

APTOS LIBRARY LEASE #500

**APTOS LIBRARY- 7695 SOQUEL DR  
APN 039-102-43**

LESSOR: COUNTY OF SANTA CRUZ, a political subdivision of the State of  
California

LESSEE: SANTA CRUZ PUBLIC LIBRARIES

# LEASE AGREEMENT TABLE OF CONTENTS

ARTICLE NO.	LEASE AGREEMENT	PAGE NO.
<b>ARTICLE 1</b>	<b>PREMISES.....</b>	<b>3</b>
1.1	PREMISES.....	3
<b>ARTICLE 2</b>	<b>TERM.....</b>	<b>3</b>
2.1	TERM.....	3
2.2	EXTENSION.....	3
2.3	TERMINATION.....	3
<b>ARTICLE 3</b>	<b>RENT.....</b>	<b>3</b>
3.1	BASE ANNUAL RENT.....	3
3.2	DELIVERY OF RENT PAYMENTS.....	3
3.3	FAILURE TO PAY BASE MONTHLY RENT OR ADDITIONAL RENT; LATE CHARGE .....	4
3.4	CAPITAL TRUST.....	4
<b>ARTICLE 4</b>	<b>POSSESSION AND USE.....</b>	<b>4</b>
4.1	PERMITTED USES.....	4
4.2	DUTIES AND PROHIBITED CONDUCT .....	4
4.3	COMPLIANCE WITH STORMWATER LAWS .....	4
<b>ARTICLE 5</b>	<b>SUBORDINATION CLAUSE.....</b>	<b>5</b>
5.1	SUBORDINATION.....	5
<b>ARTICLE 6</b>	<b>UTILITIES.....</b>	<b>5</b>
6.1	UTILITY SERVICES.....	5
6.2	SOLAR.....	5
6.3	ENERGY CONSERVATION BY LESSEE.....	6
6.4	ENERGY CONSERVATION BY COUNTY .....	6
<b>ARTICLE 7</b>	<b>MECHANICS' LIENS.....</b>	<b>6</b>
7.1	MECHANICS LIENS.....	6
<b>ARTICLE 8</b>	<b>SECURITY.....</b>	<b>6</b>
8.1	SECURITY.....	6
<b>ARTICLE 9</b>	<b>TAXES, ASSESSMENTS AND FEES.....</b>	<b>7</b>
9.1	RESPONSIBILITY FOR PAYMENT OF TAXES AND ASSESSMENTS .....	7
9.2	DEFINITION OF TAXES .....	7
9.3	CREATION OF POSSESSORY INTEREST.....	7
<b>ARTICLE 10</b>	<b>REPAIRS; MAINTENANCE.....</b>	<b>7</b>
10.1	ACCEPTANCE OF PREMISES.....	7
10.2	LESSEE'S REPAIR AND MAINTENANCE OBLIGATIONS .....	7
10.3	MINOR MAINTENANCE AND REPAIRS .....	8
10.4	MAJOR MAINTENANCE AND REPAIRS.....	8
10.5	EMERGENCY REPAIRS OF CRITICAL SYSTEMS.....	8
10.6	LESSEE'S FAILURE TO MAINTAIN.....	9
10.7	RIGHT TO ENTER .....	9
10.8	COUNTY NOT OBLIGATED TO REPAIR OR MAINTAIN; LESSEE'S WAIVER OF CALIFORNIA CIVIL CODE SECTION 1942.....	9

**ARTICLE 11 INDEMNITY AND INSURANCE.....9**  
11.1 LESSEE’S INDEMNITY ..... 9  
11.2 COUNTY’S INDEMNITY..... 9  
11.3 LESSEE'S INSURANCE OBLIGATIONS..... 10

**ARTICLE 12 HAZARDOUS MATERIALS.....10**  
12.1 HAZARDOUS MATERIALS LAWS-DEFINITION ..... 10  
12.2 HAZARDOUS MATERIALS - DEFINITION ..... 10  
12.3 LESSEE'S REPRESENTATIONS AND WARRANTIES ..... 10  
12.4 INDEMNIFICATION BY LESSEE..... 12  
12.5 REMEDIES CUMULATIVE; SURVIVAL ..... 12  
12.6 INSPECTION ..... 12

**ARTICLE 13 ASSIGNMENT AND SUBLETTING.....12**

**ARTICLE 14 COUNTY'S RIGHT OF ACCESS.....13**

**ARTICLE 15 QUIET ENJOYMENT.....13**

**ARTICLE 16 NOTICES.....13**  
16.1 NOTICES ..... 13  
16.2 DEFAULT NOTICES ..... 14

**ARTICLE 17 WAIVER OF RELOCATION ASSISTANCE BENEFITS.....14**  
17.1 RELOCATION ASSISTANCE BENEFITS..... 14  
17.2 LESSEE'S WAIVER AND ReLEASE OF RELOCATION BENEFITS..... 14

**ARTICLE 18 GENERAL PROVISIONS.....15**  
18.1 AUTHORITY ..... 15  
18.2 BROKERS ..... 15  
18.3 CAPTIONS ..... 15  
18.4 COUNTY APPROVAL ..... 15  
18.5 CUMULATIVE REMEDIES ..... 15  
18.6 ENTIRE AGREEMENT ..... 15  
18.7 ESTOPPEL CERTIFICATE..... 15  
18.8 EXHIBITS ..... 15  
18.9 FORCE MAJEURE ..... 15  
18.10 GOVERNING LAW ..... 16  
18.11 INTERPRETATION..... 16  
18.12 JOINT AND SEVERAL LIABILITY ..... 16  
18.13 LEASE ADMINISTRATION..... 16  
18.14 LESSEE'S LEASE ADMINISTRATION..... 16  
18.15 LIQUIDATED DAMAGES ..... 16  
18.16 MODIFICATION ..... 16  
18.17 PARTIAL INVALIDITY ..... 16  
18.18 PAYMENTS..... 16  
18.19 SUCCESSORS & ASSIGNS ..... 17  
18.20 TIME OF ESSENCE ..... 17  
18.21 WAIVER..... 17

**SIGNATURE PAGE.....18**

EXHIBIT A - MAP OF THE PREMISES                      EXHIBIT B - STORMWATER MAINTENANCE AGREEMENT  
EXHIBIT C – SOLAR PPA AND PPA LEASE              EXHIBIT D - INSURANCE REQUIREMENT

## LEASE AGREEMENT

This Lease is entered into this 10th day of December, 2024 (the "Commencement Date"), by and between the **County of Santa Cruz** as "County" and **Santa Cruz Public Libraries** as "Lessee". The County and Lessee are sometimes referred to herein individually as "Party" or collectively as "Parties."

WHEREAS, the lessor, County of Santa Cruz ("County"), in executing this Lease herein approves of the Lessee's occupancy of the Premises and the terms and conditions set forth herein.

This Lease is entered into upon the following facts, understandings and intentions of the County and Lessee.

### ARTICLE 1 PREMISES

1.1 Premises. County owns that certain real property commonly known as 7695 Soquel Drive, Aptos, California on assessor's parcel number 039-102-43, referred to herein as "Property" and commonly known as Aptos Library. The Property is currently improved with a 12,408 square foot building and an approximate 26,400 square foot parking lot including 73 total parking spaces with 49 standard (8.5' wide), 17 compact (7.5' wide), 3 ADA, and 4 EV. The premises to be occupied under this Lease is the entire 43,908 square foot parcel on the Property, more particularly described in Exhibit "A" attached hereto and made a part hereof and referred to herein as "Premises".

### ARTICLE 2 TERM

2.1 Term. The term of this Lease shall commence upon execution by all Parties hereto, and shall expire when that specific agreement entitled Fourth Amendment to the Joint Powers Agreement Between the County of Santa Cruz and the County of Santa Cruz and the Cities of Capitola and Scotts Valley relating to Library Services ("JPA Agreement") naturally terminates at 11:59 PM on December 31, 2025, or at the expiration of the term established by future amendment(s) of the JPA Agreement, whichever is later, referred to herein as "Term".

2.2 Extension. The Term of this Lease may only be extended by written amendment of this Lease executed by all Parties hereto.

2.3 Termination. Either Party may terminate this Lease at any time, for any reason, by giving one hundred and eighty (180) days prior written notice to the other Party.

### ARTICLE 3 RENT

3.1 Base Annual Rent. Lessee shall pay as rent for the use and occupancy of the Premises an annual fee of \$1.00. Rent shall remain the same for the entire term of this Lease unless adjusted by mutual written agreement by the Parties.

3.2 Delivery of Rent Payments. All rent due under this Lease shall be made payable to the County of Santa Cruz, and shall be considered paid when delivered to:

COUNTY OF SANTA CRUZ

Real Property Section  
701 Ocean Street, Room 410  
Santa Cruz, CA 95060

County may, at any time, by written notice to Lessee, designate a different address to which Lessee shall deliver the rent payments. County may, but is not obligated to, send rent invoices to Lessee.

3.3 Failure to Pay Base Rent or Additional Rent; Late Charge. If Lessee fails to pay rent due hereunder at the time it is due and payable, such unpaid amounts shall bear interest at the rate of ten percent (10%) per year from the date due to the date of payment, computed on the basis of monthly compounding with actual days elapsed compared to a 365-day year. However, County may in its sole discretion waive any delinquency payment or late charge upon written application of Lessee.

3.4 Capital Trust. County shall establish a trust account ("Capital Trust") to hold funds for the benefit of major maintenance and property management as determined by a facility assessment. Funds will be deposited in the Capital Trust from the County Library Fund once the facility assessment and major maintenance budget has been approved by the Board of Supervisors. The Capital Trust shall be managed solely by County. Any interest earned on the Capital Trust shall remain or be redeposited in the Capital Trust for these purposes. This account shall remain the sole property of County and the funds held therein shall be restricted to providing for the maintenance of the Premises.

#### ARTICLE 4 POSSESSION AND USE

4.1 Permitted Uses. Lessee shall use the Premises solely for public library services. No one other than Lessee, its agents, volunteers and employees, or any Lessee approved by County as provided in Article 13 - "Assignment and Subletting" below, is permitted to use the Premises for the purposes described herein, and Lessee shall be fully responsible for the activities of its agents, volunteers and employees and Lessees, if any, on the Premises.

4.2 Duties and Prohibited Conduct. Where Lessee is reasonably in doubt as to the propriety of any particular use, Lessee may request the written determination of County that such use is or is not permitted, and Lessee will not be in breach or default under this Lease if Lessee abides by such determination. Notwithstanding the foregoing, however, Lessee shall not use nor permit the use of the Premises in any manner that will tend to create waste or a nuisance. Lessee shall, at Lessee's expense, comply promptly with all applicable statutes, laws, ordinances, rules, regulations, orders, covenants and restrictions of record, and requirements in effect during the term, regulating the use by Lessee of the Premises. Lessee shall not use, or permit any person or persons to use, the Premises for the sale or display of any goods and/or services, which, in the sole discretion of County, are inconsistent with the permitted uses of the Premises pursuant to this Lease. The sale of books, educational services, fundraising and other goods/services incidental to library purposes are deemed consistent with the permitted use of the Premises. Lessee shall keep the Premises, and every part thereof, in a decent, safe and sanitary condition, free from any objectionable noises or odors, except as may be typically present for the permitted uses specified above.

