorinated biphenyls (PCB's), or any radioactive substance.

"Hazardous Substances Law" means any applicable current or future treaty, constitution, law, statute, ordinance, rule, order, decree, regulation or other directive which is legally binding and has been enacted, issued or promulgated by any Governmental Authority that imposes liability for or standards of conduct or compliance concerning the generation, distribution, use, treatment, storage, disposal, cleanup, transport or handling of Hazardous Substances, including, the Federal Water Pollution Control Act, the Resource Conservation and Recovery Act of 1976, CERCLA, the Toxic Substances Control Act, the Oil Pollution Act, the Safe Drinking Water Act, and the Occupational Safety and Health Act of 1970 (to the extent that it relates to the handling of and exposure to hazardous or toxic materials or similar substances).

"Indemnitees" shall have the meaning ascribed to it in Section 12.1(a).

"Intellectual Property Assets" shall have the meaning ascribed to it in Section 3.13(a).

"Investment Company Act" means the Investment Company Act of 1940.

"Knowledge" means with respect to any fact, circumstance, or condition, (a) the actual, current knowledge of any officer, agent, employee, or representative of the applicable Party, or (b) the knowledge that an officer of such Party should have had upon reasonable investigation and inquiry.

"Law" means any Order, and any federal, state, local, or foreign law, statute, regulation, rule, code or ordinance enacted, adopted, issued or promulgated by any Governmental Authority, but excluding Environmental Laws.

"Land Documents" means the real property leases and easements for the Site that together establish Site Control.

"Lien" means any mortgage, deed of trust, lien, security interest, retention of title or lease for security purposes, pledge, charge, encumbrance, equity, attachment, claim, easement, right of way, covenant, condition or restriction, leasehold interest, purchase right or other right of any kind, including an option, of any other Person in or with respect to any real or personal property.

"Material Adverse Effect" means a material adverse effect on (a) Seller, (b) the Facility, (c) the business, condition (financial or otherwise), results of operations or prospects of the Business, or (d) the Facility Assets.

"Maximum Purchase Price" shall have the meaning ascribed to it in *Exhibit 2.5*.

"Minimum Purchase Price" shall have the meaning ascribed to it in *Exhibit 2.5*.

"National Priorities List" means the list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States and its territories and that guides the Environmental Protection Agency in determining which sites warrant further investigation.

"Operations Period" means the six (6) month period of time prior to the delivery by Buyer of the Purchase Option Exercise Notice.

"Operative Documents" means each of the agreements, instruments, certificates and other documents executed and delivered by a Party under this Agreement in connection with the performance and consummation of the transaction contemplated by this Agreement.

"Order" means any final, non-appealable award, decision, injunction, judgment, order, ruling, subpoena, or verdict entered, issued, made, or rendered by any court, administrative agency, or other Governmental Authority, or by any arbitrator.

"Organizational Documents" means as applicable, (a) the articles or certificate of incorporation and the bylaws of a corporation; (b) any charter or similar document adopted or filed in connection with the creation, formation, or organization of a Person; (c) the certificate of organization and the operating agreement of a limited liability company; and (d) any amendment to any of the foregoing.

"Party" and **"Parties"** shall have the meaning ascribed to it in the first paragraph of this Agreement.

"Permit" means any permit, license, franchise, concession, consent, authorization, approval, registration, filing or similar act of or made with any Governmental Authority that are used by or necessary to operate the Facility.

"Person" means any individual, corporation (including any non-profit corporation), general or limited partnership, limited liability company, joint venture, estate, trust, association, organization, labor union, or other entity or Governmental Authority.

"PPA" shall have the meaning ascribed to it in the Recitals.

"Premises" means the fee, leasehold, easement and other Real Property Interests held by Seller in connection with the ownership or operation of the Facility, including under the Land Documents, together with all buildings, improvements, structures and fixtures thereon owned by Seller, and all easements, privileges, rights-of-way, lands underlying any adjacent streets or roads, appurtenants, licenses and other rights owned by Seller pertaining to or accruing to the benefit of such property.

"Proceeding" means any action, order, writ, judgment or decree outstanding, arbitration, audit, hearing, investigation, claim, litigation, or suit (whether civil, criminal, regulatory, administrative, investigative, or informal) commenced, brought, conducted, or heard by or before, or otherwise involving, any Person.

"Products" shall have the meaning ascribed to it in the Recitals.

"Project Purchase Option" shall have the meaning ascribed to it in Section 2.1.

"Provided Materials" shall have the meaning ascribed to it in Section 5.1.

"Purchase Option Exercise Deadline" means a period of one hundred twenty (120) days after the determination of the Fair Market Value for the applicable Purchase Option Opportunity.

"Purchase Option Exercise Notice" shall have the meaning ascribed to it in Section 2.5(b).

"Purchase Option Opportunity" shall have the meaning ascribed to it in Section 2.2.

"Purchase Option Permitted Encumbrances" means (a) any Lien approved by Buyer or set forth in *Schedule 3.6*; (b) Liens for Taxes not yet due or for Taxes being contested in good faith by appropriate proceedings, so long as either (i) such proceedings do not involve a

substantial risk of the sale, forfeiture, loss or restriction on the use of the Facility or any part thereof, or (ii) a bond or other security reasonably acceptable to Buyer has been posted or provided in such manner and amount as to assure Buyer that any Taxes determined to be due will be promptly paid in full when such contest is determined; (c) zoning, building codes and other land use laws regulating the use or occupancy of the Premises or the activities conducted thereon which are imposed by any Governmental Authority having jurisdiction over the Premises; (d) 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 either (i) such proceedings do not involve a substantial risk of the sale, forfeiture, loss or restriction on use of the Facility or any part thereof, or (ii) a bond or other security reasonably acceptable to Buyer has been posted or provided in such manner and amount as to assure Buyer that any amounts determined to be due will be promptly paid in full when such contest is determined; (e) easements, rights of way, use rights, exceptions, encroachments, reservations, restrictions, conditions or limitations which do not materially impair the Premises affected thereby for the purpose for which title was acquired or materially interfere with or impair the operation of the Facility Assets; (f) the fee owner's interest in the Premises (if such fee owner is different than Seller); (g) any mortgage, pledge, security interest, encumbrance, lien (statutory or other) or conditional sale agreement on or affecting the landowner's interest in the Premises that does not have a material adverse effect upon Seller's rights or obligations under the Land Documents or for which the beneficiary of any of the foregoing has agreed not to disturb Seller's interest in the Land Documents through a customary recognition, non-disturbance, and attornment agreement or other agreement of similar effect; (h) the terms and conditions of the Land Documents; and (i) Liens created or reserved pursuant to or contemplated by the PPA, this Agreement or any Performance Security under the PPA.

