



**BOARD OF CONTRACT AND SUPPLY
CITY OF PROVIDENCE, RHODE ISLAND**

BID FORM 1: Bidders Blank

1. Bids must meet the attached specifications. Any exceptions or modifications must be noted and fully explained.
2. Bidder's responses must be in ink or typewritten, and all blanks on the bid form should be completed.
3. The price or prices proposed should be stated both in **WRITING** and in **FIGURES**, and any proposal not so stated may be rejected. **Contracts exceeding twelve months must specify annual costs for each year.**
4. Bids **SHOULD BE TOTALED** so that the final cost is clearly stated (unless submitting a unit price bid), however **each item should be priced individually**. Do not group items. Awards may be made on the basis of **total** bid or by **individual items**.
5. All bids **MUST BE SIGNED IN INK**.

Name of Bidder (Firm or Individual): Tesla, Inc.

Contact Name: Nick Walsh

Business Address: 3500 Deer Creek Road, Palo Alto, CA 94304

Business Phone #: (650) 681-5000

Agrees to bid on (Items(s) to be bid): Providence Water Supply Board RFP for Renewable Energy Projects

If company is based in a state other than Rhode Island, list name and contact information for a local agent for service of process: CT Corporation - Nisha Thornton; (312) 288-3526; majoraccountteam2@wolterskluwer.com

Please visit <http://www.naics.com/search/> and identify the NAICS Code(s) for items being bid on. Enter the NAICS code(s) here or in parentheses next to each item listed immediately above: 221114

Delivery Date (when applicable): Proposal Delivery Date - June 25, 2018


Name of Surety Company (if applicable): Fidelity and Deposit Company of Maryland

Total Amount in Writing*: \$0.0915/kWh

Total Amount in Figures*: Nine and fifteen-one hundredth cents per kilowatt-hour

***If you are submitting a unit price bid please insert "Unit Price Bid."**

Use additional pages if necessary for additional bidding details.



Signature of Representative

Director, HQ Business Operations

Title

BIDDER'S BLANK ATTACHMENT 1

Providence Water Supply Board Renewable Energy Projects

Photovoltaic Project(s) Purchased or PPA

- 1) **Unit Price per kWh.** Please state the amount of the proposed unit price per kWh of electricity for the first year of the proposed ground mounted PV Project(s).

In Figures

\$ 0.0915 /kWh

In Words

Nine and fifteen-hundredth cents per kilowatt-hour

- 2) **Escalation Factor.** Please provide a yearly escalation factor to be applied to the Unit Price per kWh after the first year.

Percentage

2 %

- 3) **Guaranteed kWh/Year.** Please state the guaranteed kWh for the first year of the proposed ground mounted PV Project(s).

In Figures

8,444,025 kWh/Year

In Words

Eight million, four hundred forty-four thousand, and
twenty-five kilowatt-hours for the first year

- 4) **Date of Commercial Operation (Permission to Operate by National Grid).** Please provide the anticipated date of commercial operation of the ground mounted PV Project(s). **Please note PW reserves the right to cancel the project should the anticipated date not be met.**

Date

Permission to Operate Date - 10/30/2019



BOARD OF CONTRACT AND SUPPLY
CITY OF PROVIDENCE, RHODE ISLAND

BID FORM 2: Certification of Bidder
(Non-Discrimination/Hiring)

Upon behalf of Tesla, Inc. (Firm or Individual Bidding),

I, Nate Walker (Name of Person Making Certification),

being its Director, HQ Business Operations (Title or "Self"), hereby certify that:

1. Bidder does not unlawfully discriminate on the basis of race, color, national origin, gender, sexual orientation and/or religion in its business and hiring practices.
2. All of Bidder's employees have been hired in compliance with all applicable federal, state and local laws, rules and regulations.

I affirm by signing below that I am duly authorized on behalf of Bidder, on
this 22 day of June 2018.

Signature of Representative

Nate Walker

Printed Name



BOARD OF CONTRACT AND SUPPLY
CITY OF PROVIDENCE, RHODE ISLAND

Certificate Regarding Public Records

Upon behalf of Tesla, Inc. (Firm or Individual Bidding),
I, Nate Walker (Name of Person Making Certification),
being its Director, HQ Business Operations (Title or "Self"), hereby certify an
understanding that:

1. All bids submitted in response to Requests for Proposals (RFP's) and Requests for Qualification (RFQ's), documents contained within, and the details outlined on those documents become public record upon receipt by the City Clerk's office and opening at the corresponding Board of Contract and Supply (BOCS) meeting.
2. The Purchasing Department and the issuing department for this RFP/RFQ have made a conscious effort to request that sensitive/personal information be submitted directly to the issuing department and only at request if verification of specific details is critical the evaluation of a vendor's bid.
3. The requested supplemental information may be crucial to evaluating bids. Failure to provide such details may result in disqualification, or an inability to appropriately evaluate bids.
4. If sensitive information that has not been requested is enclosed or if a bidder opts to enclose the defined supplemental information prior to the issuing department's request in the bidding packet submitted to the City Clerk, the City of Providence has no obligation to redact those details and bears no liability associated with the information becoming public record.
5. The City of Providence observes a public and transparent bidding process. Information required in the bidding packet may not be submitted directly to the issuing department at the discretion of the bidder in order to protect other information, such as pricing terms, from becoming public. Bidders who make such an attempt will be disqualified.

I affirm by signing below that I am duly authorized on behalf of Bidder, on
this 22 day of June 2018.



Signature of Representative

Director, HQ Business Operations

Printed Name



BOARD OF CONTRACT AND SUPPLY
CITY OF PROVIDENCE, RHODE ISLAND

FORM MATRIX

After determining the Bidder category, see the corresponding column below. A '□' in the matrix below indicates the form is always required and a '?' indicates that it is dependent upon the ability of the firm to meet MBE/WBE goals and how much outreach was conducted.

| FORM | <u>CATEGORY</u> | | | | | | | |
|---|------------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|
| | <u>1A</u> | <u>1B</u> | <u>2A</u> | <u>2B</u> | <u>3A</u> | <u>3B</u> | <u>3C</u> | <u>3D</u> |
| Form A: M/WBE Participation Affidavit | | | | | □ | | ☒ | |
| Form B: M/WBE Participation Disclosure | | | | | □ | | ☒ | |
| Form C: Contractor Intent (one per sub) | | | | | □ | | ☒ | |
| Form D1: Contractor Waiver | | | | | ? | ? | ? | □ |
| Form D2: Independent Waiver | □ | □ | □ | □ | | | | |
| Form E: MBE/WBE Outreach | | | | | ? | ? | ? | ? |

Contractors falling into Category 3A, 3B or 3C who fully meet the MBE/WBE goals are not required to fill out the Contractor Waiver (Form D1) or Outreach (Form E). Depending upon the effort and results of the Bidder's outreach, the Outreach form may or may not be necessary for Category 3 Bidders.

Waiver Requests:

If a Bidder is unable to comply with a contract goal, a waiver request signed by the MBE/WBE coordinator must be submitted with the bid. The waiver request must be made on the MBE/WBE Participation Waiver Request Form (Form D1 or D2). If Bidder is Subcontracting a portion of the contract (Category 3) and will not meet MBE/WBE goals, no waiver will be granted unless the waiver request includes documentation that demonstrates that the Bidder has made good faith efforts to comply (which may include Form E, for Outreach).

Contract Requirements:

During the term of the contract, any unjustified failure to comply with the MBE/WBE participation requirements is a material breach of contract. Contractors in category 3A and 3C must submit the Subcontractor Utilization Form (Form F) quarterly (not with the bid package), or for contracts with a duration of less than 3 months, it must be submitted along with the contractor's request for final payment. The form will include all subcontractors utilized on the contract, both MBE/WBE and non- MBE/WBE, the total amount paid to each subcontractor, and the owner's race/ethnicity and sex.

For category 3A and 3C, please thoroughly review the Participation Affidavit (Form A) for information regarding documentation submission requirements throughout the duration of the contract.



BOARD OF CONTRACT AND SUPPLY
CITY OF PROVIDENCE, RHODE ISLAND

VERIFYING MBE/WBE CERTIFICATION

Each Bidder is responsible for verifying that each MBE/WBE named in a proposal and included in a contract is certified by the Rhode Island Minority Business Enterprise Compliance office. The current MBE/WBE directory is available at the State of RI MBE Office, One Capitol Hill, 2nd Floor, Providence, RI, or online at www.mbe.ri.gov (click "Directory Search" then search by "Product or Service" or "Company Name"). You can also call (401) 574-8670 to verify certification, expiration dates and services that the MBE/WBE is certified to provide. *NOTE: Companies identified as Portuguese are not included in the City of Providence's MBE/WBE Program.*

Commercially Useful Function: The Bidder may count toward the contract goals only expenditures to a MBE/WBE that performs a commercially useful function in the execution of the contract. Commercially useful function means the performance of real and distinct work for which the business enterprise has the skill, expertise, and responsibility to perform, manage and supervise.

Subcontracting by MBE/WBE: A Bidder **MAY NOT** count toward its contract goal any agreement with a certified MBE or WBE subcontractor who intends to subcontract more than 10% of the dollar amount of the services to be performed under its agreement with the Bidder. This restriction does not apply to an MBE/WBE Contract for the purchase of materials, equipment, or supplies incidental to the performance of services under its agreement with the Bidder.

Manufacturers: The entire expenditure to a certified MBE/WBE manufacturer may be counted.

Non-Manufacturer Suppliers: A Bidder may count 100% of its expenditure to a certified MBE or WBE supplier. (However, only 10% of each contract goal may be attained by expenditure to MBEs or WBEs that are non-manufacturing suppliers.)

Insurance Companies and Travel Agents: A Bidder may count toward the contract goals only 10% of its expenditure to a MBE or WBE insurance company or travel agent.

Financial Institutions: Only fees charged/earned by MBE/WBE Financial Institutions may be counted.



**BOARD OF CONTRACT AND SUPPLY
CITY OF PROVIDENCE, RHODE ISLAND**

Form A: MBE/WBE Participation Affidavit

The undersigned authorized representative of contractor does hereby make the following Affidavit:

Contractor acknowledges the MBE goal of 10% and the WBE goal of 10% for contract

(title)Renewable Energy Projects for the Providence Water Supply Board with the City of Providence.

My firm will make its best efforts to achieve the MBE and WBE participation goals for this contract. I understand that, if awarded the contract, my company must submit to the Minority and Women's Business Coordinator at the City of Providence MBE/WBE office, copies of all executed agreements with the Subcontracted Firm(s) being utilized to achieve the participation goals and other requirements of the RI General Laws. **I understand that these documents must be submitted prior to the issuance of a notice to proceed.**

I understand that, if awarded the contract, my firm must submit to the MBE/WBE Office canceled checks and any other documentation and reports required by the MBE and WBE Office on a quarterly basis verifying payments to the Subcontracted Firm(s) utilized on the contract.

I understand that if I am awarded this contract and I find that I am unable to utilize the Subcontracted Firm(s) identified in my statements of Intent, I must substitute other certified MBE and WBE firms to meet the participation goals. **I understand that I may not make a substitution until I have obtained the written approval of the MBE/WBE Office.**

I understand that, if awarded this contract, authorized representatives of the City of Providence may examine, from time to time, the books records and files of my firm to the extent that such material is relevant to a determination of whether my firm is complying with the MBE and WBE participation requirements of this contract.

I do solemnly declare and affirm under the penalty of perjury that the contents of the foregoing affidavit are true and correct to the best of my knowledge, information and belief.

Tesla, Inc.
Contractor Company Name


Signature

3500 Deer Creek Road, Palo Alto, CA 94304
Address

Nate Walker, Director, HQ Business Operations
Print Name and Title

For more information on this program please contact Grace Diaz the MBE/WBE Outreach Director for the City of Providence, by phone at (401) 680-5766 or by email at gdiaz@providenceri.gov. (Please use subject line "MBE WBE Forms")



BOARD OF CONTRACT AND SUPPLY
CITY OF PROVIDENCE, RHODE ISLAND

Form B: MBE/WBE Participation Disclosure Form

Use this form to list Minority and Women Business Enterprises that you will use to meet the Participation Goals. Please consider that:

- A Subcontractor may be used to achieve an MBE/WBE goal equal to the percentage of the value of the full contract that the Subcontractor is hired for.
- A Subcontractor certified as both an MBE and WBE may be used to meet both goals, however the value of the Subcontractor contract must be allocated towards each goal so that the total value allocated does not exceed the total value of the contract the Subcontractor is hired for.

Prime Contractor's Name: Tesla, Inc.

Prime Contractor's Address: 3500 Deer Creek Road, Palo Alto, CA 94304

Prime Contractor's Phone Number(s): 650.681.5000

Contract Title: Renewable Energy Projects for Providence Water Supply Board

Total Dollar Amount of Contract: \$To be determined

Bidder proposes to achieve a goal of: MBE: 10 % WBE: 10 %

Please list Subcontractors that should be considered in achieving MBE/WBE goals below. Include the total dollar value that you propose to share with each Subcontractor and the percentage of the contract total that dollar amount represents.

| Subcontractor Name | MBE/WBE Subcontractor Share | | |
|---|-----------------------------|------------------|----------|
| | \$ Value | % of Total Value | |
| | | for MBE | For WBE |
| To be determined - please refer to Form B.2 | | | |
| | | | |
| | | | |
| TOTAL: | \$ | % | % |

Form Prepared by:

Nick Walsh - Sr. Project Development Manager
Name & Title

973.960.2271
Phone

06.21.18
Date

Form B.2

At this time, there are several factors that hinder our ability to complete Forms B and C. As Tesla has neither finalized the system design nor conducted site surveys and other due diligence, there are no specific identified contract values and quantities, which are needed to assemble bids to identify subcontractors. In addition, the actual installation timeline is expected to be a considerable time away, perhaps in excess of a year from submittal of this proposal.

For Form B: MBE/WBE Participation Disclosure Form, Tesla has full intentions of meeting the City of Providence's MBE/WBE participation goals of 10% and 10%, respectively. However, at this time, for reasons detailed above, it is not feasible to identify specific firms and assign them specific scopes of work and associated contract dollar values. For Form C: MBE/WBE and Prime Contractor's Statement of Intent, it is not possible at this time to secure specific vendors and assign them exact contract amounts. Therefore, it is not possible at this time for Tesla to fully complete Form C, beyond stating that our exact commitments are to be determined.

In addition, the exact contract value has not yet been determined. As this project will likely be contracted under a Power Purchase Agreement, there will be additional components outside of construction expenditure that compose the total contract value. It will be necessary to identify the construction expenditure value to accurately complete the forms. Again, this is not presently feasible without accurate drawings and site surveys.



BOARD OF CONTRACT AND SUPPLY
CITY OF PROVIDENCE, RHODE ISLAND

Form C: MBE/WBE and Prime Contractor's Statement of Intent

**Complete a separate Form C for each MBE/WBE Subcontractor identified in the table on Form B.*

Contract Name: Renewable Energy Projects for Providence Water Supply Board

Name of Prime Contractor: Tesla, Inc.

Name of MBE/WBE Subcontractor: To be determined

MBE/WBE Subcontractor Certification # (MBCN#): TBD Exp. Date: _____

Type of Certification (please choose all that apply): MBE ☐ WBE ☐

Work / Service to be performed or Materials / Supplies to be furnished by MBE/WBE: To be determined

Project Total Value: \$ TBD Amount going to Subcontractor: \$ TBD

Percentage of total contract going towards the **MBE/WBE** subcontractor: TBD %

IF the subcontractor is certified as BOTH an MBE and WBE, you may allocate the qualified percentage among the two categories as you choose by specifying the division below. The two percentages below must sum to the percentage entered immediately above. Refer to page M/WBE-14 for an example of dual certification.

MBE Allocation: _____ % **WBE Allocation:** _____ %

The undersigned prime contractor and subcontractor agree to enter into a contract for the work / service indicated above for the dollar amount or percentage indicated, subject to the prime contractor's execution of a contract with the City of Providence for the above referenced contract name/number. The undersigned subcontractor is currently certified as an MBE or WBE through the State of Rhode Island Minority Business Enterprise Program.


Signature of Prime Contractor (Required)

Nate Walker
Printed Name

6/22/2018
Date

By signing below, the representative of the certified MBE/WBE subcontractor additionally affirms that no more than 10% of the dollar amount of the services to be performed under this agreement with the Bidder will be subcontracted to a 3rd party subcontractor. This restriction does not apply to an MBE's or WBE's Contracts for the purchase of materials, equipment, or supplies incidental to the performance of services under its agreement with the Bidder.

Signature of MBE or WBE (Required)

Printed Name

Date



BOARD OF CONTRACT AND SUPPLY
CITY OF PROVIDENCE, RHODE ISLAND

Form D1: MBE/WBE Participation Contractor Waiver Request Form

Name of Bidder: Not applicable

Contract Name/Number: _____

Bid Due Date: _____

Goals on this contract: _____ % MBE _____ % WBE

I have achieved _____ % MBE _____ % WBE

I am requesting a waiver of _____ % MBE _____ % WBE

Is the **BIDDER** certified by the State of Rhode Island Minority Business Enterprise Program _____ Yes _____ No

If Yes, please check the type(s) of certification and enter the Certification number immediately below:

Type of Firm: MBE ☐ WBE ☐

MBE/WBE Certification Number (MBCN#): _____ Expiration Date: _____

Did the Bidder attempt to or does the Bidder intend to subcontract any portion of the proposed work/service to a MBE/WBE? Yes _____ No _____

If yes, how many firms were contacted? _____ **Complete the Outreach Contact form (Form E) for each firm not listed on Participation Disclosure form (Form B).**

What efforts have been made to secure sufficient MBE/WBE participation to meet the stated goals and/or why is your company unable to? _____

I acknowledge the City of Providence's goals of supporting MBE/WBE certified businesses.

| | | |
|------------------------------|-----------------------|---------------|
| _____ Signature of Bidder | _____ Printed Name | _____ Date |
|------------------------------|-----------------------|---------------|

Submit this form to the City of Providence MBE/WBE Office for signature and approval by either the MBE/WBE Compliance Officer or the MBE/WBE Coordinator. All requests must be made at least four (4) days prior to the bid opening date.

| | | |
|--|-----------------------|---------------|
| _____ Signature of MBE/WBE Outreach Director* | _____ Printed Name | _____ Date |
|--|-----------------------|---------------|

***For more information on this program please contact Grace Diaz the MBE/WBE Outreach Director for the City of Providence, by phone at (401) 680-5766 or by email at gdiaz@providenceri.gov. (Please use subject line "MBE WBE Forms")**

****This form will NOT be considered complete without the signature of the MBE/WBE Outreach Director.**



BOARD OF CONTRACT AND SUPPLY
CITY OF PROVIDENCE, RHODE ISLAND

Form D2: MBE/WBE Participation Independent Waiver Request Form

Does the Bidder intend to subcontract any portion of the proposed work/service to a MBE/WBE?

 Yes No

This form is for Bidders in Category 1 and 2 only, so if you answered Yes to the above question, please review the Bidder Category Worksheet (page 3) and Form Matrix (page 1) to determine the correct forms to use.