4.3 Compliance with Stormwater Laws. Lessee's use of the Premises is subject to federal, state and local laws regarding the discharge into the stormwater conveyance system of pollutants. Compliance with these laws may require Lessee to develop, install, implement and maintain pollution prevention measures, source control measures and Best Management Practices ("BMPs"). Lessee further agrees to develop, install, and/or implement

any BMPs or similar pollution control devices required by federal, state and/or local law and any implementing regulations. Any costs associated with such installations will be handled consistent with other maintenance and repair costs as outlined in Article 10.

Lessee understands and acknowledges that the storm water and non-storm water requirements applicable to Lessee's use of the Premises may be changed from time to time by federal, state and/or local authorities, and that additional requirements may become applicable based on changes in Lessee's activities or development or redevelopment by Lessee or County. To the extent there is a conflict between any federal, state, or local law, Lessee shall comply with the more restrictive provision. If County receives any fine or fines from any regulatory agency as a result of Lessee's failure to comply with applicable storm water laws as set forth in this Article, Lessee shall reimburse County for the entire fine amount.

Lessee agrees to assume all responsibilities outlined in the Private Stormwater Management and Maintenance Agreement attached hereto and incorporated herein as Exhibit "B". Lessee consents and agrees to inspect and maintain annually "prior to the rainy season" and to maintain as necessary for ensuring proper performance of the stormwater management facilities on the subject property as shown on the plans prepared by Ifland Engineers, Inc. dated 04/01/22 per County Code 7.79. Lessee understands that maintenance will be performed in accordance with the Operations and Maintenance Manual prepared by Ifland Engineers, Inc dated 04/01/22.

## ARTICLE 5 SUBORDINATION CLAUSE

5.1 Subordination. The Parties acknowledge that County may enter into one or more lease/leaseback financing arrangements consisting generally of a site lease, lease agreement, assignment agreement and related agreements (collectively, the "Financing Leases") with a financing authority or another public agency in order to assist the County in connection with financing and refinancing certain capital improvements of the County.

Under any such Financing Leases, the County may lease and lease back certain real property and improvements that may include the Premises subject to one or more Library Leases.

In order to facilitate the execution and delivery of any Financing Leases, the County and Lessee desire that this Lease and Lessee's right, title and interest in the Premises be subordinate to the rights, titles, and interests of the parties to the Financing Leases.

Therefore, it is agreed that this Lease and all of Lessee's right, title, and interest in and to the Premises thereunder shall be, and the same are expressly made subject to, subordinate and inferior to any Financing Leases, and to all extensions, renewals, modifications, consolidations and replacements of the Financing Leases.

## ARTICLE 6 UTILITIES

6.1 Utility Services. Lessee shall make all arrangements for and pay for all utilities and municipal services supplied to the Premises or used by Lessee, including but not limited to water, gas, electricity, garbage collection, sewage charges, and telephone, and for all connection charges. County shall have no responsibility either to provide or pay for such services.

6.2 Solar. The Premises contains a 74 kW DC roof mounted solar photovoltaic power generation system

(Solar System) installed to reduce the site's energy costs, reduce its dependance on fossil fuel resources and promote the generation of electricity from solar energy. The Solar System was installed pursuant to the terms of a Solar Power Purchase Agreement (PPA) and Site Lease Agreement (SLA) entered into by and between the County and Nobell Energy Solutions, LLC (the "Contractor"), collectively attached hereto and incorporated herein as Exhibit "C". Lessee hereby agrees to pay the full monthly payment for the electricity delivered under the PPA within twenty-one days of receipt of invoice. Payment shall be made directly to the Contractor at the below location. Such payments do not entitle Lessee to any future ownership rights in the Solar System.

Nobell Energy Solutions, LLC  
2045 East Tahquitz Canyon Way  
Palm Springs, CA 92262  
Attn: Manager  
(760) 837-7400  
fritz@nobellenergy.com (E-mail)

Further, Lessee hereby agrees to abide by all site requirements of the PPA and SLA, including but not limited to, refraining from obstructing or interfering with the Solar System and allowing Contractor access to repair or maintain the Solar System. Lessee further agrees to report to County any known damage or vandalism to the Solar System within 24 hours of Lessee discovering such damage or vandalism.

6.3 Energy Conservation by Lessee. Lessee shall endeavor to promote energy conservation measures in the operation of all activities at the Premises. Lessee shall cooperate with the County in all forms of energy conservation including energy-efficient lighting, heating and air-conditioning systems, and fixtures and equipment. Lessee shall comply with all Federal, State and County laws, by-laws, regulations, etc., relating to the conservation of energy. Lessee shall comply with all reasonable requests and demands of the County pertaining to the installation and maintenance of energy conservation systems, fixtures, and equipment installed by the County.

6.4 Energy Conservation by County. County is required to comply with all laws and regulations requiring the installation of energy-efficient systems, fixtures, and equipment at County buildings and facilities. In accordance with all laws and regulations and this Lease; Lessee shall maintain or repair, or cause to maintain or repair, the building, and related systems in accordance with current energy conservation standards.

## ARTICLE 7 MECHANICS' LIENS

7.1 Mechanics Liens. Lessee shall pay, or cause to be paid, all costs for work done by it, or caused to be done by it, on the Premises, and for all materials furnished for or in connection with any such work. If any lien is filed against the Premises, Lessee shall cause the lien to be discharged of record within ten (10) days after it is filed. Lessee shall indemnify, defend and hold County harmless from any and all liability, loss, damage, costs, attorneys' fees and all other expenses on account of claims of lien of laborers or materialmen or others for work performed or materials or supplies furnished for Lessee or persons claiming under Lessee.

## ARTICLE 8 SECURITY

8.1 Security. Lessee shall be responsible for and shall provide for the security of the Premises, and County shall have no responsibility therefor.

## ARTICLE 9 TAXES, ASSESSMENTS AND FEES

9.1 Responsibility for Payment of Taxes and Assessments. County shall not be obligated to pay any taxes or assessments accruing against Lessee on the Premises or any interest of Lessee therein before, during or after the Term, or any extension thereof; all such payments shall be the sole responsibility of Lessee. In addition, Lessee shall be solely responsible for payment of any taxes or assessments levied upon any improvements, fixtures or personal property located on the Premises, to the extent that such taxes or assessments result from the business or other activities of Lessee upon, or in connection with, the Premises.

9.2 Definition of Taxes. As used herein, the term "taxes" means all taxes, governmental bonds, special assessments, Mello-Roos assessments, charges, rent income or transfer taxes, license and transaction fees, including, but not limited to, (i) any state, local, federal, personal or corporate income tax, or any real or personal property tax, (ii) any estate inheritance taxes, (iii) any franchise, succession or transfer taxes, (iv) interest on taxes or penalties resulting from Lessee's failure to pay taxes, (v) any increases in taxes attributable to the sale of Lessee's Leasehold interest in the Premises, or (vi) any taxes which are essentially payments to a governmental agency for the right to make improvements to the Premises.

9.3 Creation of Possessory Interest. Pursuant to the provisions of Revenue and Taxation Code Section 107.6, Lessee is hereby advised that the terms of this Lease may result in the creation of a possessory interest. If such a possessory interest is vested in Lessee, Lessee may be subjected to the payment of real property taxes levied on such interest. Lessee shall be solely responsible for the payment of any such real property taxes. Lessee shall pay all such taxes when due, and shall not allow any such taxes, assessments or fees to become a lien against the Premises or any improvement thereon; provided, however, that nothing herein shall be deemed to prevent or prohibit Lessee from contesting the validity of any such tax, assessment or fee in a manner authorized by law.

## ARTICLE 10 REPAIRS; MAINTENANCE

10.1 Acceptance of Premises. Lessee acknowledges that Lessee has made a thorough inspection of the Premises prior to the commencement date of this Lease, and that it accepts the Premises as of the Commencement Date in their condition at that time. Lessee further acknowledges that County has made no oral or written representations or warranties to Lessee regarding the condition of the Premises, and that Lessee is relying solely on its inspection of the Premises with respect thereto. Lessee agrees not to make changes to the built environment without obtaining the County's prior written approval.

10.2 Lessee's Repair and Maintenance Obligations. Lessee shall at all times during the Term, repair and maintain the Premises in good and tenantable condition, and coordinate Minor Maintenance and repairs as delineated in this Article. Upon surrender of the Premises, Lessee shall deliver the Premises to County in good order, condition and state of repair, but shall not be responsible for damages resulting from ordinary wear and tear. Lessee shall provide for trash removal, at its expense, and shall maintain all trash receptacles and trash areas in a clean, orderly and first-class condition. Any proposed remodel of the Library by Lessee, that involves reconstruction of structural building elements, relocation of interior walls, or removal of building finishes, must be approved in advance by the County.



10.3 Minor Maintenance and Repairs. Lessee is responsible for, at its sole cost and expense and without cost to the County, performing all minor maintenance and repairs for the Premises. Minor maintenance and Repairs are defined as any and all maintenance or repairs, costing up to a maximum of \$10,000 per item, and with an annual cap of \$50,000, necessary to maintain the Premises in good and tenantable condition, and shall include but not be limited to: custodial services and maintenance and/or repairs of grounds, landscaping including bio retention system monthly cleaning and annual inspection and infiltration testing, roof, fencing, heating, ventilation, air conditioning (HVAC), mechanical, security or information technology upgrades, electrical systems, electric vehicle chargers, pipes, conduits, equipment, components and facilities (whether or not within the Premises) that supply the Premises exclusively with utilities (except to the extent the appropriate utility company has assumed these duties), all fixtures and other equipment installed in the Premises, all exterior and interior glass installed in the Premises, all signs, lock and closing devices all interior window sashes, casements and frames, doors and door frames (except for the painting of the exterior surfaces thereof), floor coverings, and all such items of repair, maintenance, alteration, improvement or reconstruction as may be required at any time or from time to time by a governmental agency having jurisdiction thereof. Lessee's obligations hereunder shall apply regardless of whether the repairs, restorations and replacements are ordinary or extraordinary, foreseeable or unforeseeable, capital or noncapital, or the fault or not the fault of Lessee, its agents, employees, invitees, visitors or contractors. All replacements made by Lessee in accordance with this Section shall be of like size, kind and quality to the items replaced and shall be subject to County's approval, which shall be timely and not unreasonably withheld. Lessee shall utilize its own maintenance staff or outside contractors, however, Lessee shall only use appropriately licensed staff or contractors for any item requiring a building permit. Lessee acknowledges that the exterior gates and fencing on the building are public art and may not be removed, altered or repaired without prior consent of County. Any reoccurring expenses incurred for custodial, landscaping, bio retention maintenance and inspections, or other recurring maintenance operational activities are not eligible to be applied towards the \$10,000 or \$50,000 limits listed above.

10.4 Major Maintenance and Repairs. County is responsible for, at its sole cost and expense and without cost to Lessee, performing all major maintenance and repairs. Major maintenance and repairs are further defined as any and all maintenance or repairs, costing more than \$10,000 per item, necessary to maintain the Premises in good and tenantable condition. Examples include but are not limited to: painting of building exterior; repair and resurfacing of parking areas; structural repairs involving foundation, exterior walls and bearing walls; and major repair or replacement of failed roof, gutters, downspouts, HVAC system, unexposed plumbing and electrical, fire sprinkler system, fencing, and fire alarm system. The Major Maintenance shall be accomplished in a timely manner in conformance with all applicable laws, according to specifications established by the County.

For all Major Maintenance that cannot be completed by the County and upon approval from County, Lessee shall contract for services, in concurrence with County purchasing policies and procedures, which services shall be reimbursed from the Capital Trust. All proposed work shall be approved by the County, such approval shall be timely and not unreasonably withheld.