"Purchase Option Tentative Exercise Notice" shall have the meaning ascribed to it in Section 2.4.

"Qualified Appraiser" means a nationally recognized California Licensed Certified General Real Estate Appraiser, which shall (a) be qualified to appraise independent electric generating businesses, (b) have been engaged in the appraisal or business valuation and consulting business for a period of not less than five (5) years, and (c) not be associated with Seller, Buyer or any of their respective Affiliates.

"Real Property Contracts" shall have the meaning ascribed to it in Section 3.3(a).

"Real Property Interests" shall have the meaning ascribed to it in Section 3.3(a).

"Release" means any physical release, spill, emission, leaking, pumping, injection, deposit, disposal, discharge, dispersal, dumping, leaching or migration of Hazardous Substances in the Environment, including the movement of Hazardous Substances through or in the Environment, including the Premises.

"Representative" means, with respect to a particular Person, any director, officer, employee, agent, consultant, advisor, or other representative of such Person, including legal counsel, accountants, and financial advisors.

"Requirements of Law" means all Laws, Permits (including those pertaining to electrical, building, zoning, and occupational safety and health requirements) and Environmental Laws.

"Schedule Delivery Date" shall have the meaning ascribed to it in Section 2.4.

"Seller" shall have the meaning ascribed to it in the first paragraph of this Agreement.

"Seller Disclosure Schedules" shall have the meaning ascribed to it in Section 2.4.

"Supplies" means those supplies, inventories and spare parts on the Premises or otherwise dedicated to the Facility as of the Closing Date.

"Tax Claim" shall have the meaning ascribed to it in Section 9.1(e).

"Tax Return" means any return, report, information return or other document (including any related or supporting information) required to be supplied to any authority with respect to Taxes.

"Taxes" means all taxes, charges, fees, levies, penalties or other similar assessments imposed by any United States federal, state or local, or foreign taxing authority, including, income, excise, property, sales, use, transfer, franchise, payroll, withholding, social security or other taxes, including any interest, penalties or additions attributable thereto.

"Tentative Purchase Price" shall have the meaning ascribed to it in Exhibit 2.5.

"Third Party Claim" shall have the meaning ascribed to it in Section 12.1(b).

"Third Party Property Interests" shall have the meaning ascribed to it in Section 3.3(a).

"Transferred Permits" means all Permits other than those Permits that will not be transferred to Buyer as of the Closing.

"Transfer Taxes" shall have the meaning ascribed to it in Section 2.13.

"Transmission Assets" means the fixtures, equipment (including transformers and switchgear) and other tangible property interests owned by Seller and required for the transmission of Energy to the Point of Delivery.

"Treasury" means the regulations issued by the U.S. Department of Treasury under the Internal Revenue Code.

"Updated Schedule Delivery Date" shall have the meaning ascribed to it in Section 2.11(a).

“Warranties” means all rights of Seller under or pursuant to all third-party warranties, representations and guarantees made by manufacturers and suppliers in connection with the Facility Assets or services furnished to Seller pertaining to the Facility or affecting the Facility Assets.

RULES OF INTERPRETATION

1. The headings of Sections in this Agreement are provided for convenience only and shall not affect its construction or interpretation.
2. All references to "Article," "Articles," "Section" or "Sections" refer to the corresponding Article, Articles, Section or Sections of this Agreement, unless otherwise specified. Each reference to an Article or Section of, or Exhibit or Schedule to, this Agreement shall be deemed to be followed by the word "hereof."
3. All words used in this Agreement shall be construed to be of such gender or number as the circumstances require.
4. The word "including" does not limit the preceding words or terms.
5. A reference to any Person includes its permitted successors and permitted assigns.
6. The words "herein," "hereof," "hereunder" and words of like import shall refer to this Agreement as a whole and not to any particular section or subdivision of this Agreement.
7. The singular includes the plural and the plural includes the singular.
8. The term "or" is not exclusive.
9. A reference to any Law, rule, regulation, statute, ordinance, Order, code or similar form of decision of any Governmental Authority having the effect and force of Law includes any amendment or modification or successor thereto, and all regulations rulings promulgated under such Governmental Rule.
10. Accounting terms have the meanings assigned to them by generally accepted accounting principles, as consistently applied by the accounting entity to which they refer.
11. References to any document, instrument or agreement (a) shall include all exhibits, schedules and other attachments thereto, (b) shall include all documents, instruments or agreements issued or executed in replacement thereof, and (c) shall mean such document, instrument or agreement, or replacement or predecessor thereto, as amended, modified and supplemented from time to time and in effect at any given time, regardless of whether any of the foregoing are expressly referred to in the applicable provision.
12. References to "days" and "months" shall mean calendar days and calendar months, respectively. References to a time of day shall mean such time in Los Angeles, California.