Name of Bidder: Not applicable

Contract Name/Number: _____ Bid Due Date: _____

Goals on this contract: _____ % MBE _____ % WBE

I have achieved _____ % MBE _____ % WBE

I am requesting a waiver of _____ % MBE _____ % WBE

Is the **BIDDER** certified by the State of Rhode Island Minority Business Enterprise Program Yes No

If Yes, please check the type(s) of certification and enter the Certification number immediately below:

Type of Firm: MBE ☐ WBE ☐

MBE/WBE Certification Number (MBCN#): _____ Expiration Date: _____

I acknowledge the City of Providence's goals of supporting MBE/WBE certified businesses. If an opportunity is identified to subcontract any task associated with the fulfillment of this contract, a good faith effort will be made to select MBE/WBE certified businesses as partners

Signature of Bidder

Printed Name

Date

Submit this form to the City of Providence MBE/WBE Office for signature and approval by either the MBE/WBE Compliance Officer or the MBE/WBE Coordinator. All requests must be made at least four (4) days prior to the bid opening date.

Signature of MBE/WBE Outreach Director*

Printed Name

Date

***For more information on this program please contact Grace Diaz the MBE/WBE Outreach Director for the City of Providence, by phone at (401) 680-5766 or by email at gdiaz@providenceri.gov. (Please use subject line "MBE WBE Forms")**

****This form will NOT be considered complete without the signature of the MBE/WBE Outreach Director.**



BOARD OF CONTRACT AND SUPPLY
CITY OF PROVIDENCE, RHODE ISLAND

Form E: MBE/WBE Outreach Contact Form

This form must be filled out by Bidders who propose to subcontract a portion of this contract, *but will not fully meet the MBE/WBE goals*. **Please complete this form for each unsuccessfully solicited MBE/WBE subcontractor.**

Prime Contractor: Not applicable

POTENTIAL SUBCONTRACTOR CONTACTED

Name: _____

Address: _____

Telephone No.: _____ Date of Initial Contact: _____

Type of Firm: MBE ☐ WBE ☐

How was contact made? (Check appropriate answer) By telephone _____ In person _____

Work/service offered to Subcontractor: _____

Result of contact with potential MBE/WBE Firm (check appropriate answer):

___ Firm declined job

___ Firm offered to do job at a price of \$____, which was determined by our company to be too high

___ Firm offered to do job at a price of \$____, which was satisfactory, but the firm was judged by our company to be unqualified for the job for the following reasons: _____

___ Other: _____

Subcontractor Firm's officer who can verify above information as to the Firm's response:

Name: _____

Title: _____

Signature: _____

The above signed officer of the Bidder affirms that the above information is accurate and complete.



Providence Water Supply Board Request for Proposal Renewable Energy Projects



PREPARED BY

Tesla, Inc.
70 Centre of New England Blvd
Coventry, RI 02816

TESLA CONTACT

Nick Walsh
Sr. Project Development Manager
nwalsh@tesla.com
973.960.2271

PW CONTACT

Patti Jordan
Purchasing Agent
pjordan@providenceri.gov
401.680.5264

June 22, 2018
Patti Jordan
City of Providence
25 Dorrance Street
Providence, RI 02903

Dear Ms. Jordan,

On behalf of Tesla, Inc. (Tesla), thank you for taking the time to review our response to the Providence Water Supply Board's (Providence Water) Request for Proposal for PV system PPA projects. Tesla is an industry-leading PV developer with extensive experience in designing, permitting, building, and financing high quality projects throughout the Northeast. This experience, as further illustrated in our proposal, will allow us to deliver a successful project to the Providence Water.

Tesla proposes to install a 7.006 MWdc PV array, utilizing the Joslin Farm site presented in the RFP package. Our extensive site diligence process, which included utility interconnection reviews, vetting via wetland, topographical, and animal habitat databases, as well as in-person site visits, narrowed the potential sites for project development to this location which, in our expert opinion, would yield the lowest risk to PV development and allow for the most favorable project economics, as well as the shortest timeline to operation. The most influential factors in the decision to site the entire project at this one location were the likelihood of utility upgrade costs for all sites and the favorable topography. It is Tesla's assessment that all the presented sites will incur utility upgrade fees, therefore the most economical strategy is to incur that fee at one site and spread the cost over a larger system, rather than exposing the project economics to multiple upgrade fees over several sites, which we believe will lead to a higher cost exposure in aggregate.

By structuring our proposal in the form of a Power Purchase Agreement (PPA), Tesla is eliminating Providence Water's capital expense exposure and minimizing project and financial risk. As further illustrated in our proposal, Tesla has vast experience in providing such PPA funding. The Tesla PPA contract contains buyout options which meet the stated objective of Providence Water. The PPA will be accompanied by a separate Performance Guarantee Agreement. Our PPA contract is largely based on the National Renewable Energy Lab's template and will serve as a base for expedited document term review process.

It is Tesla's intent to meet the MWBE and apprenticeship standards stated in the RFP. As a company with national and international project development background, Tesla has a great deal of experience working with subcontractors to meet the labor goals of our customers.

Nick Walsh, Tesla's dedicated Project Development Manager for this opportunity, will be the Providence Water's main point of contact. Please direct any questions or comments related to this document to Nick at 973.960.2271, or at nwalsh@tesla.com.

Please note that pricing is contingent on the assumptions and exceptions outlined and will be honored through September 26, 2018. Please note that upon award, Tesla will engage in diligence concurrent with contract negotiations to ensure that assumptions are valid. Please contact Nick with any questions.

We acknowledge receipt of Addendum No. 1, 2, and 3.

Notwithstanding anything to the contrary in the bid bond and the RFP issued by Providence Water, the bid bond is contingent on (1) Providence Water accepting Tesla's exceptions to the RFP; (2) Tesla's Form of Power Purchase Agreement being used for this project without any material change or changes that

adversely affect the financeability of the project; and (3) providing a reasonable time to execute the contract following notice of award, which may be in excess of sixty (60) days from notice to proceed.

We welcome the opportunity to discuss how Tesla's proposed solution can provide the Providence Water Supply Board with a path toward a 100% net zero energy goal.

Sincerely,



Nate Walker
Director, HQ Business Operations

Table of Contents

| | |
|---|----|
| 1. Project Description..... | 5 |
| A. Equipment Specifications and Warranties..... | 7 |
| B. Nameplate Capacity and Estimated Capacity Factor | 7 |
| C. Renewable Energy Production | 8 |
| i. Tesla Performance Guarantee | 9 |
| 2. Project Location..... | 11 |
| 3. Project Costs | 11 |
| 4. Financial Evaluation..... | 12 |
| 5. Project Schedule | 12 |
| 6. Qualifications | 13 |
| A. Experience with Similar Projects..... | 13 |
| B. Financial and Logistical Resources | 15 |
| i. Financial Resources..... | 15 |
| ii. Logistical Resources..... | 16 |
| C. New England Experience | 17 |
| D. Contact Person..... | 20 |
| E. New England Offices..... | 20 |
| F. Planned Project Percentages | 20 |
| 7. Exceptions..... | 21 |
| A. PPA Preference..... | 21 |
| B. Bid Bond Contingency | 21 |
| C. Key Issues/Exceptions | 22 |
| D. MBE/WBE Participation | 22 |
| 8. Appendix | 23 |
| Appendix A: PVsyst Production Report | 24 |
| Appendix B: Preliminary Design Layout | 29 |
| Appendix C: Preliminary Project Schedule..... | 31 |
| Appendix D: Tesla Form of Power Purchase Agreement..... | 35 |
| Appendix E: Tesla Form of Performance Guarantee Agreement | 54 |

1. Project Description

In response to the Providence Water's request for proposal for renewable energy projects, Tesla is pleased to propose the 7 MW solar photovoltaic system discussed herein. Our design and system component choices optimize solar production at the site while maintaining aesthetic elegance and minimizing Providence Water's PPA rate. The preliminary design uses Longi modules mounted on a 25° post driven, fixed-tilt ground mount system installed on a north-south axis. The modules will be wired in 1000 V strings to 110 Huawei inverters distributed throughout the array.

AC output wiring from the inverters will be installed in conduit and feed co-located pad-mounted medium voltage step-up transformers. The AC power output will be stepped up in voltage and interconnected behind-the-meter at 12.47 kV. The system will be interconnected approximately 2,500 feet from the system. The actual point of interconnection is subject to verification by site survey.

Table 1: Summary of System Design

| System Attribute | Detail |
|-----------------------|--------------------------------|
| System Size | 7,006.5 kWdc / 5,500 kWac |
| Module Model | Longi LR6 72PH 375M UL |
| Module Quantity | 18,684 |
| Racking Method | Post driven ground mount |
| Supplier | RBI |
| Tilt Angle | 25° |
| Azimuth Angle | 180° |
| Inverter Model | Huawei SUN2000-45KTL-US (50kW) |
| Inverter Quantity | 110 |
| First-Year Yield | 1,242 kWh/kW |
| First-Year Production | 8,705,181 kWh |
| System Dimensions | Approximately 1328 ft x1498 ft |

Please note the following assumptions in designing and pricing the proposed system:

- Prevailing wage rates for labor.
- System will be designed to National Electric Code 2017 requirements.
- System will have a grid-direct (distribution system) interconnection type.
- System will interconnect at 12.47 kV.
- Point-of-interconnection will be approximately 2,500 feet from the array.
- Allowance for utility application fees, utility studies, utility upgrades, and/or new service drops not to exceed \$539,210.
- No unforeseen underground conditions on-site.
- Soils are suitable for driven pier foundations, are not subject to caving or refusal, and will not require rock drilling, obstruction drilling, or water mitigation.
- System will have driven pier foundation type.
- Driven posts are met with no more than 15% refusals and will not exceed additional budgeting of \$105,000.

- Fencing to be provided as described: 7 foot mesh wire fence, galvanized steel, concrete foundations, one (1) lockable gate, consumable, driven posts with top coil wire (opposed to rail), and two (2) lockable gates (one for north of road array and one for south)
- Zoning approval for which the Town of Scituate is in the process of receiving for in-development solar projects will not add additional costs to exceed \$111,500 allowance for civil and environmental permitting, engineering, and surveying.
- Permitting/Engineering scope to include: Topographical survey, Boundary Survey, Title Report, Electrical Survey, GeoTech, Phase 1 Environmental. Site assessment, Wetland Presence/Absence, Civil Plans/SWPPP/ NOI/ Cultural Resource Review, Cultural Resource Survey, Zoning Permit, Site Plan Approval, and Conservation Commission letter of no impact.
- Cost increases due to potential steel/aluminum tariffs and all other relevant tariffs excluded.
- Tesla will be provided a combination to access the property's security gate.
- Existing access road to array will not require any additional civil work for construction vehicles to access the array.
- Excludes taxes (sales, real, property, etc.)
- Excludes payments for land use; Tesla has assumed Providence Water will grant use of land for project development at no cost.
- Tesla will retain the project Renewable Energy Credits (RECs). Tesla is open to discussing a structure under which Providence Water would retain the RECs.

Tesla acknowledges that it shall comply with the apprentice utilization and local hiring identified in the RFP. With respect to the air quality protocols, Tesla will implement dust control measures during construction. Tesla will also make good faith efforts to minimize toxic emissions and will require further information to develop suitable equipment usage protocols that adhere to the City of Providence's requirements.

A. Equipment Specifications and Warranties

Listed below are the high-quality products (modules, inverters, racking system) that Tesla proposes to use for Providence Water's project. These products are approved by authorities and in full compliance with IBC, UL, and/or IEC requirements. All suppliers for Tesla projects have been vetted through Tesla's engineering quality and investor standards. At the time of construction, Tesla will evaluate all technologies on the market and will choose a functionally-equivalent supplier if any concerns should arise with the manufacturers below. Tesla stands by its products and installations and will respond to any problems should they arise for Providence Water.

Tesla is committed to using only the highest quality products in its projects. Tesla recognizes that customers have made significant investments of time and money towards development and hosting of solar PV systems. The high-quality products Tesla uses will reduce system downtime due to component failures so that Providence Water can maximize benefits and savings from using solar energy. Any manufacturer warranties that have not expired upon transfer of ownership will remain in effect for the remaining term of warranty.

Table 2: PV Module Equipment Summary

| | |
|---------------------------------|---|
| Make/Model | Longi LR6 72PH 375M UL |
| Specifications/Standards | IEC 61215, IEC 61730, UL 1703, CQC, CE, ISO 9001:2008, ISO 14001:2004, OHSAS 18001:2007 |
| Efficiency | Maximum efficiency at STC: 18.8% |
| Warranty | 10-year materials and craftwork warranty 25-year linear power output warranty |

Table 3: Inverter Equipment Summary

| | |
|---------------------------------|--|
| Make/Model | Huawei SUN2000-45KTL-US (50kW) |
| Specifications/Standards | UL 1741, UL 1699B, UL 1741 SA, CSA C22.2 #107.1-01, FCC Part 15, IEEE 1547, IEEE 1547a |
| Efficiency | Maximum efficiency: 98.9%; CEC efficiency: 98.5% |
| Warranty | 5 years |

Table 4: Racking Equipment Summary

| | |
|---------------------------------|--|
| Make/Model | TBD (Pile Driven System upon Final Vendor Selection) |
| Specifications/Standards | UL 2703 |
| Warranty | 20 years |

B. Nameplate Capacity and Estimated Capacity Factor

The proposed PV system has a nameplate capacity of 7,006.50 kWdc / 5,500 kWac. The estimated first-year capacity factor is 18.1%.

C. Renewable Energy Production

Tesla completed performance simulations for Providence Water's system using PVsyst. PVsyst is the industry's leading performance simulation software program, allowing users to accurately model system performance through the specification of numerous inputs including project location, make and model of modules and inverters, module tilt angle and orientation, and numerous DC and AC loss factors. Users also select the source of weather data for the simulation. Tesla uses only TMY3 (Typical Meteorological Year) datasets. TMY3 datasets, which were developed by the National Renewable Energy Laboratory (NREL), consist of full-year hourly data representing "typical" (similar to average) weather for the location. The datasets are constructed from weather data taken from 1,020 weather stations across the United States from roughly 30 years of measurements. To ensure modeling accuracy, Tesla exclusively uses Class I and II TMY3 datasets. Class I and II datasets have the lowest uncertainty of TMY3 dataset types. As an additional means of ensuring modeling accuracy, when available, Tesla uses PVsyst module files (.PAN files) and inverter files (.OND files) that have been third-party verified.

Of particular importance and difficulty is the estimation of losses due to shading and snow. For the Providence Water's project, shading was accounted for through the construction of a 3-D model within PVsyst. Tesla also uses a proprietary method for estimating monthly snow losses based upon project site location, number of snow events each month, and module tilt angle. The performance estimates provided include typical losses due to snow.

The following table lists the monthly expected first-year kilowatt-hour production of the preliminary system design. The PVsyst report of this system has been included as [Appendix A](#). As a sign of our commitment, Tesla is pleased to provide Providence Water with a weather-adjusted performance guaranty at no additional cost during the term of the Power Purchase Agreement (PPA). We guarantee that Providence Water's PV system will generate at least 97% of the total projected kWh energy production of the final system design in years of average or greater solar insolation and weather conditions. More information about Tesla's Performance Guaranty can be found on the.

Table 5: Summary of First-Year Production by Month

| Month | Estimated Production (kWh) |
|-------------------------|----------------------------|
| January | 395,783 |
| February | 559,750 |
| March | 783,339 |
| April | 729,967 |
| May | 985,054 |
| June | 1,010,394 |
| July | 968,180 |
| August | 927,352 |
| September | 821,174 |
| October | 718,038 |
| November | 466,997 |
| December | 339,153 |
| First-Year Total | 8,705,181 |

i. Tesla Performance Guarantee

Tesla is pleased to provide Providence Water with a weather-adjusted Performance Guaranty at no additional cost during the term of the Power Purchase Agreement (PPA). We guarantee that Providence Water's PV system will generate at least 97% of the total projected annual kWh energy production of the final system design in years of average or greater solar insolation and weather conditions. Through an annual true-up process, Tesla will evaluate system performance and determine whether there has been any underperformance. With this guarantee, our customers are reassured that their PV systems will produce a minimum amount of electricity during good weather years, or else they will be reimbursed by Tesla for any shortfall.

How it Works

Tesla will use industry-standard modeling data and tools to create an energy production estimate based on the as-built specifications of each PV system after construction is complete. Throughout the PPA term, Tesla will monitor the system to verify whether it is operating properly. Tesla will compare the total projected kWh energy production on an annual basis with the actual generation of the system. If there is any underperformance, Tesla will compare local weather data with NREL TMY data to determine whether the underperformance was caused by below average solar insolation and weather conditions and, if necessary, will adjust the projected system performance value accordingly.

In the event that production does not match the weather adjusted performance value, Tesla will reimburse Providence Water at the rate agreed to in the Performance Guarantee Agreement, which is a separate contract from the PPA. The expected output of the PV system and the performance guarantee payment rate will be recorded in the Performance Guarantee Agreement. Please refer to [Appendix E](#) for a copy of Tesla's Performance Guarantee Agreement.