10.5 Emergency Repairs of Critical Systems. If a problem develops with a critical building system that, if left unrepaired for any length of time, could reasonably impact the health or safety of the occupants or the continued occupancy of the Premises, Lessee will immediately contact the County to report the problem. If the problem falls under Minor Maintenance or Repairs, Lessee shall proceed under the guidelines of Article 10.3. If the problem falls under Major Maintenance, Lessee and County shall proceed under the guidelines of Article 10.4.

If Lessee is unable to quickly resolve the problem using Lessee's maintenance staff or outside contractors, Lessee shall contact County who shall arrange for repairs to be completed by the County or assist Lessee with identifying an outside contractor that can complete the work.

10.6 Lessee's Failure to Maintain. If Lessee refuses or neglects to repair, replace, or maintain the Premises as required herein, or any part thereof, in a manner reasonably satisfactory to County, County may, upon giving Lessee reasonable written notice of its election to do so, make such repairs or perform such maintenance on behalf of and for the account of Lessee. If County makes or causes any such repairs to be made or performed, as provided for herein, Lessee shall pay the cost thereof to County, as additional rent, promptly upon receipt of an invoice therefore. If Major Maintenance is required as a direct result of the failure or negligence of Lessee to perform the required Minor Maintenance, then Lessee shall be solely responsible for the repair and cost associated with the resulting Major Maintenance.

10.7 Right to Enter. Upon prior written or verbal notice to Lessee, Lessee shall permit County, or its authorized representatives, to enter the Premises at all times during usual business hours to inspect the same, and to perform any work therein that (a) may be necessary to comply with any laws, ordinances, rules or regulations of any public authority, (b) County may deem necessary to prevent waste or deterioration in connection with the Premises if Lessee does not make, or cause to be made, such repairs or perform, or cause to be performed, such work promptly after receipt of written demand from County, and (c) County may deem necessary in connection with the expansion, reduction, remodeling, protection or renovation of any County-constructed or owned facilities on or off of the Premises. Nothing herein shall imply any duty on the part of County to do any such work which, under any provision of this Lease, Lessee may be required to do, nor shall County's performance of any repairs on behalf of Lessee constitute a waiver of Lessee's default in failing to do the same. If County exercises any of its rights under this Section, Lessee shall not be entitled to any compensation, damages or abatement of rent from County for any injury or inconvenience occasioned thereby.

10.8 County Not Obligated to Repair or Maintain; Lessee's Waiver of California Civil Code Section 1942. To the extent that any remedies specified in this Lease conflict or are inconsistent with any provisions of California Civil Code section 1942, or any successor statute thereto ("CC §1942"), the provisions of this Lease shall control. Lessee specifically waives any right it may have pursuant to CC §1942 to effect maintenance or repairs to the Premises and to abate the costs thereof from rent due to the County under this Lease.

## ARTICLE 11 INDEMNITY AND INSURANCE

11.1 Lessee's Indemnity. County shall not be liable for, and Lessee shall defend and indemnify County, including its employees and agents, against any and all claims, demands, liability, judgments, awards, fines, mechanics' liens or other liens, labor disputes, losses, damages, expenses, charges or costs of any kind or character, including attorneys' fees and court costs (hereinafter collectively referred to as "Claims"), related to this Lease and arising either directly or indirectly from any act, error, omission or negligence of Lessee or its contractors, licensees, agents, volunteers, servants or employees, including, without limitation, Claims caused by the concurrent negligent act, error or omission, whether active or passive, of County. Lessee shall have no obligation, however, to defend or indemnify County from a Claim if it is determined by a court of competent jurisdiction that such Claim was caused by the sole negligence or willful misconduct of County. The Parties further agree that the Lessee shall have no obligation to defend or indemnify County from a Claim if it is determined that such Claim was caused by or is related to the County's fraud or violation of law, whether willful or negligent.

11.2 County's Indemnity. County shall defend and indemnify Lessee and hold it harmless from and against any Claims arising out of this Lease that arise solely from any act, omission or negligence of County, or County's employees, agents, elected officials, or volunteers.

11.3 Lessee's Insurance Obligations. Without limiting Lessee's indemnification obligations to County under this Lease, Lessee shall provide and maintain, during the Term and for such other period as may be required herein, at its sole expense, insurance in the amounts and form specified in Exhibit "D" attached hereto.

## ARTICLE 12 HAZARDOUS MATERIALS

12.1 Hazardous Materials Laws-Definition. As used in this section, the term "Hazardous Materials' Laws" means any and all federal, state or local laws or ordinances, rules, decrees, orders, regulations or court decisions (including the so-called "common law"), including without limitation the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C., 9601 et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C., 1801 et seq.), the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C., 6901 et seq.), and the California Environmental Quality Act of 1970, relating to hazardous substances, hazardous materials, hazardous waste, toxic substances, environmental conditions on, under or about the Premises, soil and ground water conditions or other similar substances or conditions.

12.2 Hazardous Materials - Definition. As used in this section the term "Hazardous Materials" means any chemical, compound, material, substance, or other matter that:

- a. Is a flammable, explosive, asbestos, radioactive nuclear medicine, vaccine, bacteria, virus, hazardous waste, toxic, overtly injurious or potentially injurious material, whether injurious or potentially injurious by itself or in combination with other materials;
- b. Is controlled, referred to, designated in or governed by any Hazardous Materials Laws;
- c. Gives rise to any reporting, notice or publication requirements under any Hazardous Materials Laws; or
- d. Is any other material or substance giving rise to any liability, responsibility or duty upon the County or Lessee with respect to any third person under any Hazardous Materials Law.

12.3 Lessee's Representations and Warranties. Lessee represents and warrants that, during the Term or any extension thereof, or for such longer period as may be specified herein, Lessee shall comply with the following provisions unless otherwise specifically approved in writing by County:

- a. Lessee shall not cause or permit any Hazardous Materials to be brought, kept or used in or about the Premises by Lessee, its agents, employees, assignees, contractors or invitees, except as required by Lessee's permitted use of the Premises, as described in Section 5.1, "Permitted Uses."
- b. Any handling, transportation, storage, treatment or usage by Lessee of Hazardous Materials that is to occur on the Premises following the Commencement Date shall be in compliance with all applicable Hazardous Materials Laws.
- c. Any leaks, spills, release, discharge, or emission of Hazardous Materials caused by Lessee, or disposal of Hazardous Materials owned by Lessee, which may occur on the Premises during the Term shall be promptly and thoroughly cleaned and removed from the Premises by Lessee at its sole expense, and any such

discharge shall be promptly reported in writing to County, and to any other appropriate governmental regulatory authorities.

d. No friable asbestos shall be constructed, placed on, deposited, stored, disposed of, or located by Lessee in the Premises.

e. No underground improvements, including but not limited to treatment or storage tanks, or water, gas or oil wells shall be located by Lessee on the Premises without County's prior written consent.

f. Lessee shall conduct and complete all investigations, studies, sampling, and testing procedures and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials on, from, or affecting the Premises in accordance with all applicable Hazardous Materials' Laws and to the satisfaction of County.

g. Activities proposed by Lessee that involve disturbing asbestos materials on site shall only be conducted in accordance with all federal, state and local asbestos rules and regulations including, but not limited to, the California Occupational Safety and Health Administration (Cal/OSHA), Environmental Protection Agency (EPA) and Air Pollution Control District (APCD), with prior written consent of the County, as follows:

Prior to conducting asbestos related activities, Lessee shall notify County of the proposed work at least one month in advance. The notification shall include the location of work, type of asbestos containing material (ACM) to be removed and a work plan indicating the work practices and methods of control to be used during the abatement activity to control asbestos fiber release. The County Occupational Health Program shall review the work plan and may modify the plans as necessary.

Any asbestos related activities shall be performed by a contractor that is registered with Cal/OSHA and certified by the California Contractors State Licensing Board to perform asbestos work. Any asbestos related activities shall be overseen by a California Certified Asbestos Consultant (CAC), or a Certified Site Surveillance Technician under the direction of a CAC.

Replacement products used in tenant improvements or other construction activities shall not contain asbestos. Any replacement products used by Lessee shall be verified as non-asbestos products by using Material Safety Data Sheets (MSDS) and/or having the architect or project engineer verify that ACMs were not used.

h. Lessee shall promptly supply County with copies of all notices, reports, correspondence, and submissions made by Lessee to the United States Environmental Protection Agency, the United Occupational Safety and Health Administration, and any other local, state or federal authority which requires submission of any information concerning environmental matters or hazardous wastes or substances pursuant to applicable Hazardous Materials' Laws.

i. Lessee shall promptly notify County of any liens threatened or attached against the Premises pursuant to any Hazardous Materials' Law. If such a lien is filed against the Premises, then within twenty (20) days following such filing or before any governmental authority commences proceedings to sell the Premises pursuant to the lien, whichever occurs first, Lessee shall either: (a) pay the claim and remove the lien from the Premises; or (b) furnish either (1) a bond or cash deposit reasonably satisfactory to County in an amount not less than the claim from which the lien arises, or (2) other security satisfactory to County in an amount not less than that which is sufficient to discharge the claim from which the lien arises. At the end of this Lease, Lessee shall surrender the Premises to

County free of any and all Hazardous Materials and in compliance with all Hazardous Materials' Laws affecting the Premises, to the extent such Hazardous Materials were brought, kept, or used by Lessee, or to the extent any violations of Hazardous Materials' Laws were caused by Lessee.

12.4 Indemnification by Lessee. Lessee (and, if applicable, each of its general partners) and its successors, assigns, and guarantors, if any, jointly and severally agree to protect, indemnify, defend (with counsel reasonably acceptable to County), reimburse and hold County and its officers, employees, agents and volunteers harmless from any claims, judgments, damages, penalties, fines, costs or expenses (known or unknown, contingent or otherwise), liabilities (including sums paid in settlement of claims), personal injury (including wrongful death), property damage (real or personal) or loss, including attorneys' fees, consultants' fees, and experts' fees (consultants and experts to be selected by County) which arise during or after the Term from or in connection with the presence or suspected presence of Hazardous Materials that was brought, kept, or used by Lessee, including the soil, ground water or soil vapor on or under the Premises. Without limiting the generality of the foregoing, the indemnification provided by this section shall specifically cover costs incurred in connection with investigation of site conditions or any cleanup, remedial, removal or restoration work required by any Hazardous Materials Laws because of the presence of Hazardous Materials in the soil, ground water or soil vapor on the Premises, and the release or discharge of Hazardous Materials by Lessee during the course of Lessee's alteration or improvement of the Premises.

12.5 Remedies Cumulative; Survival. The provisions of this Article shall be in addition to any and all common law obligations and liabilities Lessee may have to County, and any remedies and the environmental indemnities provided for herein shall survive the expiration or termination of this Lease and/or any transfer of all or any portion of the Premises, or of any interest in this Lease, and shall be governed by the laws of the State of California.

12.6 Inspection. County and County's agents, servants, and employees including, without limitation, legal counsel and environmental consultants and engineers retained by County, may (but without the obligation or duty so to do), at any time and from time to time, on not less than five (5) business days' notice to Lessee (except in the event of an emergency in which case no notice shall be required), inspect the Premises to determine whether Lessee is complying with Lessee's obligations set forth in this Article, and to perform environmental inspections and samplings, during regular business hours (except in the event of an emergency) or during such other hours as County and Lessee may agree. If Lessee is not in compliance, County shall have the right, in addition to County's other remedies available at law and in equity, to enter upon the Premises immediately and take such action as County in its sole judgment deems appropriate to remediate any actual or threatened contamination caused by Lessee's failure to comply. County will use reasonable efforts to minimize interference with Lessee's use of Premises but shall not be liable for any interference caused by County's entry and remediation efforts. Upon completion of any sampling or testing County will (at Lessee's expense if County's actions are a result of Lessee's default under this section) restore the affected area of the Premises from any damage caused by County's sampling and testing.