13. The terms "shall," "will," and "must" shall have the same meaning and be of equal force and effect.

EXHIBIT 2.5
to
OPTION AGREEMENT
dated as of _____, 2014
by and between
RE BARREN RIDGE 1 LLC
and
THE CITY OF LOS ANGELES ACTING BY AND THROUGH
THE DEPARTMENT OF WATER AND POWER

PURCHASE PRICE

1. The "*Tentative Purchase Price*" shall be an amount equal to the Fair Market Value, as determined in accordance with this *Exhibit 2.5*.
2. Within fifteen (15) days following the later of (a) the Schedule Delivery Date, or (b) the actual delivery by Seller to Buyer of the Seller Disclosure Schedules (the "*Actual Schedule Delivery Date*") the Parties shall meet and attempt to agree on the Tentative Purchase Price based on the Seller Disclosure Schedules delivered by Seller. If the Parties are unable to agree on the Tentative Purchase Price within thirty (30) days after the Actual Schedule Delivery Date, the Parties shall, within fourteen (14) additional days, jointly select a Qualified Appraiser. If the Parties cannot agree on a Qualified Appraiser within such fourteen (14) day period, then each of Seller and Buyer shall select an independent recognized appraiser within fourteen (14) days after the conclusion of such period, which independent appraisers shall, within fourteen (14) days after being selected by each of Buyer and Seller, agree upon and appoint a third Qualified Appraiser to perform the appraisal. If the two selected appraisers cannot agree on a third Qualified Appraiser within such fourteen (14) day period, then either Party may apply to the American Arbitration Association to make such an appointment within fourteen (14) days after such application. The appraisal shall be completed within thirty (30) days of the appointment of the Qualified Appraiser.
3. The Tentative Purchase Price shall be adjusted from time to time by the amount (as determined by the Parties in good faith, or absent their mutual agreement, by Qualified Appraisers using the same methodology set forth in paragraph 2 above) necessary to take into account (i) any differences between the Seller Disclosure Schedules originally delivered to Buyer on the Actual Schedule Delivery Date and any updated Seller Disclosure Schedules delivered to Buyer from time to time prior to Closing, (ii) any item or omission in a Seller Disclosure Schedule that is not resolved to the reasonable satisfaction of Buyer, (iii) any differences in Facility Assets, Excluded Assets, Assumed Liabilities or Excluded Liabilities from the Actual Schedule Delivery Date to the Closing, (iv) the inability of Seller to satisfy any of the Buyer Closing Conditions set forth in Article VII, (v) damage or destruction of all or a portion of the Facility or any real or threatened condemnation or eminent domain proceeding as described under Section 9.3(a) of the Agreement, or (vi) following the delivery of a Breach Notice, the event or circumstance described in such Breach Notice.

4. The "*Final Purchase Price*" to be paid by Buyer at the Closing shall be an amount equal to the greater of (a) the Tentative Purchase Price, or (b) the Minimum Purchase Price (as defined below); provided that in the event that (i) the Tentative Purchase Price is at any time greater than the Maximum Purchase Price (as defined below), then Buyer, upon notice to Seller, may, without liability, terminate the Project Purchase Option with respect to the relevant Purchase Option Opportunity, and such Purchase Option Opportunity shall expire and shall no longer be effective (but such expiration shall not affect Buyer's right to exercise any Project Purchase Option with respect to any future Purchase Option Opportunity).
5. 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 Option Opportunity	Minimum Purchase Price	Maximum Purchase Price
6 th Contract Year	\$108,200,000	\$127,300,000
10 th Contract Year	\$101,000,000	\$118,800,000
15 th Contract Year	\$89,700,000	\$105,500,000
20 th Contract Year	\$75,000,000	\$88,200,000
Event of Default under PPA	The aggregate amount of the Facility Debt immediately prior to Closing, if any. Otherwise, none.	None.

EXHIBIT 5.11
to
OPTION AGREEMENT
dated as of _____, 2014
by and between
RE BARREN RIDGE 1 LLC
and
THE CITY OF LOS ANGELES ACTING BY AND THROUGH
THE DEPARTMENT OF WATER AND POWER

FORM OF TRANSITION SERVICES AGREEMENT

This **TRANSITION SERVICES AGREEMENT** (this "Agreement") is entered into on [•], 20__ (the "Effective Date"), by and between RE BARREN RIDGE 1 LLC, a Delaware limited liability company ("Seller") and THE CITY OF LOS ANGELES ACTING BY AND THROUGH THE DEPARTMENT OF WATER AND POWER, a municipal corporation of the State of California ("Buyer"). Seller and Buyer are hereinafter sometimes collectively referred to as the "Parties," and each individually as a "Party."

WITNESSETH:

WHEREAS, the Parties have entered into that certain Option Agreement, dated as of _____, 2013 (the "Option Agreement"), pursuant to which, among other things, Seller has agreed to sell, transfer, assign, convey and deliver to Buyer, and Buyer has agreed to purchase, receive and assume from Seller, the Facility Assets (as defined in the Option Agreement), upon the terms and subject to the conditions set forth in the Option Agreement; and

WHEREAS, Section 5.11 of the Option Agreement provides that Seller or its Affiliates will provide Buyer with transitional operation and maintenance services; and

WHEREAS, Buyer hereby requests that Seller (or its Affiliates) perform certain transitional operation and maintenance services for a period of time following the Closing Date to facilitate the transition of the operations of the Facility to Buyer; and

WHEREAS, Seller is willing to provide, or cause its Affiliates to provide, such services to Buyer subject to the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the premises and the covenants set forth herein and the benefits to be derived herefrom, the Parties hereby agree as follows:

ARTICLE I
DEFINED TERMS

Capitalized terms used in this Agreement shall have (unless provided elsewhere in this Agreement) the meanings given to such terms in the Option Agreement and as set forth below:

“Services” means the services that are listed on Schedule 1 attached hereto; provided, however, that the term “Services” shall not include the services listed under the heading “Excluded Services” on Schedule 1 attached hereto.