Example of the Performance Guarantee

For purposes of this example, we have set a \$0.02/kWh rate for the Performance Guaranty Payment Rate¹. In the scenario below, the system had a production shortfall of 20,000 kWh during the first year of the PPA term, and Tesla determined that solar insolation and weather conditions were average or above average; therefore, Tesla would reimburse the customer for the loss of production within 90 days after the end of the applicable true-up term.

| Year | Contracted Year 1 Production (kWh) | Guaranteed kWh Production | A c t u a l P r o d u c t i o n (k | Production Shortfall (kWh) | Performance Guaranty Payment Rate (\$/kWh) | E x a m p l e C u s t o m e r P a y |
|------|---------------------------------------|------------------------------|--|----------------------------------|---|--|
|------|---------------------------------------|------------------------------|--|----------------------------------|---|--|

| | | | W h) | | | m e n t |
|---|-----------|---------|---------------------------------|--------|--------|-------------------|
| 1 | 1,000,000 | 970,000 | 9 5 0 , 0 0 0 | 20,000 | \$0.02 | \$ 4 0 0 |

Here, the amount reimbursed to the customer is determined by the following calculation:

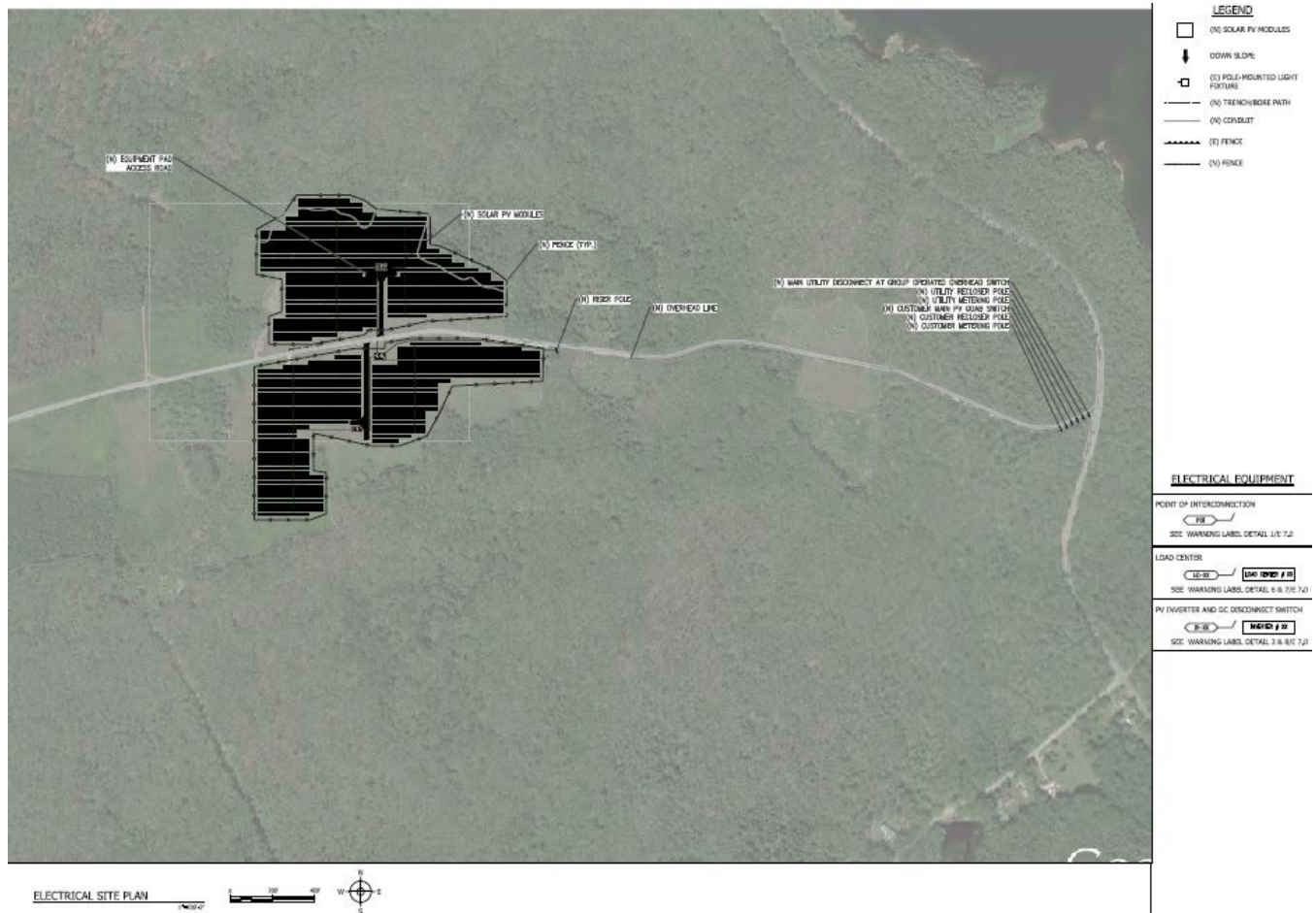
$$\text{Guaranteed Energy Price} \times \text{Production Shortfall} = \text{Amount Reimbursed}$$

In this example, the payout to the customer would be \$400.

$$\$0.02/kWh \times 20,000kWh = \$400$$

2. Project Location

Tesla has designed the proposed system such that it is sited entirely on the Joslin Farm property owned by Providence Water. We have assumed the point-of-interconnection is approximately 2,500 feet from the array. A preliminary design layout of the system is included below. A larger rendering of the layout has been included as [Appendix B](#).



3. Project Costs

Tesla is proposing a Power Purchase Agreement (PPA) wherein Providence Water purchases energy produced by the proposed ground mount instead of directly purchasing the system itself. All installation, permitting, certification, and grid interconnect costs have been factored into this PPA rate. In our modeling to determine the PPA rate, it was necessary to make assumptions on the costs of zoning/permitting and grid interconnection – the assumed allowance for these items are specified in [Section 1. Project Description](#). As these costs are out of our control, we calculated the assumed costs based on our significant zoning and permitting experience in the northeastern United States and our many interactions with National Grid. Should these assumptions prove to be too conservative, we will work in good faith with Providence Water to develop a solution. Please note that Tesla has assumed that it will retain the project RECs. Should Providence Water desire to retain ownership of the RECs, Tesla will work to develop a mutually-beneficial arrangement.

4. Financial Evaluation

Under Tesla's proposed PPA structure, all project costs, including design and construction, equipment costs, service contracts, warranty and maintenance fees, annual escalation fees, permitting fees, bonding costs for decommissioning and maintenance are incurred by Tesla and not Providence Water. These costs are accounted for in our proposed PPA rate. Providence Water simply pays for the solar energy generated by the solar array (on a per kilowatt-hour basis). Tesla's investor pre-approved PPA contract is for a 20-year term, and includes three optional 5-year extensions. This will allow Providence Water the flexibility to extend the contract term to 25, 30, or 35 years. The RFP document did not include Providence Water's current cost of electricity nor a National Grid tariff designation, so we are unable to provide an estimated savings analysis. However, we would be willing to do so if that information is provided.

5. Project Schedule

Tesla has built a formidable track record of providing systems with excellent workmanship under an efficient installation schedule that sets us apart from competitors. The Gantt chart included as [Appendix C](#) provides an indicative timeline for design and construction of Providence Water's solar project. This schedule is intended to illustrate the length of time, critical milestones, and critical path for achieving project completion by November 2019, assuming that contracts are executed by August 2018. The below summary table provides an overview of the major tasks for the project schedule. Please note that many of the tasks occur concurrently and the total project length is less than the sum of the length of each of the tasks.

Table 6: Project Schedule Summary

| Task | Duration |
|--|----------|
| Contracts | 42 days |
| Engineering | 45 days |
| Interconnection | 77 days |
| Permitting | 127 days |
| Construction | 135 days |
| Utility Witness Test and Commissioning | 284 days |
| Total | 373 days |

6. Qualifications

A. Experience with Similar Projects

Tesla has a wide range of experience installing commercial solar projects in a variety of different environments, including ground-mounted, carport canopy-mounted, and roof-mounted applications. Tesla has a long track record of working with customers to develop and construct large-scale solar systems. Through this experience, Tesla's project teams are intimately familiar with the tasks necessary to ensure customers' solar systems integrate seamlessly with the existing electrical system. A team of Tesla design professionals perform all system designs in-house. Public schools, county and city facilities, public agencies, military installations, and historical buildings are just a few of the sites where Tesla has designed and implemented industry-standard solar installations.

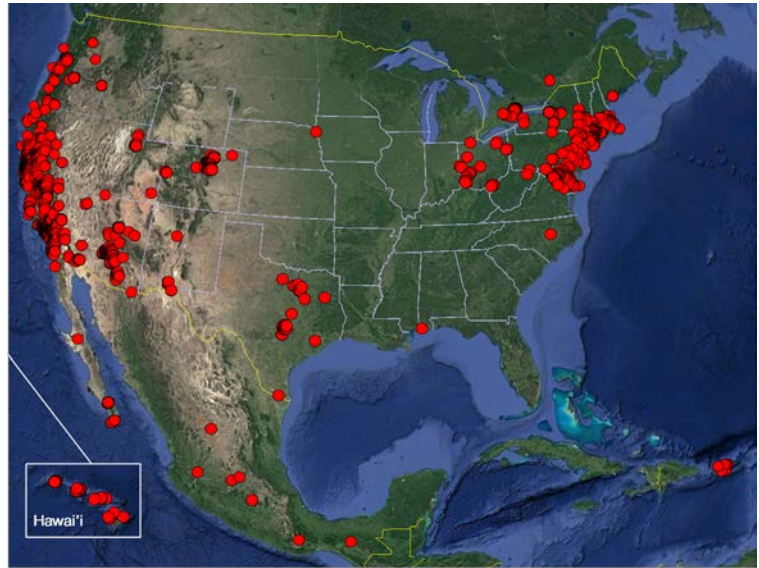


Figure 1: Tesla's commercial solar portfolio (in red) spans from the East Coast to Hawai'i to Mexico.

The above map provides a graphical demonstration of the locations of the installations for Tesla's 696 MW of PV installationsⁱⁱ for over 2,500 commercial and government customersⁱⁱⁱ. As a full-service solar provider, Tesla provides operations and maintenance (O&M) services for the contracted life of its installed systems. Our incredible growth has enabled us to develop a rigorous O&M program that ensures systems perform as intended. The below table provides a sample of our operational large-scale PV projects.

Table 7: Sample List of Operational Tesla Projects

| Customer Name | Installed Capacity | Mounting Type(s) | Dates of Installation |
|---------------------------|--------------------|-----------------------|-----------------------|
| Walmart | 60+ MW | Carport, Ground, Roof | 2010-present |
| Genentech | 13.6 MW | Carport, Ground, Roof | 2015-2016 |
| John Hopkins Medicine | 13.6 MW | Ground | 2015-2016 |
| Intel | 11 MW | Carport, Ground, Roof | 2010-2016 |
| H-E-B Grocery | 9.0 MW | Roof | 2015-2016 |
| BJ's Wholesale Club | 5.5 MW | Roof and Ground | 2013-2014 |
| Hewlett Packard | 3.8 MW | Roof | 2013-2014 |
| Blue Shield of California | 3.5 MW | Ground | 2017 |
| MillerCoors | 3.2 MW | Ground | 2014-2015 |
| Clorox Company | 2.7 MW | Ground, Roof | 2016-2017 |
| AT&T (DirecTV) | 1.0 MW | Ground | 2014-2015 |
| Walgreens | 0.9 MW | Roof | 2013 |
| eBay | 0.65 MW | Roof | 2008 |

Experience with Virtual Net Metering Projects

Tesla is deeply familiar with the rate structures and policies/programs for virtual net metering and remote net metering throughout the country. Tesla has deployed operational projects under remote net metering structures in New York, virtual net metering structures in Massachusetts, aggregate net metering structures in Maryland, and feed-in-tariff structures in California, with many more contracted projects currently in development. Based on this operational experience, Tesla feels that it has a unique value proposition with regards to overcoming the potential interconnection and permitting requirements that may be required by Authority Having Jurisdiction (AHJ) with virtual/remote net metering programs.



Figure 2: The 13 MW system installed for Johns Hopkins is expected to offset about 18% of the total campus energy usage.

Table 8: Sample List of Virtual Net Metering Projects

| Customer Name | Location | System Size (MWdc) |
|---|----------------------|--------------------|
| Johns Hopkins Medicine | Wye Mills, MD | 13.6 |
| City of Lancaster/Topco Energy | Lancaster, CA | 10.0 |
| Onondaga County | Clay, NY | 4.2 |
| Town of Needham | Needham, MA | 3.6 |
| University of Massachusetts Medical School and Quabbin Regional School District | Williamsburg, MA | 3.0 |
| Queen Anne's County | Centreville, MD | 2.8 |
| Town of East Bridgewater | East Bridgewater, MA | 2.5 |
| Oswego County | Fulton, NY | 2.5 |
| Greene County | Cairo, NY | 2.3 |
| Wicomico County and Board of Education | Wicomico County, MD | 2.1 |
| Orange County | Goshen, NY | 2.1 |
| Oneida County Department of Public Works | Oriskany, NY | 2.0 |
| Millbrook School | Millbrook, NY | 1.7 |
| Town of Halfmoon | Halfmoon, NY | 1.3 |
| Town of Chestertown | Chestertown, MD | 1.3 |
| Oneida-Herkimer Solid Waste Authority | Rome, NY | 1.1 |
| Caroline County Public Schools | Caroline County, MD | 1.1 |
| Town of Centreville | Centreville, MD | 1.0 |
| City of Schenectady | Schenectady, NY | 0.7 |

B. Financial and Logistical Resources

i. Financial Resources

In operation for over 10 years, Tesla has a long track record of growth and success. Tesla's financing structures are designed to ensure that its PV systems will be maintained for the lifetime of customer contracts. Through its PPA and lease options, Tesla establishes multi-year contracts that provide energy savings to its customers and a highly reliable long-term stream of revenue to Tesla. Tesla's investors and lenders include some of the largest and most trusted financial institutions in the world. Tesla has installed 3,291 MW^{iv} of solar capacity, in multiple industry segments including residential, commercial, government, and utility-scale solar. This diverse portfolio of projects provides steady installation activity and mitigates potential risk from changes in any single industry segment.

Experience Raising Funds

Tesla's in-house financing team is an industry leader in raising funds for solar projects. Tesla raises project funds on an ongoing basis, which means that it can start construction once permits are secured. While project funding for individual projects cannot be confirmed in advance of signing a contract, Tesla's track record of successfully funding projects is extremely solid; Tesla raised more than \$10 billion in project financing as of May 2018, including five tax equity funds, an SREC financing facility, solar loan financing, and a second cash equity transaction. By combining various forms of financing facilities, Tesla is able to finance projects with a lower overall cost of capital and provide a competitive PPA rates.

Tesla's investors and lenders include some of the world's leading financial institutions and corporations. Some examples include:

- A \$760 million revolving financing aggregation facility in 2015-16 with Bank of America Merrill Lynch, Credit Suisse, Deutsche Bank, and other lenders for residential and commercial projects.
- Two separate funds to finance more than \$347 million in solar projects for homeowners and small businesses with Citi announced in September 2016.
- A tax equity fund with Credit Suisse to finance more than \$1 billion in commercial solar energy systems, including battery storage systems, announced in April 2015.

Financing and Contracting for Storage

As a leader in renewable energy financing, Tesla has successfully financed combined PV and battery energy storage (PV+BESS) projects. Rather than contracting for separate solar and energy storage projects, Tesla's BESS is financed under the same vehicle, and contracted for with a single agreement; a rarity amongst competing energy storage solutions.

Other Financial Innovation

Apart from raising financing funds, Tesla has raised capital in other innovative ways. Tesla is known for its financial innovation and pioneered the securitization of solar assets. Tesla was the first solar company to have successfully done so, and has nine issuances to date. Tesla's vast experience with complex financing transactions benefits the company, its clients, and its investors, as these various types of financing allow Tesla to manage risks, create attractive returns, and reduce financing costs.

Tesla's Detailed Financial Report

Per SEC regulations, Tesla is required to regularly release relevant financial and operating information. Tesla's audited quarterly and annual reports, consolidated financials, and other SEC filings are available on Tesla's investor web page at: <http://ir.tesla.com/sec.cfm?view=all>.

ii. Logistical Resources

Tesla has the proven ability to obtain supplies from various equipment manufacturers. Our high-volume purchases make us a premier customer to our suppliers with whom we have built close relationships, ensuring we are not limited to one or two manufacturers. We have entered into several long-term purchase commitments to procure solar panels, system components and other commodities after screening suppliers based on expected cost, reliability, warranty coverage, ease of installation, and other ancillary costs. Our supply model and positive relationships with suppliers permit us to obtain quality components that will best suit our clients' project goals at lower overall costs while ensuring the security of our supply chain.

Additionally, our supply chain team forecasts equipment inventory needs in a six-month timeframe to make certain that we have the necessary materials and equipment for our clients' projects. While the lead time for panel delivery is usually in the range of 10 to 12 weeks, we can meet specific project equipment requirements using the inventory at our warehouses across the United States. Therefore, Providence Water should feel secure that there will be ample equipment available for the proposed project and in accordance with the proposed timeline.

Tesla's prominent position in the purchasing market has additional benefits to customers. We have been able to work with manufacturers to produce replacement equipment specifically for our projects. From an innovation perspective, we have worked with multiple suppliers on modifying their product designs to cater to our customers' desires and to improve designs for Tesla. For example, we worked with an inverter manufacturer to integrate our proprietary monitoring system with its specifications. This joint system is now an industry standard. Furthermore, we have worked with module manufacturers to modify panel frames to increase installation efficiency. A racking company that we worked with also asked our engineering team for feedback on a then-unreleased non-penetrating product. By incorporating our suggestions into its product design, we were able to streamline costs and create a better product. In some cases, we have directly partnered with vendors to get the most competitive pricing on the market for our supplies.

C. New England Experience

References for completed New England projects are similar to the proposed project for Providence Water have been included for the assessment of Tesla's execution abilities. Providence Water may wish to contact all or some of the references listed to aide in the assessment of Tesla's qualifications. Tesla requests that Providence Water contact Nick Walsh to liaise communication for the mutual convenience of our references and Providence Water.

Town of East Bridgewater



| | | | |
|--------------|--------------------------|------------------|----------------------|
| Client Name | Town of East Bridgewater | Location | East Bridgewater, MA |
| Capacity | 2,446 kW | Date Completed | 2013 |
| Project Type | Ground | Financing Method | PPA |

Project Discussion

Tesla is providing solar electricity directly to the Town of East Bridgewater in a move that will significantly cut energy costs for the Town. Tesla has provided the town with more than 10,000 solar panels, and the Town pays Tesla for the electricity the panels produce at a discount to its local utility rates. At 2.45 megawatts of generation capacity, East Bridgewater's project is among the largest solar installations in Massachusetts. The solar panels are expected to produce more than 3 million kilowatt hours of electricity each year—enough power to supply about 350 homes. The Town is expected to save as much as \$2 million on energy costs over 25 years.

Town of Needham



| | | | |
|--------------|-----------------|------------------|-------------|
| Client Name | Town of Needham | Location | Needham, MA |
| Capacity | 3.5 MW | Date Completed | 2015 |
| Project Type | Ground | Financing Method | PPA |

Project Discussion

Tesla, in partnership with Brightfields Development, was selected by the Town of Needham through a competitive bid process to develop a solar PV project under a power purchase agreement with the Town. The project consists of an approximately 3.6 MW solar PV array installed on the closed Town of Needham Sanitary landfill.

The project is situated on top of the closed landfill and covers approximately 13 acres. The production of clean energy from the PV array is projected to offset 3,900 tons of CO₂ annually, conserve over 2.56 million gallons of water annually, and provide the environmental benefits of planting more than 2.25 million trees over the system's lifetime.

Town of Lexington



| | | | |
|---------------------|--------------------|-------------------------|---------------|
| Client Name | Town of Lexington | Location | Lexington, MA |
| Capacity | 2.2 MW | Date Completed | 2017 |
| Project Type | Ground and Carport | Financing Method | PPA |

Project Discussion

In February 2015, the Town of Lexington selected Tesla and Brightfields Development to triple the Town's solar power output by installing a 2.2 MW PV system at the Lexington Compositing Facility. Utilizing an area that was previously a landfill, the site features two 400 kW solar canopies and an additional 1.4 MW ground-mounted array. The system is expected to generate 2.745 million kilowatt-hours annually that, combined with PV systems installed on the Town's school district and library rooftops, will power 45% of the Town's electric load and provide \$19 million in energy savings over the expected life of the system. Following mechanical completion of the project in April 2017, Tesla sold the project to Syncarpha, which will be responsible for operating the facility over the 20-year PPA term.

D. Contact Person

Nick Walsh will be the dedicated project development manager for this project, and will be responsible for communication and coordination throughout the evaluation, award, contract negotiation, and project implementation periods. Please direct any questions regarding the proposal to him by phone at 973.960.2271 or by email at nwalsh@tesla.com.