## ARTICLE 13 ASSIGNMENT AND SUBLETTING

Lessee shall not voluntarily or involuntarily assign, lease, mortgage, encumber, or otherwise transfer (collectively, a "Transfer") all or any portion of the Premises or its interest in this Lease without County's prior written consent. County may reasonably withhold its consent to any Transfer. Any attempted Transfer without County's consent shall be void and shall constitute a material breach of this Lease. As used herein, the term "Transfer" shall include an arrangement (including without limitation management agreements, concessions, and

licenses) that allows the use and occupancy of all or part of the Premises by anyone other than Lessee.

#### ARTICLE 14 COUNTY'S RIGHT OF ACCESS

County, its agents, employees, and contractors may enter the Premises at any time in response to an emergency. County, its agents, employees, and contractors may enter the Premises at reasonable hours with prior notice to Lessee to (a) inspect the Premises, (b) exhibit the Premises to prospective purchasers or Lessees, (c) determine whether Lessee is complying with its obligations in this Lease (including its obligations with respect to compliance with Hazardous Materials Laws), (d) supply cleaning service and any other service that this Lease requires County to provide, (e) post notices of non-responsibility or similar notices, or (f) make repairs that this Lease requires County to make, or make repairs to any adjoining space or utility services, or make repairs, alterations, or improvements to any other portion of the Premises; provided, however, that all work will be done as promptly as reasonably possible and so as to cause as little interference to Lessee as reasonably possible.

Lessee waives any claim of injury or inconvenience to Lessee's business, interference with Lessee's business, loss of occupancy or quiet enjoyment of the Premises, or any other loss occasioned by such entry. If necessary, Lessee shall provide County with keys to unlock all of the doors in the Premises (excluding Lessee's vaults, safes, and similar areas designated in writing by Lessee in advance). County will have the right to use any means that County may deem proper to open doors in the Premises and to the Premises in an emergency. No entry to the Premises by County by any means will be a forcible or unlawful entry into the Premises or a detainer of the Premises or an eviction, actual or constructive, of Lessee from the Premises, or any part of the Premises, nor shall the entry entitle Lessee to damages or an abatement of rent or other charges that this Lease requires Lessee to pay.

#### ARTICLE 15 QUIET ENJOYMENT

If Lessee is not in breach under the covenants made in this Lease, County covenants that Lessee shall have peaceful and quiet enjoyment of the Premises without hindrance on the part of County. County will defend Lessee in the peaceful and quiet enjoyment of the Premises against claims of all persons claiming through or under the County.

#### ARTICLE 16 NOTICES

16.1 Notices. Whenever in this Lease it shall be required or permitted that notice or demand be given or served by either party to this Lease to or on the other, such notice or demand shall be in writing, mailed or delivered to the other party at the following addresses:

To County:  
Department of Public Works  
Real Property  
701 Ocean Street, Room 410  
Santa Cruz, California 95060  
(831) 454-2334

To Lessee:  
Director of Libraries  
Santa Cruz Public Libraries  
117 Union Street  
Santa Cruz, CA 95060  
(831) 427-7700

Mailed notices shall be sent by United States Postal Service, certified or registered mail, postage prepaid and shall be deemed to have been given, delivered and received three (3) business days after the date such notice or other communication is posted by the United States Postal Service. All other such notices or other communications shall be deemed given, delivered and received upon actual receipt. Either party may, by written notice delivered pursuant to this provision, at any time designate a different address to which notices shall be sent.

16.2 Default Notices. Notwithstanding anything to the contrary contained within this Article, any notices County is required or authorized to deliver to Lessee in order to advise Lessee of alleged violations of Lessee's covenants under this Lease must be in writing but shall be deemed to have been duly given or served upon Lessee by County attempting to deliver at the Premises during normal business hours a copy of such notice to Lessee or its managing employee and by County mailing a copy of such notice to Lessee in the manner specified in the preceding Section.

#### ARTICLE 17 WAIVER OF RELOCATION ASSISTANCE BENEFITS

17.1 Relocation Assistance Benefits. Lessee is hereby informed and acknowledges the following:

a. By entering into this Lease and becoming a tenant of County, Lessee may become entitled to receipt of "relocation assistance benefits" ("Relocation Benefits") pursuant to the Federal Uniform Relocation Assistance Act (42 U.S.C. Section 4601 *et seq.*) and/or the California Relocation Assistance Law (Cal. Gov. Code Section 7270 *et seq.*) (collectively, the "Relocation Statutes"), should County at some time make use of the Premises in such a way as to "displace" Lessee from the Premises. Pursuant to the Relocation Statutes, County may then become obligated to make such payments to Lessee even where such displacement of Lessee does not otherwise constitute a breach or default by County of its obligations pursuant to this Lease.

b. Under the Relocation Statutes in effect as of the Date of Commencement of this Lease, Relocation Benefits may include payment to such a "displaced person" of (i) the actual and reasonable expense of moving himself or herself and a family, business, or farm operation, including personal property, (ii) the actual direct loss of reestablishing a business or farm operation, but not to exceed Ten Thousand Dollars (\$10,000), or (iii) payment in lieu of moving expenses of not less than One Thousand Dollars (\$1,000) or more than Twenty Thousand Dollars (\$20,000).

17.2 Lessee's Waiver and Release of Relocation Benefits. In consideration of County's agreement to enter into this Lease, Lessee hereby waives any and all rights it may now have, or may hereafter obtain, to Relocation Benefits arising out of the County's assertion or exercise of its contractual rights to terminate this Lease pursuant to its terms, whether or not such rights are contested by Lessee or any other entity, and releases County from any liability for payment of such Relocation Benefits; provided, however, that Lessee does not waive its rights to Relocation Benefits to the extent that Lessee's entitlement thereto may arise out of any condemnation or pre-

condemnation actions taken by the County or any other public agency with respect to the Premises. Lessee shall in the future execute any further documentation of the release and waiver provided hereby as County may reasonably require.

## ARTICLE 18 GENERAL PROVISIONS

18.1 Authority. Lessee represents and warrants that it has full power and authority to execute and fully perform its obligations under this Lease pursuant to its governing instruments, without the need for any further action, and that the person(s) executing this Lease on behalf of Lessee are the duly designated agents of Lessee and are authorized to do so.

18.2 Brokers. Lessee warrants that it has not been represented by any real estate broker or agent in connection with the negotiation and/or execution of this Lease. In the event any broker makes claim for monies owed, Lessee shall indemnify, defend and hold County harmless therefrom.

18.3 Captions. The captions, headings and index appearing in this Lease are inserted for convenience only and in no way define, limit, construe, or describe the scope or intent of the provisions of this Lease.

18.4 County Approval. Except where stated herein to the contrary, the phrases "County's approval," and "County's written approval" or such similar phrases shall mean approval of County's Lease Administrator or said Administrator's representative as authorized by said administrator in writing.

18.5 Cumulative Remedies. In the event of a default under this Lease, each Party's remedies shall be limited to those remedies set forth in this Lease or permitted by law. Any such remedies are cumulative and not exclusive of any other remedies under this Lease to which the non-defaulting Party may be entitled.

18.6 Entire Agreement. This Lease, together with all addenda, exhibits and riders attached hereto, constitutes the entire agreement between the Parties with respect to the subject matter hereof, and all prior or contemporaneous agreements, understandings and representations, oral or written, are superseded.

18.7 Estoppel Certificate. Lessee shall at any time during the term of this Lease, within five (5) business days of written notice from County, execute and deliver to County a statement in writing certifying that this Lease is unmodified and in full force and effect or, if modified, stating the nature of such modification. Lessee's statement shall include other details requested by County, such as the date on which rent and other charges are paid, the current ownership and name of Lessee, Lessee's knowledge concerning any outstanding defaults with respect to County's obligations under this Lease and the nature of any such defaults. Any such statement may be relied upon conclusively by any prospective purchaser or encumbrancer of the Premises. Lessee's failure to deliver such statements within such time shall be conclusively deemed to mean that this Lease is in full force and effect, except to the extent any modification has been represented by County, that there are no uncured defaults in the County's performance, and that not more than one month's rent has been paid in advance.

18.8 Exhibits. All exhibits referred to herein are attached hereto and incorporated by reference.

18.9 Force Majeure. In the event either party is prevented or delayed from performing any act or discharging any obligation hereunder, except for the payment of rent by Lessee, because of any and all causes beyond either party's reasonable control, including unusual delays in deliveries, abnormal adverse weather



conditions, unavoidable casualties, strikes, labor disputes, inability to obtain labor, materials or equipment, acts of God, governmental restrictions, regulations or controls, any hostile government actions, civil commotion and fire or other casualty, legal actions attacking the validity of this Lease or the County's occupancy of the Premises, or any other casualties beyond the reasonable control of either party except casualties resulting from Lessee's negligent operation or maintenance of the Premises ("Force Majeure"), performance of such act shall be excused for the period of such delay, and the period for performance of such act shall be extended for a period equivalent to the period of such delay. Force Majeure shall not include any bankruptcy, insolvency, or other financial inability on the part of either party hereto.

18.10 Governing Law. This Lease shall be governed, construed and enforced in accordance with the laws of the State of California.

18.11 Interpretation. The language of this Lease shall be construed simply according to its plain meaning and shall not be construed for or against either party.

18.12 Joint and Several Liability. If more than one person or entity executes this Lease as Lessee, each of them is jointly and severally liable for all of the obligations of Lessee hereunder.

18.13 Lease Administration. This Lease shall be administered on behalf of County by the Department of Public Works – Real Property, County of Santa Cruz, or by such person's duly-authorized designee (referred to collectively herein as "County's Lease Administrator"), and on behalf of Lessee by: Director of Libraries, Santa Cruz Public Libraries, 117 Union Street, Santa Cruz, CA 95060, 831-427-7700 ext. 7611, or by such other person as may be designated in writing by Lessee (referred to collectively herein as "Lessee's Lease Administrator").

18.14 Lessee's Lease Administration. Lessee confirms that Lessee's Lease Administrator has been given full operational responsibility for compliance with the terms of this Lease. Lessee shall provide County with a written schedule of its normal hours of business operation on the Premises, and Lessee's Lease Administrator or a representative designated thereby shall be (i) available to County on a twenty-four (24) hour a day, seven (7) days a week, basis, and (ii) present on the Premises during Lessee's normal business hours, to resolve problems or answer question pertaining to this Lease and Lessee's operations on the Premises.

18.15 Liquidated Damages. Any payments by Lessee to County under this Lease described as liquidated damages represent the parties' reasonable estimate of County's actual damages under the described circumstances, such actual damages being uncertain and difficult to ascertain in light of the impossibility of foreseeing the state of the leasing market at the time of the various deadlines set forth herein. County may, at its election, take any of the liquidated damages assessed in any portion of this Lease as direct monetary payments from Lessee and/or as an increase of rent due from Lessee under this Lease.

18.16 Modification. The provisions of this Lease may not be modified, except by a written instrument signed by both Parties.

18.17 Partial Invalidity. If any provision of this Lease is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Lease shall not be affected thereby. Each provision shall be valid and enforceable to the fullest extent permitted by law.