ARTICLE II DESCRIPTION OF SERVICES

2.1 Seller’s Undertakings. The purpose of this Agreement is to enable Buyer to receive the Services from Seller or Seller’s Affiliates on an interim basis in order to permit Buyer the opportunity to obtain alternate sources of supply of such Services prior to the expiration of the Initial Term, or if extended, the Extension Term (as such terms are defined in Section 3.1 below). Seller agrees to provide, or to cause the provision through its Affiliates of, the Services to Buyer during the Initial Term and each Extension Term in accordance with the terms and conditions of this Agreement and all Requirements of Law, in a professional, workmanlike manner, subject to the applicable Laws and in a manner that is substantially the same as the manner in which such Services were performed prior to the date of this Agreement.

2.2 Resources Committed. Seller shall provide the Services set forth on Schedule 1; provided that Seller shall not be required to provide any services to Buyer that neither Seller nor its Affiliates previously provided or performed in connection with the ownership of the Facility Assets prior to the Closing. Nothing herein shall require Seller to install equipment, acquire licenses, expand any systems or services or expend any resources beyond the level provided by Seller and its Affiliates prior to the Closing. In connection with the performance of the Services, Seller may, at its sole cost and expense: (a) subcontract with a non-Affiliate or personnel of a non-Affiliate to perform any portion of the Services to be performed hereunder; (b) utilize personnel who are employees of Affiliates of Seller; or (c) subcontract work to Affiliates of Seller; provided that all such personnel and subcontractors shall be fully qualified to perform the applicable Services pursuant to the terms and conditions of this Agreement and Buyer shall have consented to such personnel and subcontracts, such consent not to be unreasonably withheld or delayed.

2.3 Limitations. EXCEPT AS PROVIDED IN THIS AGREEMENT NEITHER SELLER NOR ANY OF ITS AFFILIATES MAKES ANY REPRESENTATION, WARRANTY OR GUARANTY, EXPRESS OR IMPLIED OF ANY KIND CONCERNING THE SERVICES AND ANY RESULTS OR WORK PRODUCT. SELLER AND ITS AFFILIATES SPECIFICALLY MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND NONE SHALL BE IMPLIED AND ALL OTHER REPRESENTATIONS, WARRANTIES OR GUARANTIES, WRITTEN OR ORAL, EXPRESSED OR IMPLIED ARE EXCLUDED.

ARTICLE III TERM AND TERMINATION

3.1 Term. The initial term of this Agreement (the “Initial Term”) shall commence as of the Closing Date and shall continue in effect for a maximum of six (6) months; provided, however, that this Agreement may be extended for an additional period not to exceed two (2) months following the expiration of the Initial Term (the “Extension Term,” and collectively with

the Initial Term, the "Term") if (a) Buyer provides notice not less than thirty (30) days prior to the expiration of the Initial Term of (i) the Services Buyer desires to receive during the Extension Term and (ii) the number of months during the Extension Term for which it desires to receive such Services and (b) Buyer is in compliance with all of its obligations under this Agreement at the time Seller receives a notice of Buyer's intent to extend this Agreement for an Extension Term.

3.2 Termination of Entire Agreement. Notwithstanding anything herein or elsewhere to the contrary, this Agreement may be terminated and the transactions contemplated hereby abandoned, at any time, upon the occurrence of any of the following events or conditions:

(a) upon the mutual written agreement of the Parties to terminate this Agreement;

(b) by Seller, upon Buyer's breach of any obligation under this Agreement (including Buyer's failure to pay Seller amounts owing hereunder) and such breach is not remedied to Seller's reasonable satisfaction within fifteen (15) days after notice to Buyer of such breach or if such breach is not capable of rectification within fifteen (15) days, if Buyer has not promptly commenced to rectify the breach within such fifteen (15)-day period and is not proceeding diligently to rectify the breach; provided, however, that such right to continue to rectify a breach shall end upon expiration of this Agreement; or

(c) by Buyer, upon Seller's breach of any obligation under this Agreement and such breach is not remedied to Buyer's reasonable satisfaction within fifteen (15) days after notice to Seller of such breach or if such breach is not capable of rectification within fifteen (15) days, if Seller has not promptly commenced to rectify the breach within such fifteen (15)-day period and is not proceeding diligently to rectify the breach; provided, however, that such right to continue to rectify a breach shall end upon expiration of this Agreement.

In the event of termination of this Agreement pursuant to this Section 3.2, no Party will have any further liability or obligation hereunder, except that any such termination will not affect (i) the provisions of Section 4.1, Article V and Article VI, which will survive any such termination, or (ii) the rights and obligations of the Parties accruing prior to such termination.

3.3 Termination of Particular Service. Notwithstanding anything herein or elsewhere to the contrary, Buyer shall have the right, upon thirty (30) days' notice to Seller, to terminate this Agreement as to any Service listed on Schedule 1. Upon the effectiveness of the termination of any particular Service, Seller shall no longer be required to provide such Service to Buyer, and Buyer shall incur no additional obligations to pay Seller the fee associated with the provision of such Service, other than obligations that have accrued prior to the termination of such Service, including any third-party fees, penalties or other payments related to the termination by Seller of such Service.

3.4 Termination Procedures. Upon any termination of this Agreement (in whole or in part), each Party shall cooperate with the other Party as reasonably necessary to assist Buyer in

transferring responsibility for the provision of the terminated Service(s) to Buyer (or any third party as designated in writing by Buyer).

ARTICLE IV FEES, BILLING, AND PAYMENT

4.1 Compensation. Buyer shall, in accordance with Section 4.2, (a) pay Seller the fees set forth on Schedule 1 attached hereto for the provision of each particular Service provided under this Agreement, and (b) except as set forth in Section 3.3 above, reimburse Seller for any incidental, out-of-pocket expenses reasonably incurred by Seller or Seller's Affiliates in connection with performing the Services. All amounts paid by Buyer to Seller hereunder shall be paid in full without any deduction or withholding for taxes or any other fees or expenses.