E. New England Offices

Tesla currently has eight offices in New England, including one at 70 Centre of New England Boulevard in Coventry, Rhode Island.

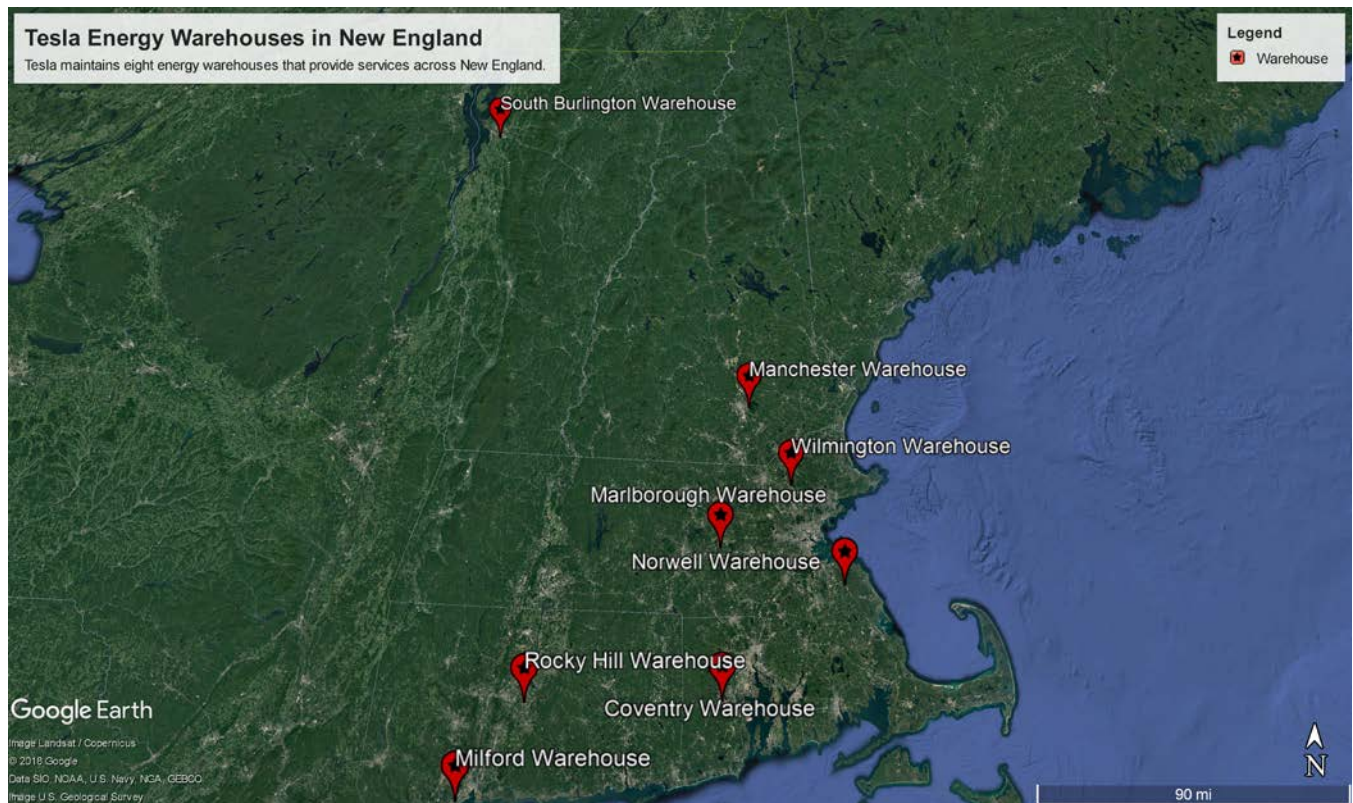


Figure 3: Tesla maintains warehouses across New England and can provide service from its Coventry, RI location.

F. Planned Project Percentages

Table 9: Summary of In-House Capabilities

| Item | Percentage |
|----------------------------|------------|
| Project development | 100% |
| Engineering design | 100% |
| Construction management | 100% |
| Operations and maintenance | 100% |

7. Exceptions

A. PPA Preference

Tesla would like to note its preference for using Tesla's investor pre-approved power purchase agreement (including insurance and surety bond requirements) for this transaction. Using this form as the basis of negotiation would still afford Providence Water the opportunity to include project specific terms that it feels are necessary, so long as those terms are not inconsistent or conflicting with Tesla's agreement or render the project unfinanceable. Any terms or conditions in the RFP that are inconsistent or in conflict with the terms and conditions of Tesla's PPA would be of concern and/or need to be negotiated between the parties.

Tesla's agreement template has been included for Providence Water's review as [Appendix D](#). This form is based closely on the widely-used form PPA published by the Solar Access to Public Capital working group of the National Renewable Energy Laboratory (NREL). The NREL PPA is quite familiar and acceptable to most investors in the marketplace and can be found on the NREL website: https://financere.nrel.gov/finance/solar_securitization_public_capital_finance.

In light of the significant capital investment that investors make upfront in building a PV project, investors require that the PPA ensures (a) proper ownership tax treatment, (b) steady revenue generation consistent with performance projections and (c) fair risk distribution consistent with the \$/kWh pricing of the transaction. These are the primary considerations that Tesla's investors will require in order to finance this project.

Tesla has had great success developing mutually beneficial contracts that are ultimately approved by state departments and agencies nationwide, and sees no reason why the same cannot be achieved here. Tesla feels confident that mutually-agreeable PPA and performance guarantee forms can be developed for Providence Water.

B. Bid Bond Contingency

Notwithstanding anything to the contrary in the bid bond and the RFP issued by Providence Water, the bid bond is contingent on (1) Providence Water accepting Tesla's exceptions to the RFP; (2) Tesla's Form of Power Purchase Agreement being used for this project without any material change or changes that adversely affect the financeability of the project; and (3) providing a reasonable time to execute the contract following notice of award, which may be in excess of sixty (60) days from notice to proceed.

C. Key Issues/Exceptions

Below is a list of key issues arising from our review of the RFP. We are confident that we can work through these items with Providence Water in an expeditious manner. We believe we have identified significant issues as appropriate for this stage, and as we work toward a final contract, we expect that there will be other minor issues that we will need to work through to reach a mutual agreement; as such, the list below is not comprehensive.

| Item | Page | Tesla Note |
|---|--------|---|
| 1 Assignment | 4 | Because of the manner in which Tesla finances PV systems, Tesla requires the ability to assign the PPA to a tax equity fund. Please refer to Tesla's Form PPA included as Appendix D for further details on assignment, where this requirement is described in Exhibit 3, Section 17. |
| 2 Project cancellation and liquidated damages based on commercial operations date | 28; 32 | Tesla requests that the parties discuss this concept upon award. |
| 3 Bid bond retention | 5; 32 | Please refer to our exception noted in Section 7. B of this proposal. |
| 4 Performance guarantee | 32 | Please refer to the terms of Tesla's Performance Guarantee detailed in Section 1. C.i . Specifically, if the proposed system underperforms, Tesla will make a payment to Providence Water. Tesla's Form Performance Guarantee Agreement has been included as Appendix E . |

D. MBE/WBE Participation

At this time, there are several factors that hinder our ability to complete Forms B and C. As Tesla has neither finalized the system design nor conducted site surveys and other due diligence, there are no specific identified contract values and quantities, which are needed to assemble bids to identify subcontractors. In addition, the actual installation timeline is expected to be a considerable time away, perhaps in excess of a year from submittal of this proposal.

For Form B: MBE/WBE Participation Disclosure Form, Tesla has full intentions of meeting the City of Providence's MBE/WBE participation goals of 10% and 10%, respectively. However, at this time, for reasons detailed above, it is not feasible to identify specific firms and assign them specific scopes of work and associated contract dollar values. For Form C: MBE/WBE and Prime Contractor's Statement of Intent, it is not possible at this time to secure specific vendors and assign them exact contract amounts. Therefore, it is not possible at this time for Tesla to fully complete Form C, beyond stating that our exact commitments are to be determined.

In addition, the exact contract value has not yet been determined. As this project will likely be contracted under a Power Purchase Agreement, there will be additional components outside of construction expenditure that compose the total contract value. It will be necessary to identify the construction expenditure value to accurately complete the forms. Again, this is not presently feasible without accurate drawings and site surveys.

8. Appendix

Appendix A: [PVsyst Production Report](#)

Appendix B: [Preliminary Design Layout](#)

Appendix C: [Preliminary Project Schedule](#)

Appendix D: [Tesla Form of Power Purchase Agreement](#)

Appendix E: [Tesla Form of Performance Guarantee Agreement](#)

Appendix A: PVsyst Production Report

Grid-Connected System: Simulation parameters

Project :

City of Providence

Geographical Site

Providence T F Green State Ar

Country

United States

Situation

Latitude 41.72° N

Longitude 71.43° W

Time defined as

Legal Time Time zone UT-5

Altitude 16 m

Monthly albedo values

| | Jan. | Feb. | Mar. | Apr. | May | June | July | Aug. | Sep. | Oct. | Nov. | Dec. |
|--------|------|------|------|------|------|------|------|------|------|------|------|------|
| Albedo | 0.55 | 0.55 | 0.55 | 0.20 | 0.20 | 0.20 | 0.20 | 0.20 | 0.20 | 0.20 | 0.20 | 0.55 |

Meteo data:

Providence T F Green State Ar NREL NSRD : TMY3 - TMY

Simulation variant : V1 Submittal

Simulation date 15/06/18 11h59

Simulation parameters

Collector Plane Orientation

Tilt 25°

Azimuth 0°

50 Sheds

Pitch 6.60 m

Collector width 3.94 m

Inactive band

Top 0.00 m

Bottom 0.00 m

Shading limit angle

Gamma 28.80 °

Occupation Ratio 59.7 %

Shadings electrical effect

Cell size 15.6cm

Strings in width 2

Models used

Transposition Perez

Diffuse Imported

Horizon

Free Horizon

Near Shadings

Mutual shadings of sheds Electrical effect

PV Array Characteristics

PV module

Si-mono

Model

LR6-72PH-375M

Custom parameters definition

Manufacturer

Longi Solar

Number of PV modules

In series

27 modules

In parallel

692 strings

Total number of PV modules

Nb. modules

18684

Unit Nom. Power

375 Wp

Array global power

Nominal (STC)

7007 kWp

At operating cond.

6342 kWp (50°C)

Array operating characteristics (50°C)

U mpp

968 V

I mpp

6550 A

Total area

Module area

36217 m²

Cell area

33053 m²

Inverter

Model

SUN2000-45KTL-US-HV

Custom parameters definition

Manufacturer

Huawei Technologies

Characteristics

Operating Voltage

800-1200 V

Unit Nom. Power

45.0 kWac

Max. power (=>40°C)

50.0 kWac

Inverter pack

Nb. of inverters

110 units

Total Power

4950 kWac

PV Array loss factors

Array Soiling Losses

| Jan. | Feb. | Mar. | Apr. | May | June | July | Aug. | Sep. | Oct. | Nov. | Dec. |
|------|------|------|------|------|------|------|------|------|------|------|------|
| 8.5% | 5.6% | 1.3% | 1.1% | 1.2% | 1.2% | 1.3% | 1.2% | 1.3% | 1.3% | 1.4% | 5.3% |

Thermal Loss factor

Uc (const)

29.0 W/m²K

Uv (wind)

0.0 W/m²K / m/s

Wiring Ohmic Loss

Global array res.

1.7 mOhm

Loss Fraction

1.0 % at STC

Grid-Connected System: Simulation parameters (continued)

| | | | |
|--|--------------------------------|---------------|--------------|
| LID - Light Induced Degradation | | Loss Fraction | 2.0 % |
| Module Quality Loss | | Loss Fraction | 0.2 % |
| Module Mismatch Losses | | Loss Fraction | 1.0 % at MPP |
| Incidence effect, ASHRAE parametrization | IAM = $1 - b_o (1/\cos i - 1)$ | b_o Param. | 0.04 |

System loss factors

| | | | |
|----------------------------------|----------------------------------|-------------|----------------------------|
| AC wire loss inverter to transfo | Inverter voltage | 600 Vac tri | |
| | Wires: 3x10000.0 mm ² | 833 m | Loss Fraction 3.0 % at STC |
| External transformer | Iron loss (24H connexion) | 13786 W | Loss Fraction 0.2 % at STC |
| | Resistive/Inductive losses | 0.6 mOhm | Loss Fraction 1.2 % at STC |
| Unavailability of the system | 3.6 days, 1 periods | | Time fraction 1.0 % |

User's needs : Unlimited load (grid)

Grid-Connected System: Main results

Project : City of Providence

Simulation variant : V1 Submittal

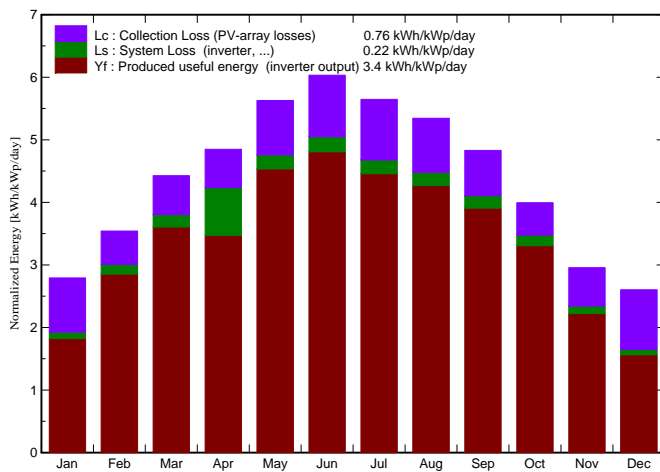
Main system parameters

| | | | | |
|----------------------|-------------------------|-----------------------|------------|-------------------|
| PV Field Orientation | System type | Grid-Connected | | |
| PV modules | Sheds disposition, tilt | 25° | azimuth | 0° |
| PV Array | Model | LR6-72PH-375M | Pnom | 375 Wp |
| Inverter | Nb. of modules | 18684 | Pnom total | 7007 kWp |
| Inverter pack | Model | SUN2000-45KTL-US-HV | Pnom | 45.0 kW ac |
| User's needs | Nb. of units | 110.0 | Pnom total | 4950 kW ac |
| | Unlimited load (grid) | | | |

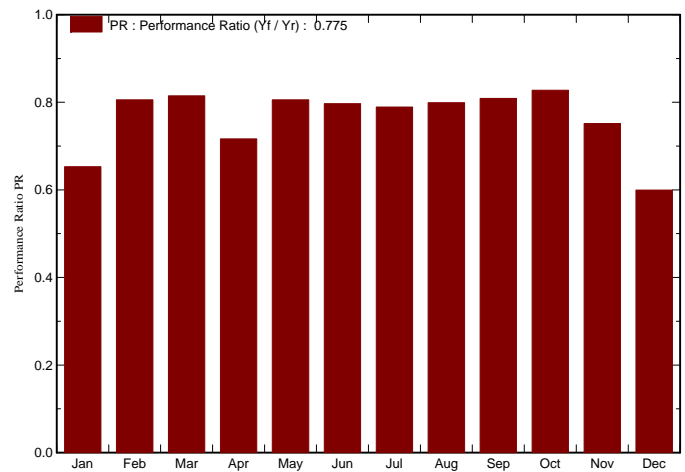
Main simulation results

| | | | | |
|-------------------|------------------------|------------------------|----------------|-------------------|
| System Production | Produced Energy | 8705180 kW/year | Specific prod. | 1242 kWh/kWp/year |
| | Performance Ratio PR | 77.52 % | | |

Normalized productions (per installed kWp): Nominal power 7007 kWp



Performance Ratio PR



V1 Submittal

Balances and main results

| | GlobHor kWh/m² | DiffHor kWh/m² | T Amb °C | GlobInc kWh/m² | GlobEff kWh/m² | EArray MWh | E_Grid MWh | PR |
|-----------|-------------------|-------------------|-------------|-------------------|-------------------|---------------|---------------|-------|
| January | 57.8 | 31.12 | -1.59 | 86.5 | 69.9 | 418 | 396 | 0.653 |
| February | 73.1 | 37.83 | 0.15 | 99.1 | 86.7 | 590 | 560 | 0.806 |
| March | 111.0 | 48.47 | 3.81 | 137.2 | 127.0 | 826 | 783 | 0.815 |
| April | 132.7 | 62.94 | 8.47 | 145.4 | 136.0 | 890 | 730 | 0.716 |
| May | 172.1 | 85.17 | 15.12 | 174.5 | 162.4 | 1034 | 985 | 0.806 |
| June | 182.6 | 80.81 | 19.21 | 181.0 | 169.0 | 1061 | 1010 | 0.797 |
| July | 174.5 | 84.25 | 23.27 | 175.1 | 162.9 | 1016 | 968 | 0.789 |
| August | 157.7 | 77.81 | 21.57 | 165.7 | 154.3 | 973 | 927 | 0.799 |
| September | 124.1 | 57.12 | 18.30 | 144.9 | 135.5 | 863 | 821 | 0.809 |
| October | 93.4 | 41.55 | 11.90 | 123.8 | 115.6 | 756 | 718 | 0.827 |
| November | 61.2 | 30.81 | 5.85 | 88.7 | 80.3 | 493 | 467 | 0.751 |
| December | 49.8 | 24.73 | -0.50 | 80.7 | 64.6 | 359 | 339 | 0.600 |
| Year | 1390.0 | 662.61 | 10.52 | 1602.7 | 1464.1 | 9278 | 8705 | 0.775 |

Legends:

- GlobHor: Horizontal global irradiation
- DiffHor: Horizontal diffuse irradiation
- T Amb: Ambient Temperature
- GlobInc: Global incident in coll. plane
- GlobEff: Effective Global, corr. for IAM and shadings
- EArray: Effective energy at the output of the array
- E_Grid: Energy injected into grid
- PR: Performance Ratio