18.18 Payments. Except as may otherwise be expressly stated, each payment required to be made by

Lessee shall be in addition to, and not a substitute for, other payments to be made by Lessee.

18.19 Successors & Assigns. This Lease shall be binding on and inure to the benefit of the Parties and their successors and assigns, except as may otherwise be provided herein.

18.20 Time of Essence. Time is of the essence of each and every provision of this Lease.

18.21 Waiver. No provision of this Lease or the breach thereof shall be deemed waived, except by written consent of the party against whom the waiver is claimed. The waiver by County of any breach of any term, covenant or condition contained in this Lease shall not be deemed to be a waiver of such term, covenant or condition of any subsequent breach thereof, or of any other term, covenant or condition contained in this Lease. County's subsequent acceptance of partial rent or performance by Lessee shall not be deemed to be an accord and satisfaction or a waiver of any preceding breach by Lessee of any term, covenant or condition of this Lease or of any right of County to a forfeiture of the Lease by reason of such breach, regardless of County's knowledge of such preceding breach at the time of County's acceptance. The failure on the part of County to require exact or full and complete compliance with any of the covenants, conditions of agreements of this Lease shall not be construed as in any manner changing or waiving the terms of this Lease or as estopping County from enforcing in full the provisions hereof. No custom or practice which may arise between the parties hereto in the course of administering this Lease shall be construed to waive, estop or in any way lessen County's right to insist upon Lessee's full performance of, or compliance with, any term, covenant or condition of this Lease or to inhibit or prevent County's exercise of its rights with respect to any default, dereliction or breach of this Lease by Lessee.

**SIGNATURE PAGE TO FOLLOW**

SANTA CRUZ PUBLIC LIBRARIES	COUNTY OF SANTA CRUZ
<p>Signed by:</p> <p><i>Christopher Platt</i> 2/13/2025</p> <p>9DC43AE67E5F403...</p> <p>Director of Libraries Date</p>	<p>DocuSigned by:</p> <p><i>Matt Machado</i> 12/12/2024</p> <p>50EBAC64454C48C...</p> <p>Date</p>
<p>APPROVED AS TO FORM:</p> <p>Signed by:</p> <p><i>Stephanie Hall</i> 2/25/2025</p> <p>3CEF8D59209B44C...</p> <p>Library General Counsel Date</p>	<p>DocuSigned by:</p> <p><i>Justin Graham</i> 11/14/2024</p> <p>40E85ACDEB42D...</p> <p>Office of County Counsel Date</p>
	<p>APPROVED AS TO INSURANCE:</p> <p>Signed by:</p> <p><i>Gina Occhipinti Borasi</i> 11/14/2024</p> <p>E4EADC5BA53B4DB...</p> <p>Risk Management Date</p>
	<p>RECOMMENDED FOR APPROVAL:</p> <p>DocuSigned by:</p> <p><i>Kimberly Finley</i> 11/14/2024</p> <p>553123D22A0D4B5...</p> <p>Real Property Date</p>

**EXHIBIT “A”  
PREMISES**

## Exhibit A

### APTOS LIBRARY

7695 SOQUEL DRIVE, APN 039-102-43



EXHIBIT “B”  
STORMWATER MAINTENANCE AGREEMENT

Recording requested by:  
Department of Public Works

Upon recording return to:  
County of Santa Cruz, DPW  
Stormwater Management Section  
701 Ocean Street, Room 410  
Santa Cruz, CA 95060

---

(Space above this line for Recorder's use)

**PRIVATE STORMWATER MANAGEMENT MAINTENANCE AGREEMENT**

APN: 039-102-21 & 43  
Application No. B-216704

Damon Adlao, Department of Public Works, being the responsible party of the real property located at 7695 Soquel Drive, Aptos, California consents and agrees to inspect and maintain annually "prior to the rainy season" and to maintain as necessary for ensuring proper performance of the stormwater management facilities on the subject property as shown on the plans prepared by Ifland Engineers, Inc. dated 04/01/22 per County Code 7.79. I understand that maintenance will be performed in accordance with the Operations and Maintenance Manual (attached) prepared by Ifland Engineers, Inc dated 04/01/22.

I acknowledge that the parcels do and will continue to receive upstream runoff, that the property owner is responsible for maintenance of the drainage pathway (natural and/or man-made) through the parcel, and that the County and Flood Control District(s) are not responsible for the upstream runoff or for maintenance of the drainage pathway.

I understand that County Department of Public Works staff will conduct inspections of the facility. I agree to forward a letter to the County Department of Public Works, prior to 15 October of every year, stating the date and type of service performed on these facilities.

I have read the above agreement and understand it. This agreement shall be binding on and shall inure to the benefit of the successors, heirs, executors, administrators, and assigns of owner.

Responsible Party DAMON ADLAD DAMON.ADLAD@SANTA CRUZ COUNTY CA.GOV (831) 201-3275  
(Printed Name) (E-mail) (Phone)

Responsible Party   
(Signature)

Dated this 30TH day of JANUARY - 2024

(Note: The signature on this form must be notarized. Please attach a copy of the O&M to this form, then record the entire packet.)



A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL(S) WHO SIGNED THE DOCUMENT WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

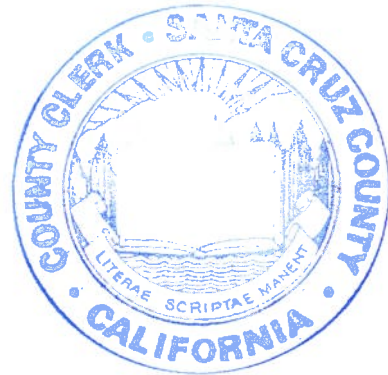
**STATE OF CALIFORNIA**

**COUNTY** of Santa Cruz

On February 1, 2024, before me,  
RYAN HOLMES, Deputy Clerk of said County of Santa Cruz,  
personally appeared **DAMON ADLAO**, who proved to me on  
the basis of satisfactory evidence to be the person whose name  
is subscribed to the within instrument and acknowledged to me  
that **he** executed the same in **his** authorized capacity(ies), and  
that by **his** signature on the instrument the person, or the entity  
upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State  
of California that the foregoing paragraph is true and correct.

**WITNESS** my hand and official seal at my office in said County  
and State, **TRICIA WEBBER**, COUNTY CLERK



Signature

  
RYAN HOLMES

, Deputy

.....  
The following information is **OPTIONAL**, however it may prove valuable to person(s) relying on the document and  
could prevent fraudulent removal and re-attachment of this acknowledgment to another document.

**DESCRIPTION OF THE ATTACHED DOCUMENT**

Title or Type of Document: SWM-25B for County Facilities.

Document Date: 1/30/2024 Number of Pages: 59

Signer(s) Other Than Named Above: N/A

Other Information:

**CAPACITIES CLAIMED BY SIGNER: RESPONSIBLE PARTY**

Signer(s) Name: DAMON ADLAO

X  SANTA CRUZ COUNTY OFFICER -- Title: DIRECTOR OF CAPITAL PROJECTS

**APPENDIX A**  
**STORMWATER MITIGATION FACILITIES**  
**OPERATION AND MAINTENANCE PLAN**  
**for**  
**Aptos Public Library**

APN: 039-102-21 & -43  
Soquel Drive  
Aptos, California 95003

**Prepared for:**

Santa Cruz County

**Prepared by:**

Ifland Engineers, Inc.  
5300 Soquel Avenue, Suite 101  
Santa Cruz, CA 95062



## **Table of Contents**

<b>I. Designation of Individuals Responsible for Stormwater Treatment BMP Operation and Maintenance .....</b>	<b>3</b>
<b>II. Introduction.....</b>	<b>4</b>
II.A. Site Description .....	4
II.B. Site Features and Conditions .....	4
II.C. Summary of Stormwater Management Facilities .....	4
<b>III. Responsibility for Maintenance .....</b>	<b>4</b>
III.A. Contact Information for Responsible Individuals .....	5
III.B. Funding for Operation and Maintenance.....	5
III.C. Staff Training Program .....	5
<b>IV. Summary of Drainage Areas and Best Management Practices (BMPS).....</b>	<b>5</b>
<b>V. Maintenance Schedule .....</b>	<b>6</b>
<b>VI. Source Control Measures.....</b>	<b>7</b>

## **Exhibits –**

- Exhibit 1 – Overall Site Plan**
- Exhibit 2 – Proposed DMA Areas**
- Exhibit 3 – Drainage Structures**

**I. Designation of Individuals Responsible for Stormwater Treatment BMP Operation and Maintenance**

Date Completed: JANUARY 30, 2024	
Facility Name: APTOS BRANCH LIBRARY	
Facility Address:	
<b>Property Owner's Designated Contact for Operation and Maintenance</b>	
Name: LAURA WHALEY	Title or Position: FACILITIES MANAGER
Telephone: (831) 427-7700	Alternate Telephone: (831) 427-7734
Email: WHALEYL@SANTACRUZPL.ORG	
<b>Property Owner's Off-Hours or Emergency Contact</b>	
Name: HEATHER PEREIRA	Title or Position: BRANCH MANAGER
Telephone: (831) 427-7702	Alternate Telephone: (831) 427-7700
Email: PEREIRAH@SANTACRUZPL.ORG	

**NOTE: This form must be updated every time the responsible individuals change**

## **II. Introduction**

### **II.A. Site Description**

The project site consists of two separate parcels in the County of Santa Cruz. The combined area of the two lots is approximately 1.24 acres. The project site is bounded by Soquel Drive and East Ledyard Way to the west and south, respectively. A commercial property is to the north and series of residential properties to the east. The site is developed with the existing library building situated at the southerly end of the site, with the parking lot situated north of the building and extending to the northerly and easterly property lines. The site slopes from north to south and east to west.

### **II.B. Site Features and Conditions**

The proposed project consists of demolishing the existing library and constructing a new library. Associated improvements include: removing and replacing the driveway, repaving a portion of the parking lot, constructing a drainage system, and frontage improvements along Soquel Drive and East Ledyard Way.

The overall drainage system consists of catch basins and storm pipelines that interconnect and direct stormwater run-off to bioretention systems throughout the site. The bioretention systems provide treatment and detention of run-off prior to discharging to the public storm drain in the Soquel Drive Right-Of-Way.

### **II.C. Summary of Stormwater Management Facilities**

The stormwater control measures for the project are shown in the attached exhibits.

This includes swales, catch basins, trench drains, storm pipelines, bioretention facilities, Oldcastle CUDO Cube detention systems, perforated pipelines, clean-outs, an existing detention system in the northerly parking lot, and outlet control structures. See Exhibits 2 and 3 for a breakdown of drainage maintenance areas and drainage structure locations.

## **III. Responsibility for Maintenance**

The property owner is responsible for maintaining the private drainage system, including rain gutters, downspouts, areas drains, risers, inlets, catch basins, trench drains, clean-outs, pipelines, bioretention facilities and Oldcastle CUDO Cube detention systems.

### **III.A. Contact Information for Responsible Individuals**

Contact information for each property owner's representative is shown on the designation forms in Section I. A new form must be completed and added to Section I whenever any of this information changes or is updated. When this occurs, a copy of the new table must be faxed or mailed to the County of Santa Cruz, Attention: Public Works Department.

### **III.B. Funding for Operation and Maintenance**

All components of the storm drain system will be maintained by the property owner.

### **III.C. Staff Training Program**

Maintenance staff retained by the owner will familiarize themselves with the storm drain system shown in Exhibit 3. Maintenance staff shall locate and inspect every catch basin and stormwater BMP identified in the exhibit in order to perform routine cleaning and maintenance according to the schedules and checklists provided in Appendix B.