4.2 Billing and Payment. After the end of each calendar month, Seller shall send to Buyer an invoice, setting forth a description of the Services provided during the prior calendar month and identifying the fees that are to be paid. Buyer shall pay to Seller the amounts due and payable on each such invoice within sixty (60) days after its receipt thereof. If Buyer in good faith disputes any portion of an invoice, and Buyer notifies Seller of the nature and basis of such good faith dispute within thirty (30) days after Buyer's receipt of such invoice, Buyer shall have the right to withhold payment of the disputed portion, and Buyer shall pay only the undisputed portion. Seller shall be entitled to a late fee on any undisputed amounts, and any amounts not disputed in good faith by Buyer, due hereunder that remain unpaid following the date due hereunder at the rate of one percent (1%) per month.

4.3 Access. During the Term, Buyer will provide Seller, Seller's Affiliates, and their respective authorized representatives, at each such Person's sole risk, reasonable access (during regular business hours and upon reasonable prior notice), to Buyer and its employees, representatives, facilities and books and records as Seller, Seller's Affiliates and their respective authorized representatives may reasonably request in order to provide the Services; provided, that (i) Buyer shall have the right to have a representative present for any communication with employees or representatives of Buyer; (ii) such access and activities incidental thereto shall be undertaken in accordance with applicable Laws and Buyer's generally applicable policies and procedures; and (iii) Buyer shall have the right to impose reasonable restrictions and requirements for safety purposes. Buyer grants to Seller and its representatives access to the Facility for a period of thirty (30) days after the expiration or termination of this Agreement so that Seller may demobilize its work force, including the removal of its personal property that was brought to the Facility by Seller to provide the Services.

4.4 Records Retention. Each Party shall retain all records relating to this Agreement for so long as required by any Governmental Authority having jurisdiction.

ARTICLE V RELEASE

5.1 Indemnity. Subject to Section 5.2, Seller undertakes and agrees to indemnify and hold harmless Buyer, the Board of Commissioners, and the City of Los Angeles, and all of their respective commissioners, officers, agents, employees, advisors, representatives, and assigns and

successors in interest (collectively, "Indemnitees") and, at the option of Buyer, to defend such Indemnitees from and against any and all suits and causes of action, claims, charges, damages, demands, judgments, civil fines and penalties, or losses of any kind or nature whatsoever, for death, bodily injury or personal injury to any person, including Seller's employees and agents, or third persons, or damage or destruction to any property of either Party or third persons, in any manner arising by reason of any breach of this Agreement by Seller, any failure of any representation, warranty or guarantee to be true in all material respects, the negligent acts, errors, omissions or willful misconduct incident to the performance of this Agreement on the part of Seller, or any of Seller's officers, agents, employees, or subcontractors of any tier, except to the extent caused by the negligence, gross negligence or willful misconduct of any such Indemnitee.

5.2 Limitation of Liability. Seller's liability to Buyer in connection with its performance of the Services hereunder, regardless of whether such liability arises in contract, tort or otherwise, shall not exceed the total amount invoiced under Section 4.2 hereof for all the Services actually provided hereunder during the term of this Agreement, determined in accordance with Schedule 1 hereto; provided that the foregoing limitation shall not apply to the liabilities that arise from the gross negligence or willful misconduct of Seller. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT TO THE CONTRARY, IN NO EVENT SHALL EITHER PARTY, OR ANY OF THEIR AFFILIATES, HAVE ANY LIABILITY HEREUNDER TO THE OTHER PARTY OR ITS AFFILIATES IN RESPECT OF ANY INCIDENTAL, SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES, LOSSES, OR EXPENSES ARISING OUT OF, OR IN CONNECTION WITH, THIS AGREEMENT OR THE PERFORMANCE OR NONPERFORMANCE OF SERVICES HEREUNDER.

ARTICLE VI RELATIONSHIP OF PARTIES

This Agreement is not intended to and shall not be construed as creating a joint venture, partnership, agency or other association within the meaning of the common law or under the laws of the state in which any Party is incorporated, organized, or conducting business. Except for the obligations arising from the authorized activities of Seller as described herein, no Party shall be responsible for the obligations or actions of any other Party, each Party being severally responsible only for its obligations and actions arising hereunder. It is the intent of the Parties that with respect to performing the Services, the Seller and its Affiliates are independent contractors, and shall provide the Services in accordance with the reasonable instructions provided by authorized representatives of Buyer, subject to the provisions of this Agreement.

ARTICLE VII FORCE MAJEURE

7.1 Force Majeure Event. No Party shall be liable to any other Party for its failure or delay in performing its obligations hereunder (other than its obligation to pay money) due to any contingency beyond such Party's reasonable control (a "force majeure event") including acts of God, fires, floods, wars, acts of war, sabotage, terrorism, accidents, labor disputes (whether or not such disputes are within the power of the Party to settle), shortages, governmental laws, ordinances, rules or regulations.

7.2 Notice of Force Majeure Event. Each Party affected by a force majeure event will give notice to the other Party as promptly as practicable of the nature and probable duration of the force majeure event as well as of the anticipated termination of such force majeure event. The Party affected by force majeure will use commercially reasonable efforts to remove the force majeure event and, in the case of Seller, to resume the performance of the Services as soon as reasonably practicable after such removal.

ARTICLE VIII CONFIDENTIALITY

This Agreement is subject to the terms and conditions of Section 12.17 of the Option Agreement, which incorporates the assignment and confidentiality provisions as set forth in that certain Power Purchase Agreement between the Parties (the "PPA").

ARTICLE IX MISCELLANEOUS

9.1 Operational Coordination. On the Effective Date, each Party shall designate a representative for purposes of operational coordination under this Agreement by providing notice to the other Party. Either Party may change its designee for purposes of this Section 9.1 by providing notice thereof to the other Party at any time during the Term.

9.2 Expenses. Except as otherwise expressly provided in this Agreement, each Party will bear its respective expenses incurred in connection with the preparation, execution, and performance of this Agreement and the transactions contemplated by this Agreement, including all fees and expenses of agents, representatives, counsel, and accountants. Both Parties agree that, in any action to enforce the terms of this Agreement, each Party shall be responsible for its own attorney fees and costs. Each of the Parties was represented by its respective legal counsel during the negotiation and execution of this Agreement.