Grid-Connected System: Loss diagram

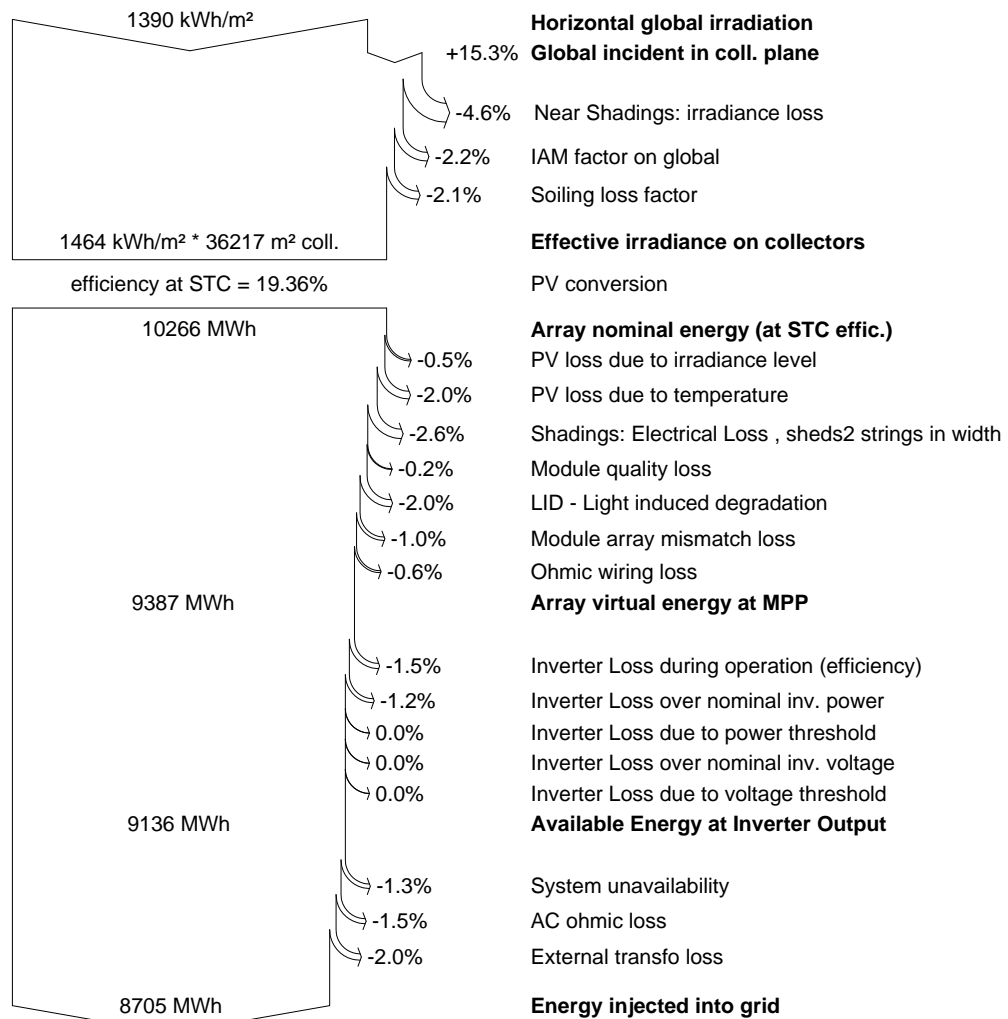
Project : City of Providence

Simulation variant : V1 Submittal

Main system parameters

| | | | | |
|----------------------|-------------------------|-----------------------|------------|-------------------|
| PV Field Orientation | System type | Grid-Connected | | |
| PV modules | Sheds disposition, tilt | 25° | azimuth | 0° |
| PV Array | Model | LR6-72PH-375M | Pnom | 375 Wp |
| Inverter | Nb. of modules | 18684 | Pnom total | 7007 kWp |
| Inverter pack | Model | SUN2000-45KTL-US-HV | Pnom | 45.0 kW ac |
| User's needs | Nb. of units | 110.0 | Pnom total | 4950 kW ac |
| | Unlimited load (grid) | | | |

Loss diagram over the whole year



Appendix B: Preliminary Design Layout



| | | | |
|---|--|--|--|
| <p>LEGEND</p> <p>(N) SOLAR PV MODULES</p> <p>DOWN SLOPE</p> <p>(E) POLE-MOUNTED LIGHT FIXTURE</p> <p>(N) TRENCH/BORE PATH</p> <p>(N) CONDUIT</p> <p>(E) FENCE</p> <p>(N) FENCE</p> | | <p>TESLA</p> <p>3501 FIELD HILL ROAD, SUITE 100, CLAYTON, CA 94516 PHOTOGRAPHY: WATKINS.COM</p> | |
| <p>ELECTRICAL EQUIPMENT</p> <p>POINT OF INTERCONNECTION</p> <p>POI</p> <p>SEE WARNING LABEL DETAIL 1/E 7.0</p> <p>LOAD CENTER</p> <p>LC-XX</p> <p>LOAD CENTER # XX</p> <p>SEE WARNING LABEL DETAIL 6 & 7/E 7.0</p> <p>PV INVERTER AND DC DISCONNECT SWITCH</p> <p>IN-XX</p> <p>INVERTER # XX</p> <p>SEE WARNING LABEL DETAIL 3 & 8/E 7.0</p> | | <p>DESCRIPTION</p> <p>PROVIDENCE WATER SUPPLY XX.XXkW PV ARRAY SYSTEM</p> <p>CUSTOMER</p> <p>PROVIDENCE WATER SUPPLY 352 FIELD HILL RD CLAYVILLE, RI 02815</p> | |
| <p>SHEET UPDATES</p> <p>DATE: 10/1/2023</p> <p>BY: [Signature]</p> <p>REV: 1.0</p> | | <p>JOB DETAILS</p> <p>PROJECT: 352 FIELD HILL RD, CLAYVILLE, RI 02815</p> <p>OWNER: PROVIDENCE WATER SUPPLY</p> <p>DESIGNER: WATKINS PHOTOGRAPHY</p> <p>INSTALLER: [Blank]</p> | |

Appendix C: Preliminary Project Schedule







| ID | | Task Mode | % Compl | Task Name | Duration | Start | Finish | Predecessors | Successors | Notes | <div><div>Apr</div><div>Q3 '18JulOct</div><div>Q1 '19JanApr</div><div>Q3 '19JulOct</div><div>Pr</div></div> | | | | | | |
|----|--|-----------|---------|--|----------|--------------|--------------|--------------|----------------|-------|---|--|--|--|--|--|--|
| 1 | | | 0% | Providence Water Supply | 373 days | Mon 6/25/18 | Wed 11/27/19 | | | | | | | | | | |
| 2 | | | 0% | Contracts | 42 days | Mon 6/25/18 | Tue 8/21/18 | | | | | | | | | | |
| 3 | | | 0% | RFP submittal to PW | 1 day | Mon 6/25/18 | Mon 6/25/18 | | 4 | | | | | | | | |
| 4 | | | 0% | RFP submittal review by PW | 20 days | Tue 6/26/18 | Mon 7/23/18 | 3 | 5 | | | | | | | | |
| 5 | | | 0% | PW awards project | 1 day | Tue 7/24/18 | Tue 7/24/18 | 4 | 6 | | | | | | | | |
| 6 | | | 0% | Contract Execution | 5 days | Wed 7/25/18 | Tue 7/31/18 | 5 | 7,10,11,12,13, | | | | | | | | |
| 7 | | | 0% | Conditions Satification Date | 5 days | Wed 8/1/18 | Tue 8/7/18 | 6 | 8 | | | | | | | | |
| 8 | | | 0% | Outside Commercial Operation Date | 5 days | Wed 8/8/18 | Tue 8/14/18 | 7 | 9 | | | | | | | | |
| 9 | | | 0% | Amended Outside Commerical Operation Date | 5 days | Wed 8/15/18 | Tue 8/21/18 | 8 | | | | | | | | | |
| 10 | | | 0% | Engineering | 45 days | Wed 8/1/18 | Tue 10/2/18 | 6 | | | | | | | | | |
| 11 | | | 0% | Topo Survey | 10 days | Wed 8/1/18 | Tue 8/14/18 | 6 | | | | | | | | | |
| 12 | | | 0% | Wetlands Delineation | 15 days | Wed 8/1/18 | Tue 8/21/18 | 6 | | | | | | | | | |
| 13 | | | 0% | Vendor drawings for racking, initial | 10 days | Wed 8/1/18 | Tue 8/14/18 | 6 | 14SS+5 days | | | | | | | | |
| 14 | | | 0% | 30% CD Completion | 5 days | Wed 8/8/18 | Tue 8/14/18 | 13SS+5 days | 15,43 | | | | | | | | |
| 15 | | | 0% | 90% Design Complete | 10 days | Wed 8/15/18 | Tue 8/28/18 | 14 | 16 | | | | | | | | |
| 16 | | | 0% | 90% Client Review | 5 days | Wed 8/29/18 | Tue 9/4/18 | 15 | 17 | | | | | | | | |
| 17 | | | 0% | Final Racking Drawings | 10 days | Wed 9/5/18 | Tue 9/18/18 | 16 | 18,44 | | | | | | | | |
| 18 | | | 0% | 100% CD Completion | 10 days | Wed 9/19/18 | Tue 10/2/18 | 17 | 35,36,28,29,30 | | | | | | | | |
| 19 | | | 0% | Interconnection | 77 days | Wed 8/1/18 | Thu 11/15/18 | | | | | | | | | | |
| 20 | | | 0% | Application submittal | 1 day | Wed 8/1/18 | Wed 8/1/18 | 6 | 21 | | | | | | | | |
| 21 | | | 0% | N. Grid review | 40 days | Thu 8/2/18 | Wed 9/26/18 | 20 | 22 | | | | | | | | |
| 22 | | | 0% | Check approved for utility upgrades | 1 day | Thu 9/27/18 | Thu 9/27/18 | 21 | 23 | | | | | | | | |
| 23 | | | 0% | D&E updated utility drawings | 10 days | Fri 9/28/18 | Thu 10/11/18 | 22 | 24 | | | | | | | | |
| 24 | | | 0% | Utility Review of updated plans | 10 days | Fri 10/12/18 | Thu 10/25/18 | 23 | 25 | | | | | | | | |
| 25 | | | 0% | Utility Committed Design & Construction Schedule | 15 days | Fri 10/26/18 | Thu 11/15/18 | 24 | 45,46,78SS | | | | | | | | |
| 26 | | | 0% | Permitting | 127 days | Wed 8/15/18 | Thu 2/7/19 | | | | | | | | | | |
| 27 | | | 0% | Discretionary Permits | 61 days | Wed 10/3/18 | Wed 12/26/18 | | | | | | | | | | |
| 28 | | | 0% | Site plan design submittal | 25 days | Wed 10/3/18 | Tue 11/6/18 | 18 | 31 | | | | | | | | |
| 29 | | | 0% | P&Z Submittal | 60 days | Wed 10/3/18 | Tue 12/25/18 | 18 | 32 | | | | | | | | |
| 30 | | | 0% | Stormwater permit submittal | 60 days | Wed 10/3/18 | Tue 12/25/18 | 18 | 33 | | | | | | | | |
| 31 | | | 0% | Site plan design approval | 1 day | Wed 11/7/18 | Wed 11/7/18 | 28 | | | | | | | | | |
| 32 | | | 0% | P&Z approval | 1 day | Wed 12/26/18 | Wed 12/26/18 | 29 | | | | | | | | | |
| 33 | | | 0% | Stormwater permit approval | 1 day | Wed 12/26/18 | Wed 12/26/18 | 30 | | | | | | | | | |
| 34 | | | 0% | Ministerial Permits | 31 days | Wed 10/3/18 | Wed 11/14/18 | | | | | | | | | | |
| 35 | | | 0% | Building permit submittal | 30 days | Wed 10/3/18 | Tue 11/13/18 | 18 | 37 | | | | | | | | |
| 36 | | | 0% | AHJ plan submittal | 30 days | Wed 10/3/18 | Tue 11/13/18 | 18 | 38 | | | | | | | | |
| 37 | | | 0% | Building permit approved | 1 day | Wed 11/14/18 | Wed 11/14/18 | 35 | | | | | | | | | |
| 38 | | | 0% | AHJ plan approved | 1 day | Wed 11/14/18 | Wed 11/14/18 | 36 | | | | | | | | | |
| 39 | | | 0% | Procurement | 127 days | Wed 8/15/18 | Thu 2/7/19 | | | | | | | | | | |
| 40 | | | 0% | Subcontractor Bidding | 20 days | Wed 10/3/18 | Tue 10/30/18 | 18 | 41 | | | | | | | | |
| 41 | | | 0% | Contract Negotiatiosn & Award | 5 days | Wed 10/31/18 | Tue 11/6/18 | 40 | 42SS+2 days | | | | | | | | |

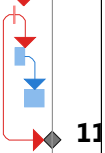
The date provided in this timeline represent Tesla's good faith projections, and not guarantees, of when the specified events will occur.



| ID | <div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></</div></div> |
|----|--|
|----|--|



| ID |  | Task Mode | % Compl | Task Name | Duration | Start | Finish | Predecessors | Successors | Notes | | | | | | | |
|----|--|---|---------|--|----------|--------------|--------------|--------------|---------------|-------|-----|---------------|-----|---------------|-----|---------------|-----|
| | | | | | | | | | | | Apr | Q3 '18 Jul | Oct | Q1 '19 Jan | Apr | Q3 '19 Jul | Oct |
| 81 | |  | 0% | Site Energized (AC power) - by Utility | 1 day | Thu 10/31/19 | Thu 10/31/19 | 80 | 82,84SS+20 da | | | | | | | | |
| 82 | |  | 0% | Commissioning | 5 days | Fri 11/1/19 | Thu 11/7/19 | 81 | 83 | | | | | | | | |
| 83 | |  | 0% | Punchlist | 10 days | Fri 11/8/19 | Thu 11/21/19 | 82 | | | | | | | | | |
| 84 | |  | 0% | COD | 0 days | Wed 11/27/19 | Wed 11/27/19 | 81SS+20 days | | | | | | | | | |



Appendix D: Tesla Form of Power Purchase Agreement



Solar Power Purchase Agreement (Commercial)

This Solar Power Purchase Agreement (this “**Agreement**”) is entered into by the parties listed below (each a “**Party**” and collectively the “**Parties**”) as of the date signed by Seller below (the “**Effective Date**”).

| | | | |
|--------------------|--|------------------|--|
| Purchaser: | | Seller: | |
| Name and Address | | Name and Address | Tesla, Inc. 3055 Clearview Way San Mateo, CA 94402 Attention: Energy Contracts |
| Phone | | Phone | (650) 638-1028 |
| E-mail | | E-mail | Energynotices@tesla.com |
| Premises Ownership | | | Contractor's License Number |
| Tax Status | | | |
| Project Name | | | |

This Agreement sets forth the terms and conditions of the purchase and sale of solar generated electricity from the solar panel system described in Exhibit 2 (the “**System**”) and installed on the real property comprising Purchaser's premises described or depicted in Schedule A to Exhibit 2 (the “**Premises**”), including any buildings and other improvements on the Premises other than the System (the “**Improvements**”).

The exhibits listed below are incorporated by reference and made part of this Agreement.

Exhibit 1 Pricing
Exhibit 2 System Description, Delivery Point and Premises
Exhibit 3 General Terms and Conditions (March 20, 2018)

Purchaser:

Tesla, Inc.

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit 1

Pricing

1. **Initial Term:** Twenty (20) years, beginning on the Commercial Operation Date (the “**Initial Term**”).
2. **Additional Terms:** Up to three (3) terms of five (5) years beginning on the expiration of the Initial Term and each immediately preceding Additional Term, as applicable (each an “**Additional Term**”).
3. **Contract Price:**

| Contract Year | \$/kWh |
|----------------------|---------------|
| 1 | \$0.0000 |
| 2 | \$0.0000 |
| 3 | \$0.0000 |
| 4 | \$0.0000 |
| 5 | \$0.0000 |
| 6 | \$0.0000 |
| 7 | \$0.0000 |
| 8 | \$0.0000 |
| 9 | \$0.0000 |
| 10 | \$0.0000 |
| 11 | \$0.0000 |
| 12 | \$0.0000 |
| 13 | \$0.0000 |
| 14 | \$0.0000 |
| 15 | \$0.0000 |
| 16 | \$0.0000 |
| 17 | \$0.0000 |
| 18 | \$0.0000 |
| 19 | \$0.0000 |
| 20 | \$0.0000 |

The first Contract Year shall commence on the Commercial Operation Date, and each subsequent Contract Year shall commence on the anniversary of the Commercial Operation Date.

4. **Contract Price Assumptions.** The Contract Price is based on the following assumptions:
 - a. A payment or performance bond is _____ is not _____ being issued to Purchaser under this Agreement.
 - b. Interconnection costs for the System will not exceed \$[] in the aggregate.
 - c. Statutory prevailing wage rates (e.g., Davis-Bacon) do _____ do not _____ apply.
 - d. All prices in this Agreement are calculated based on an upfront rebate of \$[0].
 - e. The Contract Price is inclusive of Seller's Taxes (as defined in Section 3(d) of **Exhibit 3**) at the rates in effect as of the Effective Date (to the extent that such rates are known or knowable by Seller on the Effective Date).
5. **Contract Price Exclusions.** Except as otherwise provided in Section 2(c) of Exhibit 3, the Contract Price excludes the following:
 - a. Unforeseen groundwork (including excavation and circumvention of underground obstacles).
 - b. Upgrades or repair to customer or utility electrical infrastructure (including: client or utility service, transformers, substations, poles, breakers, reclosers, and disconnects).
 - c. Snow removal, tree removal, tree trimming, mowing and any landscape improvements.

- d. Decorative fencing and/or any visual screening materials, decorative enhancements to solar support structures (including: painting, paint matching, masonry/stone work, and any lighting not required to meet the minimum code compliance).
- e. Removal of existing lighting, light poles, or concrete light post bases.
- f. Roof membrane maintenance or reroofing work.
- g. Structural upgrades to the Improvements, including upgrades and other modifications required by the American with Disabilities Act.
- h. Installation of public information screen or kiosk (including accompanying internet connection, power supply, technical support and ADA access).
- i. Changes in System design caused by any inaccuracy or ambiguity in information provided by Purchaser, including information regarding Purchaser's energy use, the Premises and the Improvements, including building plans and specifications.

6. Termination Payment Schedule (Exhibit 3, Section 11(b)):

| Contract Year | Termination Payment (\$) |
|----------------------|---------------------------------|
| 1 | \$0.0000 |
| 2 | \$0.0000 |
| 3 | \$0.0000 |
| 4 | \$0.0000 |
| 5 | \$0.0000 |
| 6 | \$0.0000 |
| 7 | \$0.0000 |
| 8 | \$0.0000 |
| 9 | \$0.0000 |
| 10 | \$0.0000 |
| 11 | \$0.0000 |
| 12 | \$0.0000 |
| 13 | \$0.0000 |
| 14 | \$0.0000 |
| 15 | \$0.0000 |
| 16 | \$0.0000 |
| 17 | \$0.0000 |
| 18 | \$0.0000 |
| 19 | \$0.0000 |
| 20 | \$0.0000 |

Exhibit 2

System Description, Delivery Point and Premises

1. **System Location:**
2. **System Size (DC kW):**
3. **System Description (Expected Structure, Etc.):**
4. **Delivery Point and Premises:** Schedule A to this Exhibit 2 contains one or more drawings or images depicting:
 - a. Premises, including the Improvements (as applicable);
 - b. Proposed System location;
 - c. Delivery point for electricity generated by the System (the “**Delivery Point**”);
 - d. Access points needed for Seller to install and service the System (building access, electrical room, stairs etc.); and
 - e. Construction assumptions (if any).