Keep safety considerations at the forefront of inspection procedures at all times. Likely hazards should be anticipated and avoided. Never enter a confined space (outlet structure, manhole, etc) without proper training or equipment. A confined space should never be entered without at least one additional person present.

If a highly toxic or flammable substance is discovered, the inspector(s) should leave the immediate area and contact 911. Never open an unknown sealed container to check its contents. If any hazard is found within the facility area that poses an immediate threat to public safety, contact 911 immediately.

Vertical drops may be encountered in areas located within and around drainage facilities. Avoid walking on top of retaining walls or other structures that have a significant vertical drop.

## **IV. Summary of Drainage Areas and Best Management Practices (BMPS)**

Drainage Management Areas (DMA's) are as follows:

DMA-1: This DMA area is the north end of the site and consists of the existing parking lot with minor improvements. Design storm runoff from DMA-1 will be treated and detained within SCM-1-A (the existing detention chambers below the parking lot) and SCM-1-B (the biotreatment facility located near the west corner of the site).

DMA-2: This DMA is located directly to the south of DMA-1 and consists of a portion of the replaced parking areas. Design storm runoff from DMA-2 will be treated and

detained within SCM-2. This SCM represents the biotreatment and detention area located directly to the southeast of SCM-1-B.

DMA-3: This DMA consists of the northeast area of the replaced parking areas. It is made up of 2 separate sub-catchment areas located along the northeast side of the development; including: DMA: 3-A and 3-B. Design storm runoff from DMA-3 will be treated within SCM-3-A and then detained within SCM-3-B. SCM-3-A represents the biotreatment area that is located near the east corner of the parking lot. SCM-3-B represents the detention system located below the east corner of the lower parking lot.

DMA-4: This DMA is located in the southwest area of the site and consists of a portion of the replaced parking lot, the driveways, a portion of the roof, and walkways. Design storm runoff from DMA-4 will be treated and detained within SCM-4. This SCM represents the biotreatment and detention area that is located near the west corner of the building.

DMA-5: This DMA area consists of the stairs and ADA ramp located to the southwest of the building. Design storm runoff from DMA-5 will be treated and detained within SCM-5. This SCM represents the biotreatment and detention area that is located between the ADA ramp and Soquel Drive.

DMA-6: This DMA consists of a portion of the replaced parking lot, a portion of the roof, and walkways. Design storm runoff from DMA-6 will be treated and detained within SCM-6. This SCM represents the biotreatment and detention area that is located in the south corner of the site.

The drainage structures shown in Exhibit 3 shall be maintained per the maintenance schedule in section V, and according to the checklists located in Appendix B, protocols located in Appendix C, and instructions located in Appendix D.

## **V. Maintenance Schedule**

The inspector shall use the checklists found in Appendix B, field protocols found in Appendix C, and maintenance manual found in Appendix D to perform the necessary maintenance on the following inspection schedule at a minimum:

- Routine Maintenance Activities: The facilities will be examined twice monthly (from October 15<sup>th</sup> to April 15<sup>th</sup>)
- Following Significant Rain Events: A significant rain event will be considered to be one that produces approximately a half-inch or more rainfall in a 24-hour period.
- Prior to the start of the Rainy Season: by the end of September of each year
- Annually during Winter: at least once between December-February

## VI. Source Control Measures

Below are the means and methods to controlling the listed pollutant generating activities that shall be controlled throughout both construction activities and completed project.

- Accidental spills & leaks - during construction the contractor shall have a spill response kit onsite at all times as well as a trained spill response team. All drains shall be marked with "No Dumping Drains To Bay" to prevent pollutants from entering the storm drain system. Post construction, the property manager shall be trained in spill & leak response and have the proper kit onsite to properly clean and remove any incidental spills.
- Interior floor drains - all interior floor drains shall be connected to the sanitary sewer system. Discharge to storm drain inlet & pipes and/or stormwater mitigation facilities is prohibited.
- Parking/storage area maintenance - during construction, equipment storage area shall be protected with a 30 mil plastic liner as well wattles on the downhill side.
- Indoor & structural pest control - all pest control measures shall be performed to prevent any discharges into the storm drain system. Any required pest control activities shall submit a plan of action to the property manager specifying the means and methods to prevent any said discharges prior to performing treatment.
- Landscape/outdoor pesticide use - pesticides shall be used only if necessary and shall be limited to required treatment area. Spot treatment with handheld sprayer shall be used in low quantities.
- Refuse areas - Runoff from these areas shall be directed to landscaping for treatment or directly to the sanitary sewer service. Refuse areas shall be routinely inspected and any garbage and/or spills shall be properly cleaned and disposed of. Discharge to storm drain inlet and pipes and/or stormwater mitigation facilities is prohibited.
- Industrial processes – restaurant/food service areas shall have all drains directed to oil & grease separators, which shall be maintained on a regular basis.
- Outdoor storage of equipment or materials - all materials, construction or other, shall be stored indoors or within a covered (protected) area.
- Vehicle & equipment cleaning - all construction equipment and vehicles shall be cleaned offsite. Facility equipment can be cleaned onsite within the storage bays. Runoff shall be captured within an area drain directed to the sanitary sewer system. Discharge to storm drain inlet and pipes and/or stormwater mitigation facilities is prohibited.
- Vehicle & equipment repair & maintenance - all construction vehicles and equipment shall be repaired and maintained offsite at the contractor's yard. Facility equipment can be repaired and maintained onsite within designated storage bays. Runoff shall be captured within an area drain



directed to the sanitary sewer system. Discharge to storm drain inlet and pipes and/or stormwater mitigation facilities is prohibited.

- Fire sprinkler test water - any water from fire sprinkler testing shall be directed to the sanitary sewer system. Discharge to storm drain inlet and pipes and/or stormwater mitigation facilities is prohibited.
- Drain or wash water from boiler drain lines, condensate drain lines, roof top equipment, drainage sumps & other sources - no drainage sumps are proposed onsite. All drainage from other described areas shall be directed to the sanitary sewer line. Discharge to storm drain inlet and pipes and/or stormwater mitigation facilities is prohibited.
- Unauthorized non-stormwater discharges - all unauthorized non-stormwater discharges, during and after construction, shall be reported to the County of Santa Cruz.
- Building & ground maintenance - any routine maintenance performed shall be completed to reduce or eliminate any non-stormwater discharges from the site. If necessary, a permit to discharge runoff from these activities to the sanitary sewer system shall be obtained from the County of Santa Cruz.

## **EXHIBITS**

**Exhibit 1 – Overall Site Plan**

**Exhibit 2 – Proposed DMA Areas**

**Exhibit 3 – Drainage Structures**

I:\PROJECTS\2020\2027 ANDER DWS\3 - CONSTRUCTION\DRAWING\04M AGREEMENT\Exhibit 1 - SITE PLAN.dwg 29Mg22 09:55:10 AM © IFLAND ENGINEERS, INC.

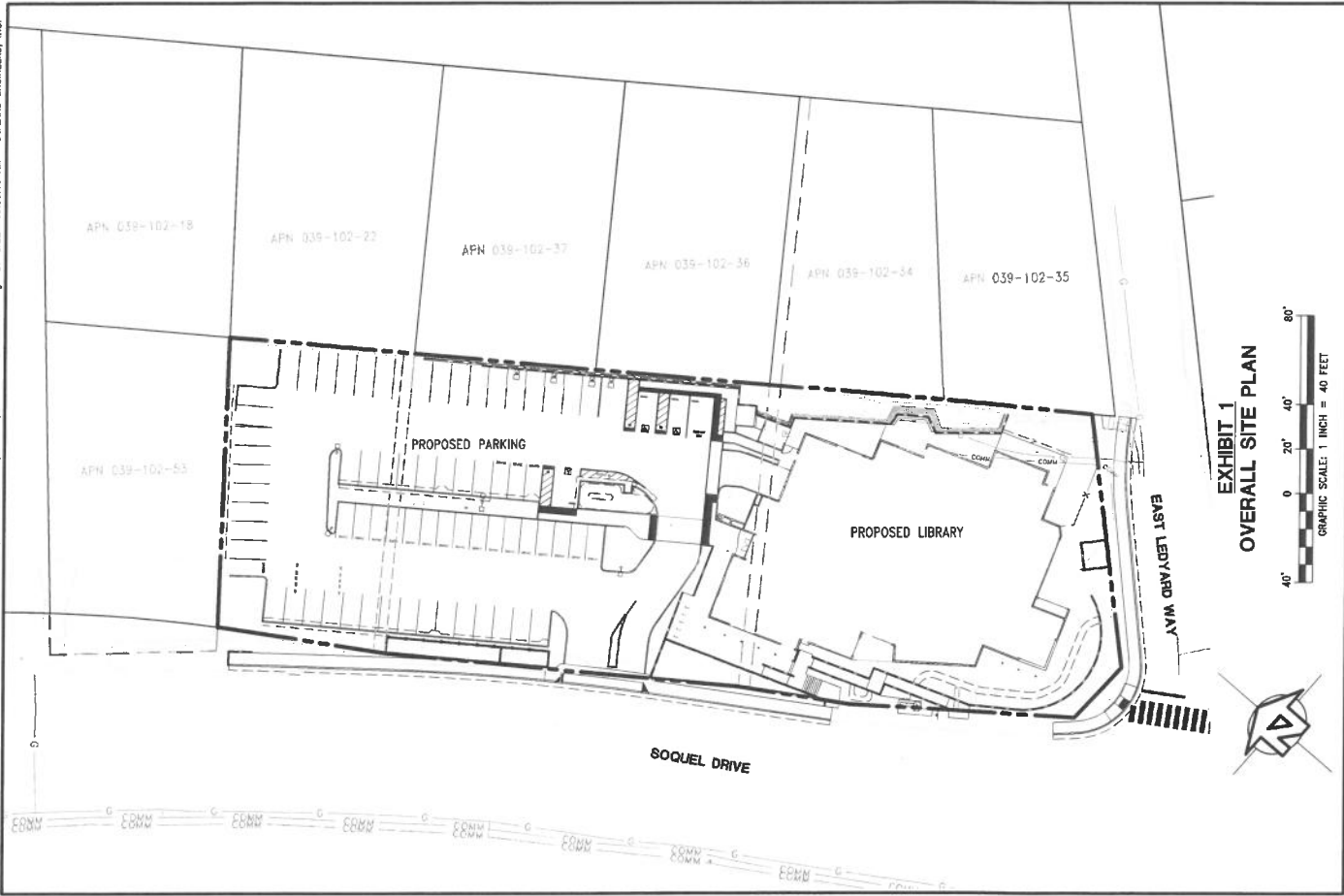
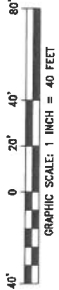