9.3 Ambiguity. The Parties acknowledge that this Agreement was jointly prepared by them, by and through their respective legal counsel, and any uncertainty or ambiguity existing herein shall not be interpreted against either Party on the basis that the Party drafted the language, but otherwise shall be interpreted in accordance with Exhibit 1.1 to the Option Agreement and according to the application of the rules on interpretation of contracts.

9.4 Voluntary Execution. The Parties acknowledge that they have read and fully understand the content and effect of this Agreement and that the provisions of this Agreement have been reviewed and approved by their respective counsel. The Parties further acknowledge that they have executed this Agreement voluntarily, subject only to the advice of their own counsel, and do not rely on any promise, inducement, representation or warranty that is not expressly stated herein.

9.5 Notices. All notices, requests, demands, consents, waivers, approvals, and other communications which are required or may be given under this Agreement shall be in writing (regardless of whether the applicable provision expressly requires a writing) and shall be deemed to have been duly given when given in the manner set forth in Section 14.2 of the PPA.

9.6 Waiver. The failure of either Party to this Agreement to enforce or insist upon compliance with or strict performance of any of the terms or conditions hereof, or to take advantage of any of its rights hereunder, shall not constitute a waiver or relinquishment of any such terms, conditions or rights, but the same shall be and remain at all times in full force and effect. Except to the extent this Agreement provides an exclusive remedy for a breach, nothing contained herein shall preclude either Party from seeking and obtaining any available remedies hereunder, including recovery of damages caused by the breach of this Agreement and specific performance or injunctive relief, or any other remedy given under this Agreement or now or hereafter existing in law or equity or otherwise as a court of competent jurisdiction may deem just and proper to enforce this Agreement or to prevent any violation hereof. The rights granted herein are cumulative.

9.7 Severability. In the event any of the terms, covenants or conditions of this Agreement, or the application of any such terms, covenants or conditions, shall be held invalid, illegal or unenforceable by any court having jurisdiction, all other terms, covenants and conditions of this Agreement and their application not adversely affected thereby shall remain in force and effect, *provided* that the remaining valid and enforceable provisions materially retain the essence of the Parties' original bargain.

9.8 Dispute.

(a) In the event of any claim, controversy or dispute between the Parties arising out of or relating to or in connection with this Agreement (including any dispute concerning the validity of this Agreement or the scope and interpretation of this Section 9.8) (a "Dispute"), either Party (the "Notifying Party") may deliver to the other Party (the "Recipient Party") notice of the Dispute with a detailed description of the underlying circumstances of such Dispute (a "Dispute Notice"). The Dispute Notice shall include a schedule of the availability of the Notifying Party's senior officers (having a title of senior vice president (or its equivalent) or higher) duly authorized to settle the Dispute during the thirty (30) day period following the delivery of the Dispute Notice.

(b) The Recipient Party shall, within five (5) Business Days following receipt of the Dispute Notice, provide to the Notifying Party a parallel schedule of availability of the Recipient Party's senior officers (having a title of senior vice president (or its equivalent) or higher) duly authorized to settle the Dispute. Following delivery of the respective senior officers' schedules of availability, the senior officers of the Parties shall meet and confer as often as they deem reasonably necessary during the remainder of the thirty (30) day period in good faith negotiations to resolve the Dispute to the satisfaction of each Party.

(c) In the event a Dispute is not resolved pursuant to the procedures set forth in Sections 9.8(a) and (b) by the expiration of the thirty (30) day period set forth in Section 9.8(a), then either Party may pursue any legal remedy available to it in accordance with the provisions of Section 9.9 of this Agreement.

(d) In addition to the Dispute Resolution process set forth in this Section, the Parties shall comply with California law governing claims against public entities and presentment of such claims.

9.9 Governing Law; Venue. This Agreement was made and entered into in the City of Los Angeles and shall be governed by, interpreted and enforced in accordance with the laws of the State of California and the City of Los Angeles, 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 Parties irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of California and waive any defense of *forum non conveniens*.

9.10 No Third Party Beneficiaries. This Agreement shall not be construed to create rights in, or to grant remedies to, any third party as a beneficiary of this Agreement or any duty, obligation or undertaking established herein.

9.11 Counterparts. This Agreement may be executed in counterparts and upon execution by each signatory, each executed counterpart shall have the same force and effect as an original instrument and as if all signatories had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signature thereon, and may be attached to another counterpart of this Agreement identical in form hereto by having attached to it one or more signature pages.

9.12 Entire Agreement; Amendments. This Agreement (including Schedule 1 hereto), the Option Agreement, and the PPA contain the entire understanding concerning the subject matter herein and supersede and replace any prior negotiations, discussions or agreements between the Parties concerning that subject matter, whether written or oral, except as expressly provided for herein. Each Party acknowledges that no other party, representative or agent has made any promise, representation or warranty, express or implied, that is not expressly contained in this Agreement or the other documents of even date herewith between the Parties that induced the other Party to sign this document. This Agreement may be amended or modified only by an instrument in writing signed by each Party.

9.13 Headings. The headings of Articles and Sections contained in this Agreement have been inserted for convenience of reference only and shall not be deemed to be a part of or to affect in any way the meaning or interpretation of this Agreement.

[SIGNATURE PAGE FOLLOWS]

The Parties hereto have caused this Agreement to be executed and delivered as of the date first set forth above by their duly authorized representatives.