Schedule A



Exhibit 3

General Terms and Conditions

Revised March 20, 2018

1. **Purchase and Sale of Electricity.** Purchaser will purchase from Seller, and Seller will sell to Purchaser, all of the electricity generated by the System during the Term (as defined in Section 2(a)). Electricity generated by the System will be delivered to Purchaser at the Delivery Point. Title to and risk of loss for the electricity generated by the System passes to Purchaser from Seller at the Delivery Point. Purchaser may purchase electricity for the Premises from other sources to the extent Purchaser's electricity consumption requirements at the Premises exceed the output of the System.
2. **Term and Termination.**
 - a. **Effective Date; Term.** This Agreement is effective as of the Effective Date. The electricity supply period under this Agreement commences on the Commercial Operation Date (as defined in Section 6) and continues for the duration of the Initial Term and any Additional Terms, unless earlier terminated as provided for in this Agreement (collectively, the "Term").
 - b. **Additional Terms.** The Parties may agree in writing to extend this Agreement one or more Additional Term(s) at a Contract Price to be agreed.
 - c. **Termination by Seller Due to Lack of Project Viability.** If, at any time after the Effective Date and prior to Commencement of Installation (as defined in Section 6), Seller determines that the installation of the System will not be technically or economically viable for any reason, Seller may terminate this Agreement upon ten (10) days' prior written notice to Purchaser. Seller is not liable for any damages in connection with such termination.
3. **Billing and Payment; Taxes.**
 - a. **Monthly Charges.** Purchaser shall pay Seller monthly for the electricity generated by the System and delivered to the Delivery Point at the \$/kWh rate shown in **Exhibit 1** (the "Contract Price"). The monthly payment for such energy will be equal to the applicable \$/kWh rate multiplied by the number of kWh of electricity generated during the applicable month, as measured by the Meter (as defined in Section 11). Additional costs for items differing from the assumptions in **Exhibit 1**, Item 4, or excluded from the Contract Price as set forth in **Exhibit 1**, Item 5, are Purchaser's responsibility.
 - b. **Monthly Invoices.** Seller shall invoice Purchaser monthly. Such monthly invoices shall state (i) the amount of electricity produced by the System and delivered to the Delivery Point, (ii) the rates applicable to, and charges incurred by, Purchaser under this Agreement and (iii) the total amount due from Purchaser.
 - c. **Payment Terms.** All amounts due under this Agreement are due and payable net thirty (30) days following receipt of invoice. Any undisputed portion of the invoice amount not paid within such thirty (30) day period shall accrue interest at the annual rate of two and one-half percent (2.5%) above the Prime Rate (but not to exceed the maximum rate permitted by law). All payments shall be made in U.S. dollars.
 - d. **Taxes.**
 - i. **Purchaser's Taxes.** Purchaser is responsible for: (1) payment of, or reimbursement of Seller, for all taxes assessed on the generation, sale, delivery or consumption of electricity produced by the System or the interconnection of the System to the utility's electricity distribution system; and (2) real property taxes.
 - ii. **Seller's Taxes.** Seller is responsible for: (1) payment of income taxes or similar taxes imposed on Seller's revenues due to the sale of electricity under this Agreement; and (2) personal property taxes imposed on the System ("Seller's Taxes").
4. **RECs and Incentives.** As the owner of the System, Seller is entitled to the benefit of, and will retain all ownership interests in the RECs and Incentives. Purchaser shall cooperate with Seller in obtaining, securing and transferring any and all RECs and Incentives. Purchaser is not obligated to incur any out-of-pocket costs or expenses in connection with such actions unless reimbursed by Seller. Purchaser shall not make any filing or statements inconsistent with Seller's ownership interests in the RECs and Incentives. If any RECs or Incentives are paid or delivered directly to Purchaser, Purchaser shall immediately pay or deliver such items or amounts over to Seller.

“Governmental Authority” means any foreign, federal, state, local or other governmental, regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, court, tribunal, arbitrating body or other governmental authority having jurisdiction or effective control over a Party.

“Incentives” means (i) a payment paid by a utility or state or local Governmental Authority based in whole or in part on the cost or size of the System such as a rebate, (ii) a performance-based incentive paid as a stream of periodic payments by a utility, state or Governmental Authority based on the production of the System, (iii) investment tax credits, production tax credits, and similar tax credits, grants or other tax benefits under federal, state or local law, and (iv) any other attributes, commodity, revenue stream or payment in connection with the System (such as ancillary or capacity revenue), in each case of (i) through (iv) relating to the construction, ownership, use or production of energy from the System, provided that Incentives shall not include RECs.

“REC” means a renewable energy credit or certificate under any state renewable portfolio, standard or federal renewable energy standard, voluntary renewable energy credit certified by a non-governmental organization, pollution allowance, carbon credit and any similar environmental allowance or credit and green tag or other reporting right under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program, in each case relating to the construction, ownership, use or production of energy from the System provided that RECs shall not include Incentives.

5. **Project Completion.**

a. **Project Development.** Seller shall diligently pursue the development and installation of the System, subject to Section 2(c), Section 11 and the remaining provisions of this Section 5.

b. **Permits and Approvals.** Seller shall use commercially reasonable efforts to obtain the following at its sole cost and expense (each an “Approval”):

- i. any zoning, land use and building permits required for Seller to construct, install and operate the System; and
- ii. any agreements and approvals from the utility necessary in order to interconnect the System to the utility’s electric distribution system.

Purchaser shall cooperate with Seller’s reasonable requests to assist Seller in obtaining such Approvals, including without limitation the execution of documents required to be provided by Purchaser to the local utility.

c. **Commencement of Installation.** Seller shall exercise commercially reasonable efforts to achieve Commencement of Installation of the System within 365 days after the Effective Date. **“Commencement of Installation”** means the date that the Seller or its installation contractor has begun physical installation of the System on the Premises.

d. **Force Majeure.**

- i. **Force Majeure Event.** If either Party is unable to timely perform any of its obligations (other than payment obligations) under this Agreement in whole or in part due to a Force Majeure Event, that Party will be excused from performing such obligations for the duration of the time that such Party remains affected by the Force Majeure Event; provided, that, such Party uses all commercially reasonable efforts to mitigate the impact of the Force Majeure Event and resumes performance of its affected obligations as soon as reasonably practical. The Party affected by the Force Majeure Event shall notify the other Party as soon as reasonably practical after the affected Party becomes aware that Seller is or will be affected by a Force Majeure Event. If the Force Majeure Event occurs during the Term and impacts the ability of the System to deliver electricity to the Delivery Point, the Term will be extended day for day for each day delivery is suspended due to the Force Majeure Event.
- ii. **Extended Force Majeure.** If a Force Majeure Event notified by Seller under paragraph (i) above continues for a consecutive period of one hundred eighty (180) days or more within a twelve (12) month period, then either Party may terminate this Agreement without either Party having further liability under this Agreement except: (a) liabilities accrued prior to termination, and (b) if Purchaser elects to terminate the Agreement in accordance with this Section, Purchaser is responsible to reimburse Seller for Seller’s costs to remove the System as required under Section 10. Notwithstanding the foregoing, if the Force Majeure Event is one that can be corrected through repair or restoration of the System or other actions by Seller and, prior to expiration of the initial one hundred eighty (180)-day period, Seller provides evidence that it is diligently pursuing such actions, then Purchaser does not have the right to terminate this Agreement.

- iii. **“Force Majeure Event”** means any event or circumstance beyond the reasonable control of and without the fault or negligence of Seller, including, without limitation, failure or interruption of the production, delivery or acceptance of electricity due to: an act of god; war (declared or undeclared); sabotage; piracy; riot; insurrection; civil unrest or disturbance; military or guerilla action; terrorism; economic sanction or embargo; civil strike, work stoppage, slow-down, or lock-out; explosion; fire; earthquake; abnormal weather condition or actions of the elements; hurricane; flood; lightning; wind; drought; animals; the binding order of any Governmental Authority; the failure to act on the part of any Governmental Authority (including, without limitation delays in permitting not caused by actions or omissions of the Party seeking such permit; unavailability of electricity from the utility grid; and failure or unavailability of equipment, supplies or products outside of Seller’s control or due to a Force Majeure Event.
- e. **Extension of Time.** If Seller is delayed in achieving Commencement of Installation due to a Force Majeure Event, the time for achievement of Commencement of Installation will be automatically extended to account for the impact of the delay.
- f. **Commercial Operation.** Seller will notify Purchaser in writing when it has achieved Commercial Operation (the date of such notice, the **“Commercial Operation Date”**). **“Commercial Operation”** means that the System is mechanically complete, capable of providing electricity to the Delivery Point and has permission to operate from the relevant Governmental Authority. Seller will provide Purchaser with documentation to evidence that the System is ready to begin Commercial Operation upon Purchaser’s reasonable request.

6. Installation, Operation and Maintenance.

- a. **Seller’s General Obligations Regarding the System.** Subject to the terms and conditions of this Agreement, Seller shall design, engineer, install, commission, monitor, operate and maintain the System, in each case in a good and workmanlike manner and in accordance with applicable law and prudent solar industry practices in the state in which the Premises are located. The System shall comply with all applicable rules, regulations and local building codes. Buyer shall cooperate with Seller’s reasonable requests in connection with Seller’s development, design, installation, operation, maintenance, repair and removal of the System.
- b. **System Repair and Maintenance.** Seller may suspend delivery of electricity from the System to the Delivery Point for the purpose of maintaining and repairing the System and such suspension of service does not constitute a breach of this Agreement; provided, that Seller shall use commercially reasonable efforts to (i) minimize any interruption in service to the Purchaser, and (ii) limit any such suspension of service to weekend or off-peak hours. Scheduled and unscheduled maintenance and repairs shall be undertaken at Seller’s sole cost and expense, except that Purchaser shall reimburse Seller for the reasonable cost of any repairs or maintenance resulting from damage caused by Purchaser, its agents, employees or contractors.
- c. **Outages.** Upon Purchaser’s written request, Seller shall take the System off-line for a total of forty-eight (48) day light hours (as defined by the United States National Weather Service in the area where the System is located) during each Contract Year (each event an **“Outage”** and the forty-eight (48) hour period the **“Outage Allowance”**). The Outage Allowance includes all Outage hours undertaken by Seller for maintenance or repairs for which Purchaser is responsible or requested by Purchaser under this Section 6(c) (other than due to the fault or negligence of Seller). Purchaser’s request shall be delivered at least forty-eight (48) hours in advance. Purchaser is not obligated to accept or pay for electricity from the System for Outages up to the annual Outage Allowance. If the aggregate hours for Outages exceed the Outage Allowance in a given Contract Year, Seller shall reasonably estimate the amount of electricity that would have been delivered to Purchaser during such excess Outages and Purchaser shall pay Seller for such amount in accordance with this Agreement.
- d. **Maintenance of Premises.** Purchaser shall, at its sole cost and expense, maintain the Premises and Improvements in good condition and repair. Purchaser, to the extent within its reasonable control, will (i) shall ensure that the Premises remains interconnected to the local utility grid at all times; and (ii) shall not permit cessation of electric service to the Premises from the local utility. Purchaser is fully responsible for, and shall properly maintain in full working order and good repair, the electrical infrastructure on the Purchaser’s side of the Delivery Point, including all of Purchaser’s equipment that utilizes the System’s outputs.
- e. **No Alteration of Premises.** Purchaser must not make any alterations or repairs to the Premises or any Improvement which may adversely affect the operation and maintenance of the System without Seller’s prior written consent, which consent may be conditioned to ensure that such alterations or repairs are made in a manner that minimizes disruption

to the operation of, and avoids damage to, the System. All of Purchaser's alterations and repairs will be done in a good and workmanlike manner and in compliance with all applicable laws, codes and permits.

- f. **System Disconnection.** To the extent that temporary disconnection or removal of the System is necessary to install, repair, remove or maintain the System, Buyer shall cooperate with Seller with respect to same and such work and any disconnection, removal, re-connection or re-installation of the System will be done by Seller or its contractors. If any of the foregoing results from Purchaser's alterations or repairs to the Premises or any Improvement, such work will be performed at Purchaser's cost.

7. **Miscellaneous Rights and Obligations of the Parties.**

- a. **Access Rights**¹. Purchaser hereby grants to Seller and to Seller's agents, employees, contractors and the utility (i) a non-exclusive license running with the Premises (the "**Non-Exclusive License**") for access to, on, over, under and across the Premises from the Effective Date until the date that is ninety (90) days following the date of expiration or earlier termination of this Agreement (the "**License Term**"), for the purposes of performing all of Seller's obligations and enforcing all of Seller's rights set forth in this Agreement and otherwise as required by Seller in order to effectuate the purposes of this Agreement. In addition to the foregoing, if the System shall be a ground-mounted System to be located within a secure, fenced area on the Premises, Purchaser hereby grants to Seller an exclusive, sub-licensable license running with the Premises (the "**Exclusive License**", and together with the Non-Exclusive License, the "**Licenses**") for purposes of the installation, operation, use and maintenance of the System on such exclusively licensed area of the Premises during the License Term. Seller and its employees, agents and contractors must comply with Purchaser's reasonable site safety and security requirements when on the Premises (other than in respect of the fenced area governed by the Exclusive License) during the License Term. During the License Term, Purchaser shall preserve and protect Seller's rights under the Licenses and Seller's access to the Premises and shall not interfere, or permit any third parties under Purchaser's control to interfere with such rights or access. Purchaser agrees that Seller may record a customary memorandum of license in the land records respecting the Licenses.
- b. **OSHA Compliance.** Each Party shall comply with all Occupational Safety and Health Act (OSHA) requirements and other similar applicable safety laws and codes are adhered to with respect to such Party's performance under this Agreement.
- c. **Safeguarding the Premises.** Purchaser shall at all times during the Term maintain the physical security of the Premises and Improvements in a manner to be expected of a reasonable and prudent owner or lessee of premises and improvements similar to the Premises and Improvements in nature and location. Purchaser shall not conduct or permit activities on, in or about the Premises or the Improvements that have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the System. Purchaser shall indemnify Seller for any loss or damage to the System to the extent caused by or arising out of (i) Purchaser's breach of its obligations under this Section or (ii) by the acts or omissions of Purchaser or its employees, agents, invitees or separate contractors.
- d. **Insolation.** Purchaser acknowledges that unobstructed access to sunlight ("**Insolation**") is essential to Seller's performance of its obligations and a material term of this Agreement. Purchaser shall not, to the extent within its reasonable control, cause or permit any interference with the System's Insolation, and shall ensure that vegetation on the Premises adjacent to the System is regularly pruned or otherwise maintained to prevent interference with the System's Insolation. If Purchaser discovers any activity or condition that could diminish the Insolation of the System, Purchaser shall immediately notify Seller and cooperate with Seller in preserving and restoring the System's Insolation levels as they existed on the Effective Date.
- e. **Use and Payment of Contractors and Subcontractors.** Seller will use suitably qualified, experienced and licensed contractors and subcontractors to perform its obligations under this Agreement. However, Seller will be responsible for the quality of the work performed by its contractors and subcontractors. Seller shall pay when due all valid charges from all contractors, subcontractors and suppliers supplying goods or services to Seller under this Agreement.
- f. **Liens.**
- i. **Lien Obligations.** Purchaser shall not directly or indirectly cause, create, incur, assume or allow to exist any mortgage, pledge, lien, charge, security interest, encumbrance or other claim of any nature (each a "**Lien**")

¹ The Agreement provides for access to the Premises through a license and assumes that the Purchaser is the owner of the Premises. However, certain Sellers may prefer for access to the Premises be provided through a lease or sublease. If the Purchaser is not the owner of the Premises, the lease or license will have to be entered into with the third party owner.

on or with respect to the System. Seller shall not directly or indirectly cause, create, incur, assume or allow to exist any Lien on or with respect to the Premises or the Improvements, other than those Liens which Seller is permitted by law to place on the Premises due to non-payment by Purchaser of amounts due under this Agreement. Each Party shall immediately notify the other Party in writing of the existence of any such Lien following discovery of same, and shall promptly (and in all events within thirty (30) days) cause the same to be discharged and released of record without cost to the other Party; provided, however, that each indemnifying Party has the right to contest any such Lien, so long as it provides a statutory bond or other reasonable assurances of payment that either removes such Lien from title to the affected property, or that assures that any adverse judgment with respect to such Lien shall be paid without affecting title to such property.

- ii. **Lien Indemnity.** Each Party shall indemnify the other Party from and against all claims, losses, damages, liabilities and expenses resulting from any Liens filed against such other Party's property as a result of the indemnifying Party's breach of its obligations under Section 7(f)(i).

8. Relocation of System.

If, during the Term, Purchaser ceases to conduct business operations at the Premises or vacates the Premises; the Premises have been destroyed, or the Purchaser is otherwise unable to continue to host the System or accept the electricity delivered by the System for any other reason (other than a Seller Default Event by Seller), Purchaser may propose in writing the relocation of the System, at Purchaser's cost in lieu of termination of the Agreement by Seller for a Default Event by Purchaser. If such proposal is practically feasible and preserves the economic value of the agreement for Seller, the Parties shall seek to negotiate in good faith an agreement for the relocation of the System. If the Parties are unable to reach agreement on relocation of the System within sixty (60) days after the date of receipt of Purchaser's proposal, Seller may terminate this Agreement pursuant to Section 11(b)(ii).

9. Removal of System upon Termination or Expiration.

Upon the expiration or earlier termination of this Agreement (provided Purchaser does not exercise its purchase option under Section 14(b)), Seller shall, at its expense (unless expressly provided otherwise in this Agreement), remove all of the tangible property comprising the System from the Premises with a targeted completion date that is no later than ninety (90) days after the expiration of the Term. The portion of the Premises where the System is located shall be returned to substantially its original condition (excluding ordinary wear and tear), including the removal of System mounting pads or other support structures and repair and restoration of the roof and the roof membrane. If the System is installed on the roof of an Improvement, Seller's warranties under Section 12(c)(i) shall apply, as applicable. Purchaser must provide sufficient access, space and cooperation as reasonably necessary to facilitate System removal. If Seller fails to remove or commence substantial efforts to remove the System by such agreed upon date, Purchaser may, at its option, to remove the System to a public warehouse and restore the Premises to its original condition (other than ordinary wear and tear) at Seller's cost.

10. Measurement.

- a. **Meter.** The System's electricity output during the Term shall be measured by Seller's meter, which shall be a revenue grade meter that meets ANSI-C12.20 standards for accuracy (the "**Meter**"). Purchaser shall have access to the metered energy output data via the SolarGuard monitoring system installed and maintained by Seller as part of the System.
- b. **Meter Calibration.** Seller shall calibrate the Meter in accordance with manufacturer's recommendations. Notwithstanding the foregoing, Purchaser may install, or cause to be installed, its own revenue-grade meter at the same location as the Meter. If there is a discrepancy between the data from Purchaser's meter and the data from the Meter of greater than two percent (2%) over the course of a Contract Year, then Purchaser may request that Seller calibrate the Meter at Purchaser's cost.