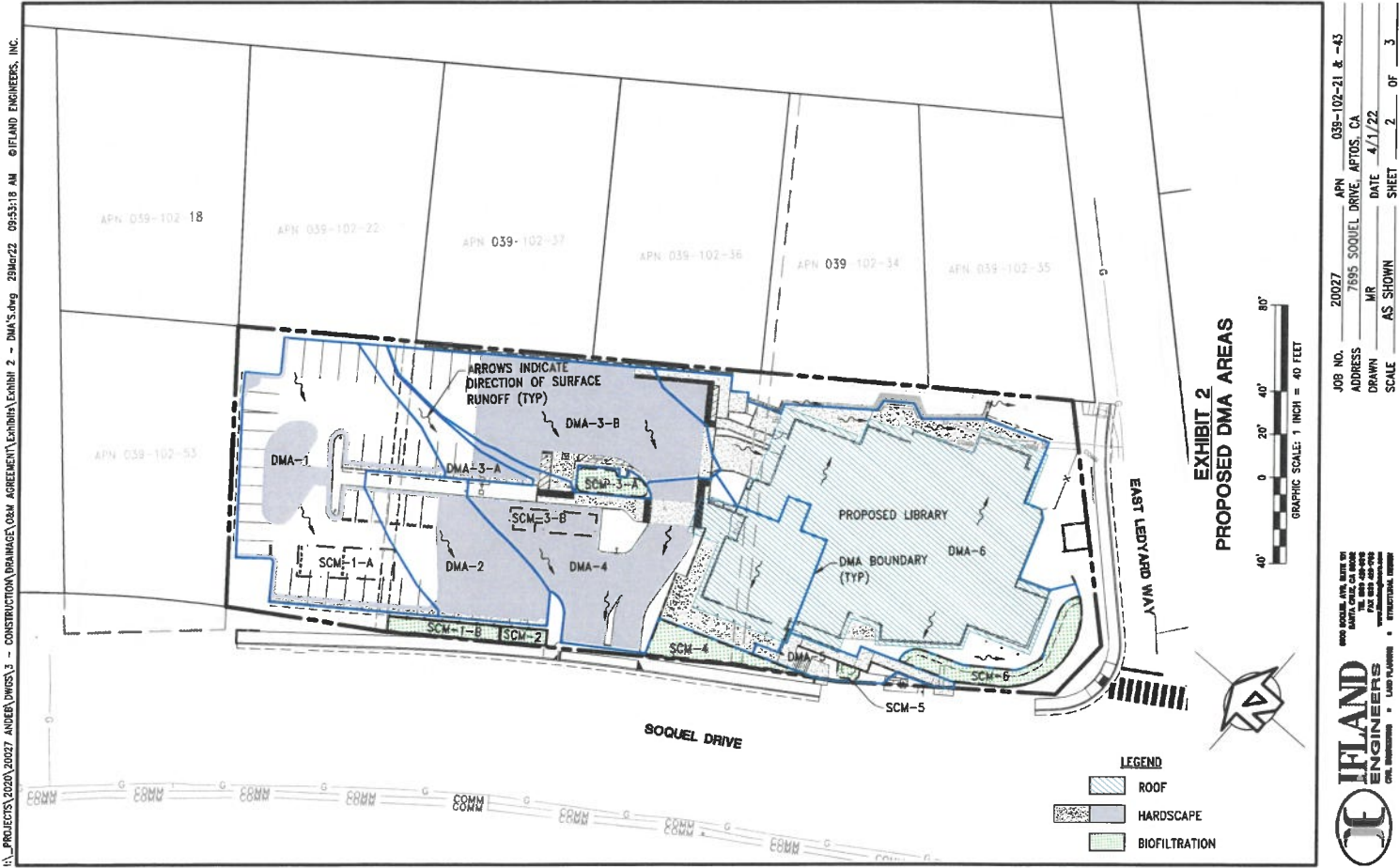
EXHIBIT 1  
OVERALL SITE PLAN

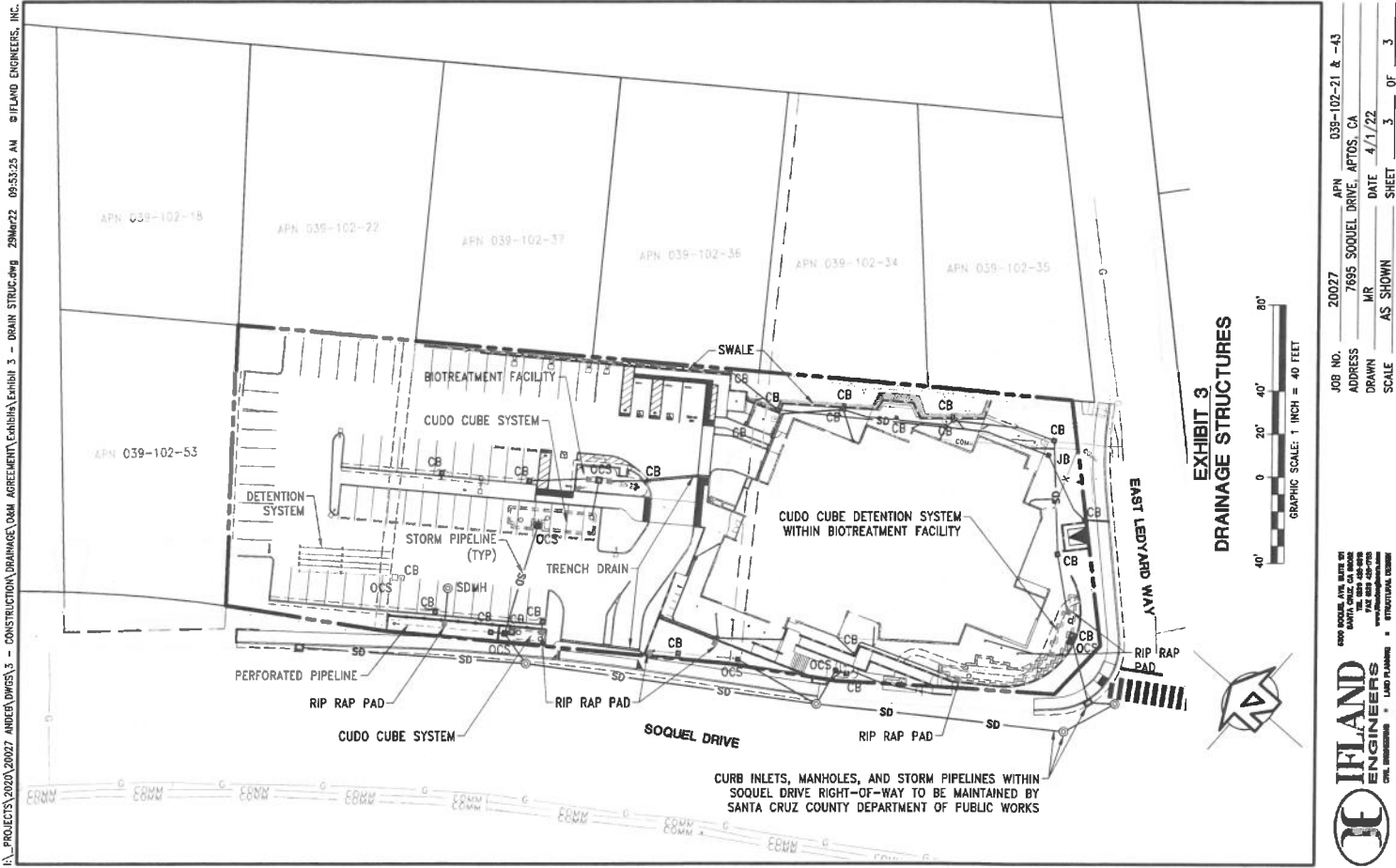


JOB NO.	20027	APN	039-102-21 & -43
ADDRESS	7695 SOQUEL DRIVE, APTOS, CA		
DRAWN	MR	DATE	4/1/22
SCALE	AS SHOWN	SHEET	1 OF 3

**IFLAND ENGINEERS**  
CIVIL ENGINEERS • LAND PLANNERS • STRUCTURAL DESIGNERS

6000 JENSEN AVE SUITE 100  
MARTINEZ, CA 94553  
TEL 925-938-9888  
FAX 925-938-9889  
www.iflandengineers.com





**APPENDIX B**  
**BMP FACILITY INSPECTION AND**  
**MAINTENANCE CHECKLISTS AND LOGS**  
**for**

**Aptos Public Library**

APN: 039-102-21 & -43

Soquel Drive

Aptos, California 95003

**Prepared for:**

Santa Cruz County

**Prepared by:**

Ifland Engineers, Inc.

5300 Soquel Avenue, Suite 101

Santa Cruz, CA 95062



Stormwater BMP Inspection and Maintenance Log

Facility Name	
Address	
Begin Date	End Date

Date	Inspected by:	Cause for Inspection	Exceptions Noted	Comments and Actions Taken

Instructions: Use this form as a summary of information after using the checklists and procedures listed on the following pages. Record all inspections and maintenance on this form. Use additional log sheets and/or attach extended comments or documentation as necessary. Submit a copy of the completed log with the annual independent inspectors' report to the municipality, and start a new log at that time.

- Inspected by — Note all inspections and maintenance on this form, including the required independent annual inspection.
- Cause for inspection — Note if the inspection is routine, pre-rainy-season, post-storm, annual, or in response to a noted problem or complaint.
- Exceptions noted — Note any condition that requires correction or indicates a need for maintenance.
- Comments and actions taken — Describe any maintenance done and need for follow-up.

## **FACILITY INSPECTION AND MAINTENANCE CHECKLISTS**

Included in this appendix are a series of checklists that can be used by both inspectors and maintenance personnel to ensure that observed deficiencies in BMPs are maintained appropriately. The BMP Inspection/Maintenance Checklists are presented in the following order:

- 1. ROUTINE INSPECTION AND MAINTENANCE**
- 2. ANNUAL INSPECTION AND MAINTENANCE**
- 3. INSPECTION AND MAINTENANCE FOLLOWING A SIGNIFICANT RAIN EVENT**
- 4. CATCH BASINS AND DRAINAGE STRUCTURES**
- 5. BIORETENTION/PLANTER BOX**
- 6. SWALES**
- 7. NORTH PARKING LOT DETENTION SYSTEM**



**1.) Checklist for Routine Inspection and Maintenance of Drainage System Twice Monthly  
(from October 15th to April 15th)**

- ☐ Examine facilities for evidence of trash, graffiti, vandalism, debris
- ☐ Examine each catch basin for trash or debris and clean if necessary.
- ☐ Confirm there is no blockage in the storm drain lines.
- ☐ Check finish grade surrounding inlets and ensure no erosion or blockages are present.
- ☐ Fix any damaged or disconnected piping entering into the catch basins.
- ☐ Follow the individualized Facility Inspection and Maintenance checklists for each BMP (on the following sheets)

**2.) Checklist for Annual Inspection and Maintenance of Drainage System (System Wide by end of September)**

- ☐ All tasks listed in "routine maintenance"
- ☐ Remove any leaves or branches within 10 feet of the catch basins.
- ☐ Ensure that the finish grade adjacent to the catch basins is flush with the rims in order to allow positive drainage of storm run-off into the catch basins.
- ☐ Clear roof gutters of leaves and debris

**3.) Checklist for following Significant Rain Events**

- ☐ Confirm there is no ponding on the surface of catch basins in paved areas
- ☐ Confirm ponding of at least 6" is being maintained at catch basins located within biofiltration basins
- ☐ Inspect inlets for trash or debris (to be removed, if found)
- ☐ Mulch or surface material will be raked smooth or replaced as needed
- ☐ Outlet structure will be inspected for any obstructions
- ☐ Check for any potential blockage in storm drain lines, remove if present
- ☐ Fix any damage or disconnected piping

#### 4. Catch Basins & Drainage Structures Inspection and Maintenance Checklist

Date: \_\_\_\_\_

Type of Inspection: ☐ post-storm ☐ annual ☐ routine ☐ post-wet season ☐ pre-wet season

Facility: \_\_\_\_\_ Inspector(s): \_\_\_\_\_

Defect	Conditions When Maintenance Is Needed	Inspection Result (0,1, or 2)*	Date Maintenance Performed	Comments or Action(s) taken to resolve issue
Sediment Accumulation	Sediment depth exceeds 0.25-inches.			
Trash/Debris Accumulation	Trash and debris accumulated on compost filter bed.			
Sediment in Drain Pipes or Cleanouts	When drain pipes, clean-outs, become full with sediment and/or debris.			
Damaged Pipes	Any part of the inlet or outlet pipes that are crushed or damaged due to corrosion and/or settlement.			
Access Cover Damaged/Not Working	Cover cannot be opened; one person cannot open the cover using normal lifting pressure, corrosion/deformation of cover.			
Vault Structure Includes Cracks in Wall, Bottom, Damage to Frame and/or Top Slab	Cracks wider than 1/2-inch or evidence of soil particles entering the structure through the cracks, or maintenance/inspection personnel determine that the vault is not structurally sound.			
	Cracks wider than 1/2-inch at the joint of any inlet/outlet pipe or evidence of soil particles entering through the cracks.			