SELLER

RE BARREN RIDGE 1 LLC

By: _____
Name: _____
Title: _____

BUYER

THE CITY OF LOS ANGELES, ACTING BY
AND THROUGH THE DEPARTMENT OF
WATER AND POWER

By: _____
Name: _____
Title: _____

SCHEDULE 1
to Transition Services Agreement
between
RE Barren Ridge 1 LLC
and
the City of Los Angeles acting by and through
the Department of Water and Power

SERVICES

A. Seller's Services.

Following the Closing Date, during the Initial Term and, if applicable, each Extension Term, Seller shall perform (or shall cause its Affiliates to perform) the following Services:

1. Access, Information and Training. Seller shall provide Buyer and Buyer's representatives, agents, employees and personnel ("Buyer's Personnel") with access, information and training as may be reasonably required so that the transfer of the duties and responsibilities of Seller cause as little disruption as possible to the Facility.
2. System Monitoring. Seller shall conduct system monitoring or assist Buyer's Personnel with conducting system monitoring, including, as applicable, continued upkeep and operation of any operations center that monitors project metrics or hosts SCADA activities, retrieval and storage of performance data and remote or on-Premises monitoring and support.
3. Preventative and Scheduled Maintenance. Seller shall perform (or cause to be performed) or assist Buyer's Personnel with performing maintenance of the Facility Assets, which may include, but are not limited to, the following duties:
 - Regular inspection, repair and functional testing of Facility components, including, as necessary, of photovoltaic modules, mounting systems, combiner boxes and fuse boxes, inverter shelters, power conversion station performers, switchgear and other components.
 - Regular inspection, repair and functional testing of inverters in compliance with, and to ensure continued coverage under, any applicable warranties.
 - Regular inspection and repair, adjustment or cleaning, in accordance with manufacturers' recommendations, of filters, cable connections, warning labels, paint and exterior, operators and handles, weather stripping, relays, transistors and other items.
 - Visual inspection of the Facility and the Premises and correction of undesirable conditions, including fencing, shading, vegetation, animal damage, erosion, corrosion and discolored panels.
 - Inspection and correction of loose electrical connections and ground connections.

- Training regarding Seller's or Seller's Affiliate's Quality Assurance Program (as defined in the Power Purchase Agreement between the Parties), and provision of and training regarding Seller's operation and maintenance plan and related records.
 - Maintain records of service history and information and training regarding such maintenance.
 - Maintenance and testing of sensors and meters.
4. Emergency Response. Seller shall provide or assist Buyer's Personnel with providing responses to emergency events that reduce or halt power production and with performing unscheduled repairs. Seller shall provide, and provide training regarding, any documents, plans or protocols Seller has developed in relation to such events.
 5. Warranty Management. Seller shall verify and enforce or assist Buyer's Personnel with verifying and enforcing all warranties applicable to the Facility Assets.
 6. Spare Parts Inventory Management. Seller shall maintain or assist Buyer's Personnel with maintaining spare parts inventories for the Facility and documentation related to the usage and location of spare parts. Seller shall assist Buyer's Personnel in determining appropriate quantities of inventory and with the procurement of goods and materials that Buyer will need for continued operating and maintenance of the Facility.
 7. Performance Reporting. Seller shall continue to generate or assist Buyer's Personnel with generating appropriate reports from Facility data.
 8. Compliance with Requirements. Seller shall comply with, assist Buyer's Personnel in complying with, and provide information and training regarding compliance with all applicable permits (including Transferred Permits), Operative Documents, Assumed Contracts, warranties, and other requirements applicable to the Facility Assets.
 9. Data Transfer. Seller shall transfer the historical project maintenance data in a digital format, which format shall be consistent with prudent industry standards and to be mutually agreed by the Parties by the Closing Date.

B. Excluded Services.

[Seller and Buyer shall mutually agree on any Excluded Services on or before the Closing Date.]

C. Fees for Services.

[Seller and Buyer shall mutually agree on fees for Services on or before the Closing Date.]

SCHEDULE 3.3
to
OPTION AGREEMENT
dated as of _____, 2014
by and between
RE BARREN RIDGE 1 LLC
and
THE CITY OF LOS ANGELES ACTING BY AND THROUGH
THE DEPARTMENT OF WATER AND POWER

[All Consents of Seller which are necessary or incidental to the Facility shall be specified and briefly described in this Schedule]

SCHEDULE 3.3(a)
to
OPTION AGREEMENT
dated as of _____, 2014
by and between
RE BARREN RIDGE 1 LLC
and
THE CITY OF LOS ANGELES ACTING BY AND THROUGH
THE DEPARTMENT OF WATER AND POWER

[All known defaults to Real Property Contracts or Real Property Interests not providing legal, valid, and enforceable rights in favor of Seller shall be specified and briefly described in this Schedule]

SCHEDULE 3.3(b)
to
OPTION AGREEMENT
dated as of _____, 2014
by and between
RE BARREN RIDGE 1 LLC
and
THE CITY OF LOS ANGELES ACTING BY AND THROUGH
THE DEPARTMENT OF WATER AND POWER

[All appropriation, condemnation, or other like proceedings, or any material violation shall be specified and briefly described in this Schedule]

SCHEDULE 3.3(c)
to
OPTION AGREEMENT
dated as of _____, 2014
by and between
RE BARREN RIDGE 1 LLC
and
THE CITY OF LOS ANGELES ACTING BY AND THROUGH
THE DEPARTMENT OF WATER AND POWER

[All mining, mineral, or water rights severed from any of the Real Property Interests shall be specified and briefly described in this Schedule]

SCHEDULE 3.3(d)
to
OPTION AGREEMENT
dated as of _____, 2014
by and between
RE BARREN RIDGE 1 LLC
and
THE CITY OF LOS ANGELES ACTING BY AND THROUGH
THE DEPARTMENT OF WATER AND POWER

[All written notices that any agreements with any Governmental Authority or private utility affect the Real Property Interests shall be specified and briefly described in this Schedule]

SCHEDULE 3.4
to
OPTION AGREEMENT
dated as of _____, 2014
by and between
RE BARREN RIDGE 1 LLC
and
THE CITY OF LOS ANGELES ACTING BY AND THROUGH
THE DEPARTMENT OF WATER AND POWER