11. Default, Remedies and Damages.

- a. **Default.** Any Party that fails to perform its responsibilities as listed below or experiences any of the circumstances listed below is deemed a "**Defaulting Party**", the other Party is the "**Non-Defaulting Party**" and each of the following is a "**Default Event**":
 - i. failure of a Party to pay any amount due and payable under this Agreement, other than an amount that is subject to a good faith dispute, within ten (10) days following receipt of written notice from the Non-Defaulting Party of such failure to pay ("**Payment Default**");

- ii. failure of a Party to substantially perform any material obligation under this Agreement not addressed elsewhere in this Section 11(a) within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure; provided, that if the Default Event cannot reasonably be cured within thirty (30) days and the Defaulting Party has demonstrated prior to the end of that period that it is diligently pursuing such cure, the cure period will be extended for a further reasonable period of time, not to exceed ninety (90) days;
- iii. any representation or warranty given by a Party under this Agreement was at any time to have been incorrect in any material respect when made and is not cured within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure;
- iv. a Party becomes insolvent or is a party to a bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or any general assignment for the benefit of creditors or other similar arrangement or any event occurs or proceedings are taken in any jurisdiction with respect to the Party which has a similar effect (or, if any such actions are initiated by a third party, such action(s) is(are) not dismissed within ninety (90) days); or
- v. in the case of Purchaser as the Defaulting Party only, Purchaser (A) loses its rights to occupy and enjoy the Premises unless (I) the Parties agree upon a relocation under Section 8 above, or (II) Purchaser pays the Termination Payment determined under Section 6 of Exhibit 1 within thirty (30) days after written request by Seller; or (B) prevents Seller from performing any material obligation under this Agreement, unless such action by Purchaser is (I) is permitted under this Agreement, or (II) is cured within ten (10) days after written notice thereof from Seller.

b. Remedies.

- i. **Suspension.** Upon the occurrence and during the continuation of a Default Event by Purchaser, including a Payment Default, Seller may suspend performance of its obligations under this Agreement until the earlier to occur of the date (a) that Purchaser cures the Default Event in full, or (b) of termination of this Agreement. Seller's rights under this Section 11(b)(i) are in addition to any other remedies available to it under this Agreement, at law or in equity.
- ii. **Termination.** Upon the occurrence and during the continuation of a Default Event, the Non-Defaulting Party may terminate this Agreement, by providing five (5) days prior written notice to the Defaulting Party; provided, that, in the case of a Default Event under Section 11(a)(iv), the Non-Defaulting Party may terminate this Agreement immediately.
- iii. **Damages Upon Termination by Default.** Upon a termination of this Agreement pursuant to Section 11(b)(ii), the Defaulting Party must pay a termination payment to the Non-Defaulting Party determined as follows (the "**Termination Payment**"):
 - (1) **Termination by Seller.** If Seller terminates this Agreement for a Purchaser Default Event, the Termination Payment payable to Seller will be as set forth in the Termination Payment Schedule set forth at Item 6 of **Exhibit 1**.
 - (2) **Termination by Purchaser.** If Seller is the Defaulting Party and Purchaser terminates this Agreement, the Termination Payment to Purchaser (if any) will be equal to the sum of (i) the present value of the excess, if any, of the reasonably expected cost of electricity from the utility over the Contract Price for the reasonably expected production of the System for the period of time commencing when the termination becomes effective and ending one (1) year from such date; plus (ii) any and all other amounts previously accrued under this Agreement and then owed by Seller to Purchaser. The Termination Payment cannot be less than zero.
- iv. **Liquidated Damages.** The Parties agree that, if a Party terminates this Agreement prior to the expiration of the Term pursuant to Section 12(b)(ii), actual damages would be difficult to ascertain, and the applicable Termination Payment is a reasonable approximation of the damages suffered by the Non-Defaulting Party as a result of early termination of this Agreement and is not a penalty. The Termination Payment cannot be less than zero.

- c. **Obligations Following Termination.** If a Party terminates this Agreement pursuant to Section 11(b)(ii), then following such termination, Seller shall remove the equipment constituting the System in compliance with Section 9 above at the sole cost and expense of the Defaulting Party, provided however that Seller shall not be required to remove the System following the occurrence of a Default Event by Purchaser pursuant to Section 11(a)(i), unless Purchaser pre-pays the cost of restoration reasonably estimated by Seller.
- i. **Reservation of Rights.** Except in the case of a termination under Section 11(b)(ii) and payment of a Termination Payment, if any, determined pursuant to Section 11(b)(iii), nothing in this Section 11 limits either Party's right to pursue any remedy under this Agreement, at law or in equity, including with respect to the pursuit of an action for damages by reason of a breach or Default Event under this Agreement.
- ii. **Mitigation Obligation.** Regardless of whether this Agreement is terminated for a Default Event, the Non-Defaulting Party must make all commercially reasonable efforts to mitigate its damages as the result of such Default Event; provided that such obligation shall not reduce Purchaser's obligation to pay the full Termination Payment set forth in Section 6 of Exhibit 1 following a Default Event by Purchaser.
- iii. **No Limitation on Payments.** Nothing in this Section 11 excuses a Party's obligation to make any payment when due under this Agreement, including with respect to payments for electricity that would have been delivered to Purchaser but for a Purchaser breach or Default Event.

12. **Representations and Warranties.**

- a. **General Representations and Warranties.** Each Party represents and warrants to the other the following:
- i. Such Party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; the execution, delivery and performance by such Party of this Agreement have been duly authorized by all necessary corporate, partnership or limited liability company action, as applicable, and do not and will not violate any law; and this Agreement is the valid obligation of such Party, enforceable against such Party in accordance with its terms (except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws now or hereafter in effect relating to creditors' rights generally).
- ii. Such Party has obtained all licenses, authorizations, consents and approvals required by any Governmental Authority or other third party and necessary for such Party to own its assets, carry on its business and to execute and deliver this Agreement; and such Party is in compliance with all laws that relate to this Agreement in all material respects.
- b. **Purchaser's Representations and Warranties.** Purchaser represents and warrants to Seller the following:
- i. **Licenses.** (a) Purchaser has title to or a leasehold or other valid property interest in the Premises such that Purchaser has the full right, power and authority to grant the Licenses in Section 7(a), (b) such grant of the Licenses does not violate any law, ordinance, rule or other governmental restriction applicable to Purchaser or the Premises and is not inconsistent with and will not result in a breach or default under any agreement by which Purchaser is bound or that affects the Premises, and (c) if Purchaser does not own the Premises or any Improvement on which the System is to be installed, Purchaser has obtained all required consents from the owner of the Premises and/or Improvements, as the case may be, to grant the Licenses to Seller so that Seller may perform its obligations under this Agreement.
- ii. **Other Agreements.** Neither the execution and delivery of this Agreement by Purchaser nor the performance by Purchaser of any of its obligations under this Agreement conflicts with or will result in a breach or default under any agreement or obligation to which Purchaser is a party or by which Purchaser is bound.
- iii. **Accuracy of Information.** All information provided by Purchaser to Seller, as it pertains to (a) the Premises, (b) the Improvements on which the System is to be installed, if applicable, (c) Purchaser's planned use of the Premises and any applicable Improvements, and (d) Purchaser's estimated electricity requirements, is accurate in all material respects.
- iv. **Purchaser Status.** Purchaser is not a public utility or a public utility holding company and is not subject to regulation as a public utility or a public utility holding company.

- v. **Limit on Use.** No portion of the electricity generated by the System shall be used to heat a swimming pool.²
- vi. **Oregon Only:** The electricity generated by the System will be used solely for commercial and business purposes. No portion of the electricity generated will be used for personal, family, household or agricultural purposes.

c. **Seller's Warranties.**

- i. If Seller penetrates the roof of any Improvement on which the System is installed, during System installation or any System repair, Seller shall warrant roof damage it causes as a direct result of these roof penetrations. This roof warranty shall terminate upon the later of (a) one (1) year following the completion of the System installation or repair, as the case may be, and (b) the length of any then-effective installer warranty on the applicable roof.
- ii. If Seller damages any other part of the Premises or any Improvement (including roof damages not covered under Section 12(c)(i) above), Seller shall repair or reimburse Purchaser for such damage, as agreed by the Parties.

d. **NO OTHER WARRANTY.** THE WARRANTIES SET FORTH IN SECTIONS 12(a) AND 12(c) OF THIS AGREEMENT ARE PURCHASER'S SOLE AND EXCLUSIVE REMEDIES FOR ANY CLAIM OR LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS SECTION 12, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE. OTHER THAN AS EXPRESSLY SET FORTH IN SECTIONS 12(a) AND 12(c), NO WARRANTY, WHETHER STATUTORY, WRITTEN, ORAL, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, APPLIES UNDER THIS AGREEMENT.

13. **Insurance.**

- a. **Insurance Coverage.** At all times during the Term, the Parties shall maintain the following insurance, as applicable:
 - i. **Seller's Insurance.** Seller shall maintain or ensure the following is maintained (a) property insurance on the System for the replacement cost thereof, (b) commercial general liability insurance with coverage of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate, (c) employer's liability insurance with coverage of at least \$1,000,000 and (iv) workers' compensation insurance as required by law. Seller's coverage may be provided as part of an enterprise insurance program.
 - ii. **Purchaser's Insurance.** Purchaser shall maintain commercial general liability insurance with coverage of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate.
- b. **Policy Provisions.** Each Party's insurance policies shall (i) contain a provision whereby the insurer agrees to give the other Party at least thirty (30) days (ten (10) days for non-payment of premiums) written notice before the insurance is cancelled, or terminated, (ii) be written on an occurrence basis, and (iii) be maintained with companies either rated no less than A-VII as to Policy Holder's Rating in the current edition of A.M. Best's Insurance Guide or otherwise reasonably acceptable to the other Party.
- c. **Certificates.** Upon the other Party's request, each Party shall deliver to the other Party certificates of insurance evidencing the above required coverage. A Party's receipt, review or acceptance of such certificate shall in no way limit or relieve the other Party of the duties and responsibilities to maintain insurance as set forth in this Agreement.
- d. **Deductibles.** Each Party shall pay its own insurance deductibles, except in the case of claims (i) resulting from a breach of this Agreement, in which case the breaching Party is responsible for payment of the non-breaching Party's deductible for any responding insurance, and (ii) covered by an indemnity set forth in this Agreement.

14. **Ownership; Option to Purchase.**

² This limitation reflects the requirements to qualify for the Federal Energy Tax Credit under §8 of the Internal Revenue Code. Individual states or localities may have further restrictions on the use of electricity from the System. Purchasers and Sellers are encouraged to consult local law to ensure that no such restrictions are being violated.

a. **Ownership of System.**

- i. **Ownership: Personal Property.** Throughout the Term, Seller will be the legal and beneficial owner of the System and all RECs and Incentives, and the System will remain the personal property of Seller and will not attach to or be deemed a part of, or fixture to, the Premises or any Improvement on which the System is installed. Each of the Seller and Purchaser agree that the Seller is the tax owner of the System and all tax filings and reports will be filed in a manner consistent with this Agreement. The System will at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code.
- ii. **Notice to Purchaser Lienholders.** Purchaser shall use commercially reasonable efforts to place all parties having a Lien on the Premises or any Improvement on which the System is installed on notice of the ownership of the System and the legal status or classification of the System as personal property. If there is any mortgage or fixture filing against the Premises which could reasonably be construed as prospectively attaching to the System as a fixture of the Premises, Purchaser shall provide a disclaimer or release from such lienholder.
- iii. **Fixture Disclaimer.** If Purchaser is the fee owner of the Premises, Purchaser consents to the filing of a disclaimer of the System as a fixture of the Premises in the office where real estate records are customarily filed in the jurisdiction where the Premises are located. If Purchaser is not the fee owner, Purchaser shall obtain such consent from such owner. For the avoidance of doubt, in either circumstance Seller has the right to file such disclaimer.
- iv. **SNDA.** Upon request, Purchaser shall deliver to Seller a subordination and non-disturbance agreement in a form mutually acceptable to Seller and the provider of the subordination and non-disturbance agreement from the owner of the Premises (if the Premises are leased by Purchaser), any mortgagee with a Lien on the Premises, and other Persons holding a similar interest in the Premises.
- v. **Eviction Notice.** To the extent that Purchaser does not own the Premises or any Improvement on which the System is installed, Purchaser shall provide to Seller immediate written notice of receipt of notice of eviction from the Premises or applicable Improvement or termination of Purchaser's lease of the Premises and/or Improvement.

b. **Option to Purchase.**

- i. **Exercise of Option.** At the end of the sixth (6th) and tenth (10th) Contract Years and at the end of the Initial Term and each Additional Term, so long as Purchaser is not in default under this Agreement, Purchaser may purchase the System from Seller on any such date for a purchase price equal to the greater of the Fair Market Value of the System or the Termination Payment set forth in Section 6 of Exhibit 1 applicable as of the date of the transfer of title to the System. Purchaser shall notify Seller of its intent to purchase at least ninety (90) days and not more than one hundred eighty (180) days prior to the end of the applicable Contract Year or the Initial Term or Additional Term, as applicable, and the purchase shall be completed prior to the end of the applicable Contract Year or the Initial Term or Additional Term, as applicable.
- ii. **Fair Market Value.** The "Fair Market Value" of the System shall be determined by mutual agreement of the Parties; provided, however, if the Parties cannot agree to a Fair Market Value within thirty (30) days after Purchaser has delivered to Seller a notice of its intent to purchase the System, the Parties shall select a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry to determine the Fair Market Value of the System. Such appraiser shall act reasonably and in good faith to determine the Fair Market Value of the System on an installed basis and shall set forth such determination in a written opinion delivered to the Parties; provided that in no event will the amount paid to purchase the System be less than the Termination Payment applicable in such Contract Year as of the date of System title transfer. The valuation made by the appraiser will be binding upon the Parties in the absence of fraud or manifest error. The costs of the appraisal shall be borne by the Parties equally.
- iii. **Title Transfer; Warranties; Manuals.** Seller shall transfer good title to the System to Purchaser upon Seller's receipt of the purchase price and execution by the Parties of a written instrument or agreement to effect such transfer. The System will be sold "as is, where is, with all faults". Seller will assign to Purchaser any manufacturer's warranties that are in effect as of the date of purchase and which are then assignable pursuant to their terms, but Seller otherwise disclaims all warranties of any kind, express or implied, concerning the System (other than as to title). Seller shall also provide Purchaser all System operation and

maintenance manuals and logs in Seller's possession and provide Purchaser basic training on the operation and maintenance of the System upon Purchaser's reasonable request. Upon purchase of the System, Purchaser shall assume complete responsibility for the operation and maintenance of the System and liability for the performance of (and risk of loss for) the System, and, except for any Seller obligations that survive termination under Section 19(d), Seller will have no further liabilities or obligations hereunder for the System.

15. Indemnification and Limitations of Liability.

- a. **General.** Each Party (the "**Indemnifying Party**") shall defend, indemnify, and hold harmless the other Party, its affiliates and the other Party's and its affiliates' respective directors, officers, shareholders, partners, members, agents and employees (collectively, the "**Indemnified Parties**"), from and against any loss, damage, expense, liability and other claims, including court costs and reasonable attorneys' fees (collectively, "**Liabilities**") resulting from (1) any Claim (as defined in Section 15(b) relating to the Indemnifying Party's breach of any representation or warranty set forth in Section 12 and (2) injury to or death of persons, and damage to or loss of property to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnifying Party (or its contractors, agents or employees) in connection with this Agreement; provided, however, that nothing herein will require the Indemnifying Party to indemnify the Indemnified Parties for any Liabilities to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnified Party. This Section 15(a) does not apply to Liabilities arising out of or relating to any form of Hazardous Substances or other environmental contamination, such matters being addressed exclusively by Section 15(c).
- b. **Notice and Participation in Third Party Claims.** The Indemnified Party shall give the Indemnifying Party written notice with respect to any Liability asserted by a third party (a "**Claim**"), as soon as possible upon the receipt of information of any possible Claim or of the commencement of such Claim. The Indemnifying Party may assume the defense of any Claim, at its sole cost and expense, with counsel designated by the Indemnifying Party and reasonably satisfactory to the Indemnified Party. The Indemnified Party may, however, select separate counsel if both Parties are defendants in the Claim and such defense or other form of participation is not reasonably available to the Indemnifying Party. The Indemnifying Party shall pay the reasonable attorneys' fees incurred by such separate counsel until such time as the need for separate counsel expires. The Indemnified Party may also, at the sole cost and expense of the Indemnifying Party, assume the defense of any Claim if the Indemnifying Party fails to assume the defense of the Claim within a reasonable time. Neither Party may settle any Claim covered by this Section 15(b) unless it has obtained the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. The Indemnifying Party has no liability under this Section 15(b) for any Claim for which such notice is not provided if the failure to give notice prejudices the Indemnifying Party.
- c. **Environmental Indemnification.**
 - i. **Seller Indemnity.** Seller shall indemnify, defend and hold harmless all of Purchaser's Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Premises of any Hazardous Substance (as defined in Section 16(c)(iv)) to the extent deposited, spilled or otherwise caused by Seller or any of its contractors, agents or employees.
 - ii. **Purchaser Indemnity.** Purchaser indemnifies, defends and holds harmless all of Seller's Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Premises of any Hazardous Substance, except to the extent deposited, spilled or otherwise caused by Seller or any of its contractors, agents or employees.
 - iii. **Notice.** Each Party shall promptly notify the other Party if it becomes aware of any Hazardous Substance on or about the Premises generally or any deposit, spill or release of any Hazardous Substance.
 - iv. **"Hazardous Substance"** means any chemical, waste or other substance (a) which now or hereafter becomes defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollution," "pollutants," "regulated substances," or words of similar import under any laws pertaining to the environment, health, safety or welfare, (b) which is declared to be hazardous, toxic, or polluting by any Governmental Authority, (c) exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority, (d) the storage, use, handling, disposal or release of which is restricted or regulated by any Governmental Authority, or (e) for which remediation or cleanup is required by any Governmental Authority.

d. **Limitations on Liability.**

- i. **No Consequential Damages.** Except with respect to indemnification of third-party claims pursuant to Section 16, neither Party nor its directors, officers, shareholders, partners, members, agents and employees subcontractors or suppliers will be liable for any indirect, special, incidental, exemplary, or consequential loss or damage of any nature (including, without limitation, lost revenues, lost profits, lost business opportunity or any business interruption) arising out of their performance or non-performance hereunder even if advised of such. Notwithstanding the previous sentence, the Termination Payment set forth in Section 6 of Exhibit 1 shall be deemed to be direct, and not indirect or consequential damages for purposes of this Section 15(d)(i).
 - ii. **Actual Damages.** Except with respect to indemnification of Claims pursuant to this Section 15 and except as otherwise limited in Section 13(c), Seller's aggregate liability under this Agreement arising out of or in connection with the performance or non-performance of this Agreement cannot exceed the total payments made (and as applicable, projected to be made) by Purchaser under this Agreement. The provisions of this Section 15(d)(ii) will apply whether such liability arises in contract, tort, strict liability or otherwise.
- e. **EXCLUSIVE REMEDIES.** TO THE EXTENT THAT THIS AGREEMENT SETS FORTH SPECIFIC REMEDIES FOR ANY CLAIM OR LIABILITY, SUCH REMEDIES ARE THE AFFECTED PARTY'S SOLE AND EXCLUSIVE REMEDIES FOR ANY CLAIM OR LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.
- f. **Comparative Negligence.** Where negligence is determined to have been joint, contributory or concurrent, each Party shall bear the proportionate cost of any Liability.

16. **Change in Law.**

- a. **Impacts of Change in Law.** If Seller that a Change in Law has occurred or will occur that has or will have a material adverse effect on Seller's rights, entitlement, obligations or costs under this Agreement, then Seller may so notify the Purchaser in writing of such Change in Law. A Change in Law based on a Section 201 Event (as defined below) shall be deemed to have such material adverse effect. Within thirty (30) days following receipt by the Purchaser of such notice, the Parties will meet and attempt in good faith to negotiate such amendments to this Agreement as are reasonably necessary to preserve the economic value of this Agreement to both Parties. If the Parties are unable to agree upon such amendments within such thirty (30) day period, then Seller may terminate this Agreement without either Party having further liability under this Agreement except with respect to liabilities accrued prior to the date of termination.
- b. **Illegality or Impossibility.** If a Change in Law renders this Agreement, or Seller's performance of this Agreement, either illegal or impossible, then Seller may terminate this Agreement immediately upon notice to Purchaser without either Party having further liability under this Agreement except with respect to liabilities accrued prior to the date of termination.
- c. **"Change in Law"** means (i) the enactment, adoption, promulgation, modification or repeal after the Effective Date of any applicable law or regulation, (ii) the imposition of any material conditions on the issuance or renewal of any applicable permit after the Effective Date (notwithstanding the general requirements contained in any applicable Permit at the time of application or issue to comply with future laws, ordinances, codes, rules, regulations or similar legislation), or (iii) a change in any utility rate schedule or tariff approved by any Governmental Authority. Any tariff, minimum price, quota or other remedy adopted as a result of a finding of injury under Suniva and SolarWorld's Section 201 petition (a **"Section 201 Event"**), regardless of the fact that such finding of injury occurred prior to the Effective Date, shall be deemed a Change in Law.

17. **Assignment and Financing.**

a. **Assignment.**

- i. **Restrictions on Assignment.** Subject to the remainder of this Section 17(a), this Agreement may not be assigned in whole or in part by either Party without the prior written consent of the other Party, which consent may not be unreasonably withheld or delayed. Purchaser may not withhold its consent to an assignment

proposed by Seller where the proposed assignee has the financial capability and experience necessary to operate and maintain solar photovoltaic systems such as the System.

ii. **Permitted Assignments.** Notwithstanding Section 17(a)(i):

- (1) Seller may, without the prior written consent of Purchaser, assign, mortgage, pledge or otherwise directly or indirectly assign its interests in this Agreement to (A) any Financing Party (as defined in Section 17(b)), (B) any entity through which Seller is obtaining financing from a Financing Party, or (C) any affiliate of Seller or any person succeeding to all or substantially all of the assets of Seller; provided, that, Seller is not released from liability hereunder as a result of any assignment to an affiliate unless the assignee assumes Seller's obligations hereunder by binding written instrument; and
- (2) Purchaser may, upon prior notice to Seller, assign this Agreement:
 - A. to an affiliate of Purchaser; provided, that, Purchaser is not released from liability hereunder by reason of the assignment unless the assignee assumes Seller's obligations hereunder by binding written instrument on terms satisfactory to Seller, including as to the assignee's creditworthiness; and
 - B. to an assignee that has an Investment Grade credit rating at the time of the assignment. "**Investment Grade**" means the assignee has a long-term, unsecured debt rating from Moody's or S&P of at least Baa3 from Moody's and/or at least BBB- from S&P.

iii. **Successors and Permitted Assignees.** This Agreement is binding on and inures to the benefit of successors and permitted assignees. The restrictions on assignment contained herein do not prohibit or otherwise limit changes in control of Seller.

- b. **Financing.** The Parties acknowledge that Seller may obtain debt or equity financing or other credit support from lenders, investors or other third parties (each a "**Financing Party**") in connection with the installation, construction, ownership, operation and maintenance of the System. In furtherance of Seller's financing arrangements and in addition to any other rights or entitlements of Seller under this Agreement, Purchaser shall timely execute any consents to assignment (which may include notice, cure, attornment and step-in rights) or estoppels and negotiate any amendments to this Agreement that may be reasonably requested by Seller or the Financing Parties; provided, that such estoppels, consents to assignment or amendments do not alter the fundamental economic terms of this Agreement.

18. **Confidentiality.**

- a. **Confidential Information.** To the maximum extent permitted by applicable law, if either Party provides confidential information ("**Confidential Information**") to the other or, if in the course of performing under this Agreement or negotiating this Agreement a Party learns Confidential Information of the other Party, the receiving or learning Party shall (i) protect the Confidential Information from disclosure to third parties with the same degree of care accorded its own confidential and proprietary information, and (ii) refrain from using such Confidential Information, except in the negotiation, performance, enforcement and, in the case of Seller, financing, of this Agreement. The terms of this Agreement (but not the fact of its execution or existence) are considered Confidential Information of each Party for purposes of this Section 18(a).
- b. **Permitted Disclosures.** Notwithstanding Section 18(a):
- i. a Party may provide such Confidential Information to its affiliates and to its and its affiliates' respective officers, directors, members, managers, employees, agents, contractors, consultants and Financing Parties (collectively, "**Representatives**"), and potential direct or indirect assignees of this Agreement if such potential assignees are first bound by a written agreement or legal obligation restricting use and disclosure of Confidential Information. Each Party is liable for breaches of this provision by any person to whom that Party discloses Confidential Information.
 - ii. Confidential Information does not include any information that (a) becomes publicly available other than through breach of this Agreement, (b) is required to be disclosed to a Governmental Authority under applicable law or pursuant to a validly issued subpoena, (c) is independently developed by the receiving Party, or (d) becomes available to the receiving Party without restriction from a third party under no

obligation of confidentiality. If disclosure of information is required by a Governmental Authority, the disclosing Party shall, to the extent permitted by applicable law, notify the other Party of such required disclosure promptly upon becoming aware of such required disclosure and shall reasonably cooperate with the other Party's efforts to limit the disclosure to the extent permitted by applicable law.

- c. **Miscellaneous.** All Confidential Information remains the property of the disclosing Party and will be returned to the disclosing Party or destroyed (at the receiving Party's option) after the receiving Party's need for it has expired or upon the request of the disclosing Party. Each Party acknowledges that the disclosing Party would be irreparably injured by a breach of this Section 18 by the receiving Party or its Representatives or other person to whom the receiving Party discloses Confidential Information of the disclosing Party and that the disclosing Party may be entitled to equitable relief, including injunctive relief and specific performance, for breaches of this Section 18. To the fullest extent permitted by applicable law, such remedies shall not be deemed to be the exclusive remedies for a breach of this Section 18, but will be in addition to all other remedies available at law or in equity. The obligation of confidentiality will survive the expiration or earlier termination of this Agreement for a period of two (2) years from such expiration or termination.

- 19. **Goodwill and Publicity.** Neither Party may (a) make any press release or public announcement of the specific terms of this Agreement or the use of solar or renewable energy involving this Agreement (except for filings or other statements or releases as may be required by applicable law), or (b) use any name, trade name, service mark or trademark of the other Party in any promotional or advertising material without the prior written consent of the other Party. The Parties shall coordinate and cooperate with each other when making public announcements regarding this Agreement, the System and its use, and each Party may promptly review, comment upon and approve any publicity materials, press releases or other public statements before they are made. Notwithstanding the above, Seller is entitled to place signage on the Premises reflecting its association with the System.

20. **General Provisions**

- a. **Definitions and Interpretation.** Unless otherwise defined or required by the context in which any term appears: (i) the singular includes the plural and vice versa, (ii) the words "herein," "hereof" and "hereunder" refer to this Agreement as a whole and not to any particular section or subsection of this Agreement, (iii) references to any agreement, document or instrument mean such agreement, document or instrument as amended, restated, modified, supplemented or replaced from time to time, and (iv) the words "include," "includes" and "including" mean include, includes and including "without limitation." The captions or headings in this Agreement are strictly for convenience and will not be considered in interpreting this Agreement. As used in this Agreement, "dollar" and the "\$" sign refer to United States dollars.
- b. **Choice of Law; Dispute Resolution.** The law of the state where the System is located governs this Agreement without giving effect to conflict of laws principles. Any dispute arising from or relating to this Agreement will be arbitrated in San Francisco, California. The arbitration will be administered by JAMS in accordance with its Comprehensive Arbitration Rules and Procedures, and judgment on any award rendered in such arbitration may be entered in any court of competent jurisdiction. If the Parties agree in writing, a mediator may be consulted prior to arbitration. The prevailing party in any dispute arising out of this Agreement is entitled to reasonable attorneys' fees and costs.
- c. **Notices.** All notices under this Agreement shall be in writing and delivered by hand, electronic mail, overnight courier, or regular, certified, or registered mail, return receipt requested, and will be deemed received upon personal delivery, acknowledgment of receipt of electronic transmission, the promised delivery date after deposit with overnight courier, or five (5) days after deposit in the mail. Notices must be sent to the person identified in this Agreement at the addresses set forth in this Agreement or such other address as either Party may specify in writing.
- d. **Survival.** Provisions of this Agreement that should reasonably be considered to survive the expiration or earlier termination of this Agreement, including without limitation provisions related to billing and payment and indemnification will survive such expiration or termination of this Agreement.
- e. **Further Assurances.** Each Party shall provide such information, execute and deliver any instruments and documents and to take such other actions as may be reasonably requested by the other Party to give full effect to this Agreement and to carry out the intent of this Agreement.

- f. **Waivers.** No provision or right or entitlement under this Agreement may be waived or varied except in writing signed by the Party to be bound. No waiver of any of the provisions of this Agreement will constitute a waiver of any other provision, nor will such waiver constitute a continuing waiver unless otherwise expressly provided.
- g. **Non-Dedication of Facilities.** Nothing in this Agreement may be construed as the dedication by either Party of its facilities or equipment to the public or any part thereof. Neither Party may knowingly take any action that would subject the other Party, or other Party's facilities or equipment, to the jurisdiction of any Governmental Authority as a public utility or similar entity. Neither Party may assert in any proceeding before a court or regulatory body that the other Party is a public utility by virtue of such other Party's performance under this Agreement. If Seller is reasonably likely to become subject to regulation as a public utility, then the Parties shall use commercially reasonable efforts to restructure their relationship under this Agreement in a manner that preserves their relative economic interests while ensuring that Seller does not become subject to any such regulation. If the Parties are unable to agree upon such restructuring, Seller may terminate this Agreement without further liability under this Agreement except with respect to liabilities accrued prior to the date of termination and remove the System in accordance with Section 9 of this Agreement.
- h. **Service Contract.** The Parties intend this Agreement to be a "service contract" within the meaning of Section 7701(e)(3) of the Internal Revenue Code of 1986. Purchaser shall not take the position on any tax return or in any other filings suggesting that it is anything other than a purchase of electricity from the System.
- i. **No Partnership.** No provision of this Agreement may be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties. No Party is authorized to act on behalf of the other Party, and neither may be considered the agent of the other.
- j. **Entire Agreement, Modification, Invalidity, Counterparts, Captions.** This Agreement constitutes the entire agreement of the Parties regarding its subject matter and supersedes all prior proposals, agreements, or other communications between the Parties, oral or written. This Agreement may be modified only by a writing signed by both Parties. If any provision of this Agreement is found unenforceable or invalid, such provision shall not be read to render this Agreement unenforceable or invalid as a whole. In such event, such provision shall be rectified or interpreted so as to best accomplish its objectives within the limits of applicable law.
- k. **Forward Contract.** The transaction contemplated under this Agreement constitutes a "forward contract" within the meaning of the United States Bankruptcy Code, and the Parties further acknowledge and agree that each Party is a "forward contract merchant" within the meaning of the United States Bankruptcy Code.
- l. **No Third-Party Beneficiaries.** Except as otherwise expressly provided herein, this Agreement and all rights hereunder are intended for the sole benefit of the Parties hereto and do not imply or create any rights on the part of, or obligations to, any other Person.
- m. **Counterparts.** This Agreement may be executed in any number of separate counterparts and each counterpart will be considered an original and together comprise the same Agreement.

End of Exhibit 3

Appendix E: Tesla Form of Performance Guarantee Agreement



Performance Guaranty (PPA)

This Performance Guaranty (this “**Guaranty**”) is entered into by the parties listed below (each a “**Party**” and collectively the “**Parties**”) as of the date signed by Seller below (the “**Effective Date**”).

| Purchaser: | | Seller: | |
|-------------------|--|------------------|---|
| Name and Address | | Name and Address | SolarCity Corporation dba Tesla Energy 3055 Clearview Way San Mateo, CA 94402 Attention: Energy Contracts |
| Phone | | Phone | (650) 638-1028 |
| E-mail | | E-mail | Energynotices@tesla.com |
| Project Name | | | |

This Guaranty sets forth the terms and conditions of a guaranty provided by Seller in conjunction with the Solar Power Purchase Agreement between Seller and Purchaser related to the System at the Premises (the “**PPA**”). Capitalized terms not otherwise defined herein have the meanings given such terms in the PPA. The term of this Guaranty will be concurrent with the term of the PPA; except that it will not exceed the Initial Term. This Guaranty will be updated by Seller to reflect the as-built specifications of the System.

1. **Guaranty.** Seller guarantees that during the term of the PPA the System will generate at least ninety-seven percent (97%) of the projected annual generation of the System in years of average or greater solar irradiance and weather conditions (the “**Guaranteed kWh**”). The Guaranteed kWh are subject to adjustment for weather only as set out in Section 1.

A. **Table 1.A** below sets forth the projected annual generation of the System as calculated using publicly available Typical Mean Year meteorological data from the National Renewable Energy Laboratory (“**NREL TMY Data**”):

Table 1.A

| Guarantee Year | Guaranteed kWh (97% of projected annual kWh) |
|-----------------------|---|
| Year 1 | |
| Year 2 | |
| Year 3 | |
| Year 4 | |
| Year 5 | |
| Year 6 | |
| Year 7 | |
| Year 8 | |
| Year 9 | |
| Year 10 | |

| | |
|---------|--|
| Year 11 | |
| Year 12 | |
| Year 13 | |
| Year 14 | |
| Year 15 | |
| Year 16 | |
| Year 17 | |
| Year 18 | |
| Year 19 | |
| Year 20 | |

B. At the end of each successive anniversary of the Commercial Operation Date (each, a “**True-up Term**”) Seller will verify the annual generation of the system (the “**Actual kWh**”). If the Actual kWh is equal to or greater than the Guaranteed kWh for that True-up Term as indicated in the third column of Table 1.A., then Seller has achieved its guaranty for the True-up Term.

C. If at the end of a True-up Term the Actual kWh is **less** than the Guaranteed kWh for that True-up Term, Seller will use the following local weather data, if available and in descending order of preference, to determine if the underperformance was caused by below average solar insolation and weather conditions: (i) Satellite data provided by Seller’s third-party vendor; or (ii) available and complete annual meteorological data from a locally installed weather station at the Premises properly maintained by or on behalf of Purchaser (in each case the “**Reference Weather Data**”).

D. If the solar insolation and weather conditions for the applicable True-up Term are determined to be above-average based on a comparison of the Reference Weather Data to the NREL TMY Data, then Seller will pay Purchaser an amount equal to the difference between the Guaranteed kWh and the Actual kWh multiplied by the Performance Guaranty Payment Rate.

E. If solar insolation and weather conditions for the applicable True-up Term are determined to be below average based on a comparison of the Reference Weather Data to the NREL TMY Data, the projected value in Table 1.A for the applicable True-up Term will be adjusted proportionately to account for the variance in solar irradiance and weather conditions for that year from the NREL TMY Data (the “**Adjusted Guaranteed kWh**”).

F. If Section 1.E applies and the Actual kWh is **less** than the Adjusted Guaranteed kWh for that True-up Term, then Seller will pay Purchaser an amount equal to the difference between the Adjusted Guaranteed kWh and the Actual kWh multiplied by the Performance Guarantee Payment Rate, in each case with respect to the affected True-up Term.

G. “**Performance Guarantee Payment Rate**” means the dollar value per kWh set forth in **Table 1.F** below:

| Guarantee Year | Performance Guarantee Payment Rate |
|----------------|------------------------------------|
| Year 1 | |
| Year 2 | |
| Year 3 | |
| Year 4 | |
| Year 5 | |

| | |
|---------|--|
| Year 6 | |
| Year 7 | |
| Year 8 | |
| Year 9 | |
| Year 10 | |
| Year 11 | |
| Year 12 | |
| Year 13 | |
| Year 14 | |
| Year 15 | |
| Year 16 | |
| Year 17 | |
| Year 18 | |
| Year 19 | |
| Year 20 | |

H. If a payment is due under Section 1.D or 1.F, Seller will issue a statement detailing the Actual kWh, and the Guaranteed kWh or Adjusted Guaranteed kWh (as applicable), and the calculation of the payment due for the True-up Term. If such calculation results in an amount greater than fifty dollars (\$50), Seller will make payment of such amount within ninety (90) days after the end of the True-up Term. Otherwise, no payment or statement will be issued.

2. **Exclusions.** The Guaranty set forth in Section 1 does not apply to the extent of any reduced generation from the System due to the following (including the downtime required for repair, replacement or correction):

A. A Force Majeure Event, which includes (i) destruction or damage to the System or its ability to safely produce electricity not caused by Seller or its approved service providers while servicing the System (e.g., vandalism); (ii) a power or voltage surge caused by someone other than Seller, including a grid supply voltage outside of the standard range specified by the utility; and (iii) theft of the System; and (iv) curtailment or reduction of energy production required by the utility or grid operator.

B. Curtailment of the System at Purchaser's request or Purchaser's failure to perform, or breach of, Purchaser's obligations under the PPA or this Guaranty (e.g., Purchaser delays Seller's access to the System).

3. **Liquidated Damages; Waiver of Cost Savings.** The Parties agree that the payment described in Section 1.D or 1.F, as applicable, is a reasonable approximation of the damages suffered by Seller as a result of underperformance of the System, is bargained-for by the Parties, and shall be the Purchaser's sole and exclusive remedy hereunder for underperformance of the System. Seller hereby disclaims, and any beneficiary of this Guaranty hereby waives, any warranty with respect to any cost savings from using the System.

4. **Incorporation of Miscellaneous Provisions.** Section 6(d) (Force Majeure), Section 18 (Assignment and Financing) and Section 21 (General Provisions) of **Exhibit 3** of the PPA and any Sections referenced therein are incorporated into this Guaranty as if any reference therein to "Agreement" were to this Guaranty and any reference to "Parties" were to the Parties to this Guaranty.

[SIGNATURE PAGE IMMEDIATELY FOLLOWS]

[Customer Name]

SolarCity Corporation

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

DRAFT

Endnotes

ⁱ Please note that the rate in this example is not the actual rate that is being offered to Providence Water. The actual offered rate is dependent on site conditions and will be agreed upon prior to finalizing the Performance Guarantee Agreement. Guaranteed production takes normal PV degradation of 0.5% per year into account.

ⁱⁱ Cumulative MW of commercial PV deployed as of March 31, 2018

ⁱⁱⁱ Number of commercial and government customers as of December 31, 2017

^{iv} Cumulative MW of commercial PV deployed as of March 31, 2018