SELLER'S CONSENTS

[All consents that need to be obtained shall be specified and briefly described in this Schedule]

SCHEDULE 3.5
to
OPTION AGREEMENT
dated as of _____, 2014
by and between
RE BARREN RIDGE 1 LLC
and
THE CITY OF LOS ANGELES ACTING BY AND THROUGH
THE DEPARTMENT OF WATER AND POWER

CERTAIN EXCLUDED ASSETS

[Any assets that Seller specifically intends to exclude shall be specified and briefly described in this Schedule]

SCHEDULE 3.6
to
OPTION AGREEMENT
dated as of _____, 2014
by and between
RE BARREN RIDGE 1 LLC
and
THE CITY OF LOS ANGELES ACTING BY AND THROUGH
THE DEPARTMENT OF WATER AND POWER

LIENS

[All Liens that are to be set forth in accordance with Section 3.6 shall be specified and fully described in this Schedule.]

SCHEDULE 3.7
to
OPTION AGREEMENT
dated as of _____, 2014
by and between
RE BARREN RIDGE 1 LLC
and
THE CITY OF LOS ANGELES ACTING BY AND THROUGH
THE DEPARTMENT OF WATER AND POWER

ENVIRONMENTAL MATTERS

[All environmental matters referred to in Section 3.7
shall be specified and briefly described in this Schedule]

SCHEDULE 3.8
to
OPTION AGREEMENT
dated as of _____, 2014
by and between
RE BARREN RIDGE 1 LLC
and
THE CITY OF LOS ANGELES ACTING BY AND THROUGH
THE DEPARTMENT OF WATER AND POWER

LIABILITIES

[All liabilities referred to in Section 3.8
shall be specified and briefly described in this Schedule]

SCHEDULE 3.9
to
OPTION AGREEMENT
dated as of _____, 2014
by and between
RE BARREN RIDGE 1 LLC
and
THE CITY OF LOS ANGELES ACTING BY AND THROUGH
THE DEPARTMENT OF WATER AND POWER

TAX MATTERS

[All tax matters referred to in Section 3.9
shall be specified and briefly described in this Schedule]

SCHEDULE 3.10
to
OPTION AGREEMENT
dated as of _____, 2014
by and between
RE BARREN RIDGE 1 LLC
and
THE CITY OF LOS ANGELES ACTING BY AND THROUGH
THE DEPARTMENT OF WATER AND POWER

COMPLIANCE WITH LAWS

[All non-compliance with laws referred to in Section 3.10
shall be specified and briefly described in this Schedule]

SCHEDULE 3.11
to
OPTION AGREEMENT
dated as of _____, 2014
by and between
RE BARREN RIDGE 1 LLC
and
THE CITY OF LOS ANGELES ACTING BY AND THROUGH
THE DEPARTMENT OF WATER AND POWER

LITIGATION

[All litigation proceedings referred to in Section 3.11
shall be specified and briefly described in this Schedule]

SCHEDULE 3.12
to
OPTION AGREEMENT
dated as of _____, 2014
by and between
RE BARREN RIDGE 1 LLC
and
THE CITY OF LOS ANGELES ACTING BY AND THROUGH
THE DEPARTMENT OF WATER AND POWER

CONTRACTS

[All Contract matters referred to in the Agreement
shall be specified and briefly described in this Schedule]

SCHEDULE 3.13
to
OPTION AGREEMENT
dated as of _____, 2014
by and between
RE BARREN RIDGE 1 LLC
and
THE CITY OF LOS ANGELES ACTING BY AND THROUGH
THE DEPARTMENT OF WATER AND POWER

INTELLECTUAL PROPERTY

[All Intellectual Property Asset matters referred to in Section 3.13 with respect to the Facility shall be specified and briefly described in this Schedule]

SCHEDULE 3.15
to
OPTION AGREEMENT
dated as of _____, 2014
by and between
RE BARREN RIDGE 1 LLC
and
THE CITY OF LOS ANGELES ACTING BY AND THROUGH
THE DEPARTMENT OF WATER AND POWER

NON-ENVIRONMENTAL PERMITS

[All Permits, other than those included in Section 3.7(b), which are necessary or incidental to the Facility shall be specified and briefly described in this Schedule]

SCHEDULE 3.18
to
OPTION AGREEMENT
dated as of _____, 2014
by and between
RE BARREN RIDGE 1 LLC
and
THE CITY OF LOS ANGELES ACTING BY AND THROUGH
THE DEPARTMENT OF WATER AND POWER
EMPLOYEE MATTERS

[All Employee matters referred to in Section 3.18
shall be specified and briefly described in this Schedule]

SCHEDULE 3.19
to
OPTION AGREEMENT
dated as of _____, 2014
by and between
RE BARREN RIDGE 1 LLC
and
THE CITY OF LOS ANGELES ACTING BY AND THROUGH
THE DEPARTMENT OF WATER AND POWER

SHARED FACILITIES

[All Shared Facilities matters referred to in Section 3.19
shall be specified and briefly described in this Schedule]

SCHEDULE 3.20
to
OPTION AGREEMENT
dated as of _____, 2014
by and between
RE BARREN RIDGE 1 LLC
and
THE CITY OF LOS ANGELES ACTING BY AND THROUGH
THE DEPARTMENT OF WATER AND POWER

UNTRUE STATEMENTS; OMISSIONS

[Any untrue statement of a material fact or omission of a material fact in the Agreement, the Operative Documents, or any certificate or other agreement delivered by Seller shall be stated in this Schedule]

SCHEDULE 4.3
to
OPTION AGREEMENT
dated as of _____, 2014
by and between
RE BARREN RIDGE 1 LLC
and
THE CITY OF LOS ANGELES ACTING BY AND THROUGH
THE DEPARTMENT OF WATER AND POWER

BUYER'S CONSENTS

[All Consents of Buyer which are necessary or incidental to the Closing shall be specified and briefly described in this Schedule]

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