\*Enter 0 if satisfactory, 1 if maintenance is needed. Enter 2 if maintenance was performed same day.

## 5. Bioretention Facility Inspection and Maintenance Checklist

Date: \_\_\_\_\_

Type of Inspection: ☐ post-storm ☐ annual ☐ routine ☐ post-wet season ☐ pre-wet season

Facility: \_\_\_\_\_ Inspector(s): \_\_\_\_\_

Defect	Conditions When is Maintenance Needed	Inspection Result (0, 1, 2)*	Date Maintenance Performed	Comments or Action(s) Taken to Resolve Issue
Appearance	Untidy			
Trash and Debris Accumulation	Trash, plant litter and dead leaves accumulated on surface.			
Vegetation	Unhealthy plants and appearance.			
Irrigation	Functioning incorrectly (if applicable).			
Inlet	Inlet pipe blocked or impeded.			
Splash Blocks	Blocks or pads correctly positioned to prevent erosion.			
Overflow	Overflow pipe blocked or broken.			
Filter media	Infiltration design rate is met (e.g., drains 36-48 hours after moderate - large storm event). No standing water 3 hours after moderate to large rain event).			
Lack of infiltration	Upon performance of annual infiltration testing per Appendix C, if test results fail to achieve the minimum infiltration rate, remove and replace biosoil mix with mix as specified on the approved plans and re-test until acceptable results are achieved			
Clogged Outlet Control Structure orifice	Sediment/debris clogging orifice			
Orifice sizing	Measure all orifices to ensure sizing is per approved plans. Replace control devices as needed.			
Lack of ponding depth	When ponding depth is less than six inches, remove accumulated sediments or remove and replace biosoil mix to the design elevation shown on approved plans			

\*Enter 0 if satisfactory, 1 if maintenance is needed. Enter 2 if maintenance was performed same day.

## 6. Swale Filter Inspection and Maintenance Checklist

Date: \_\_\_\_\_

Type of Inspection: : ☐ post-storm ☐ annual ☐ routine ☐ post-wet season ☐ pre-wet season

Facility: \_\_\_\_\_ Inspector(s): \_\_\_\_\_

Defect	Conditions When Maintenance Is Needed	Inspection Result (0, 1, or 2)	Date Maintenance Performed	Comments or Action(s) Taken to Resolve Issue
Appearance	Untidy			
Trash and Debris Accumulation	Trash and debris accumulated in the swale.			
Sediment Accumulation	Sediment depth exceeds 2 inches or covers more than 10% of design area.			
Standing Water	When water stands in the swale between storms and does not drain freely.			
Constant Baseflow	When small quantities of water continually flow through the swale, even when it has been dry for weeks and an eroded, muddy channel has formed in the swale bottom.			
Inlet/Outlet	Inlet/outlet areas clogged with sediment and/or debris.			
Erosion/ Scouring	Eroded or scoured swale bottom due to flow channelization, or higher flows. Eroded or rilled side slopes.			
	Eroded or undercut inlet/outlet structures			

\*Enter 0 if satisfactory, 1 if maintenance is needed. Enter 2 if maintenance was performed same day.

## 7. North Parking Lot Detention System Inspection and Maintenance Checklist

Date: \_\_\_\_\_

Type of Inspection: ☐ post-storm ☐ annual ☐ routine ☐ post-wet season ☐ pre-wet season

Facility: \_\_\_\_\_ Inspector(s): \_\_\_\_\_

Defect	Conditions When Maintenance Is Needed	Inspection Result (0, 1, or 2)*	Date Maintenance Performed	Comments or Action(s) taken to resolve issue
Sediment Accumulation	Sediment depth within the outlet control structure blocks the small diameter orifice.			
Trash/Debris Accumulation	Trash and debris accumulated within the outlet control structure.			
Sediment in Drain Pipes or Cleanouts	When drain pipes, clean-outs, become full with sediment and/or debris.			
Damaged Pipes	Any part of the inlet or outlet pipes that are crushed or damaged due to corrosion and/or settlement.			
Access Cover Damaged/Not Working	Cover cannot be opened; one person cannot open the cover using normal lifting pressure, corrosion/deformation of cover.			
Vault Structure Includes Cracks in Wall, Bottom, Damage to Frame and/or Top Slab	Cracks wider than 1/2-inch or evidence of soil particles entering the structure through the cracks, or maintenance/inspection personnel determine that the vault is not structurally sound.			
	Cracks wider than 1/2-inch at the joint of any inlet/outlet pipe or evidence of soil particles entering through the cracks.			

\*Enter 0 if satisfactory, 1 if maintenance is needed. Enter 2 if maintenance was performed same day.

**APPENDIX C**  
**BMPRAM FIELD OBSERVATION**  
**PROTOCOLS**

**for**  
**Aptos Public Library**

APN: 039-102-21 & -43

Soquel Drive

Aptos, California 95003

**Prepared for:**

Santa Cruz County

**Prepared by:**

Ifland Engineers, Inc.

5300 Soquel Avenue, Suite 101

Santa Cruz, CA 95062



## FIELD OBSERVATION PROTOCOL

### Constant Head Permeameter (CHP)

BMP RAM assessments utilize the accepted Constant Head Permeameter developed by the NRCS within the Lake Tahoe Basin.

Objective: Measure saturated hydraulic conductivity ( $K_{sat}$ ) of the base of a structural BMP.

#### BENCHMARK OBSERVATION

Benchmark observations should be made immediately following construction or complete maintenance actions, when the structural BMP is in best achievable condition. Benchmark observations are made following the field observation protocols detailed below.

#### FIELD OBSERVATION

Personnel Required: 1 field worker will require 20 minutes to make one measurement. Each structural BMP will require a minimum of 3 measurements depending upon size and the complexity of topography of the structural BMP footprint.

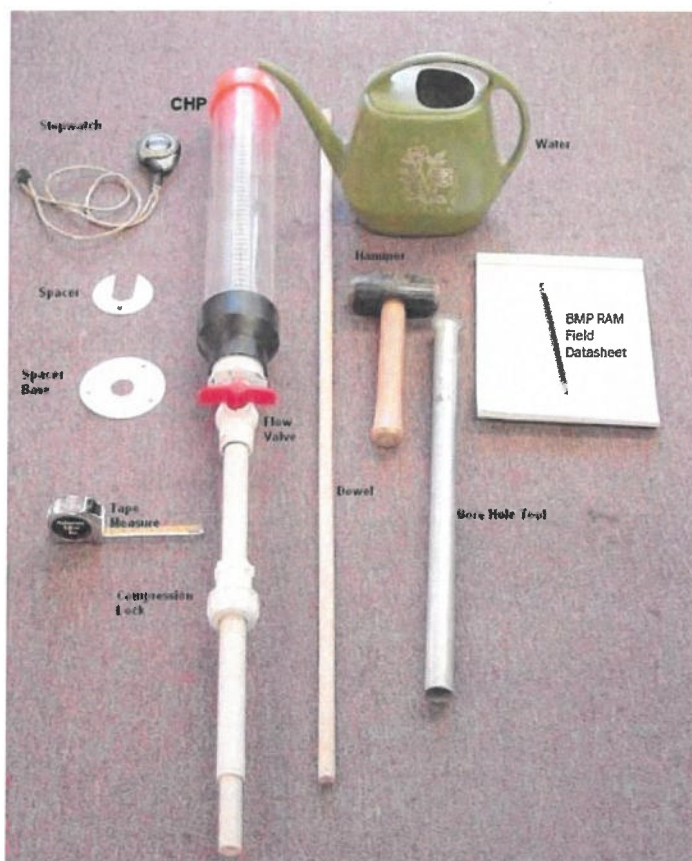
#### Equipment Required:

- Constant Head Permeameter
- Spacer and spacer base
- Bore hole tool (1" diameter pipe sharpened internally on one end)
- Wood dowel or rebar cleaner rod
- Hammer
- 1 gallon of water per measurement
- Stop watch
- Field datasheet, either hard copy or accessed on website through mobile device
- Map of structural BMP locations

Optimal time to perform: May 1- June 30<sup>th</sup>

#### A. Preparation

- Avoid making observations within 24hrs of most recent runoff event.
- Determine structural BMP footprint area from the inventory ( $ft^2$ ). Prior to making CHP measurement field observations field staff should conduct a general site assessment to determine the distribution of the structural BMP footprint that will experience different inundation frequencies. The surfaces at lower elevations will be inundated more frequently and have a greater rate of sediment and material accumulation. This characteristic will result in different infiltration rates in areas with different elevations. The goal of the CHP measurements is to complete 3 distinct measurements in both the frequently inundated and occasionally inundated areas. The table below summarizes the number of required measurements based on observed surface types



as defined by inundation frequency (see graphic for examples of inundation frequencies). Three measurements within both surface types allows verification of the  $K_{sat}$  expected by visual observation and relative inundation frequency.

- The most reliable CHP observations over time will be repeated in the same locations within each specific structural BMP. It is recommended that users create and maintain structural BMP specific maps on larger more centralized structural BMPs that require CHP BMP RAM observations to ensure that CHP measurement locations are repeated.
- 2Nform recommends the number of measurement locations based on the asset's footprint. Perform up to 3 measurements in the frequently inundated area. Should the recommended # of locations exceed 3, additional measurements can be made in the occasionally inundated area.

**INFILTRATION**

RECOMMENDED # OF LOCATIONS:  
2

METHOD  
☒ CHP    ☐ Infiltrometer    ☐ Other

*The tool recommends the number of locations that infiltration measurements should be made, based on the asset's footprint.*

#### B. Select measurement locations

- Visually determine the area of each distinct surface type within the footprint of the structural BMP. Within both the frequently inundated and occasionally inundated areas, distribute 3 required measurements per surface type throughout the structural BMP. The distinct surface types will collectively represent a range of the footprint characteristics of the structural BMP (i.e., some locations that are inundated during all smaller events and some locations that are only inundated during larger events).
- All measurement locations must be close to level.
- Location ID is for the user to keep track of CHP measurements if desired. A simple map of the locations of each measurement may be useful, though the map is for internal use only. The measurement location should be consecutive numbers starting at 0 and going to 6, representing the number of CHP measurement conducted at the structural BMP. Click "Save Record" to enter the measurement and click the **X** button to delete any mis-entered records.

**INFILTRATION**

RECOMMENDED # OF LOCATIONS:  
2

METHOD  
☒ CHP    ☐ Infiltrometer    ☐ Other

LOCATION ID*	MINUTES*	READING*	
1			Save Record
0	0	12	X
0	10	4	X
1	0	16	X
1	8	4	X

*In benchmark form, user must specify "CHP" as the method. Enter location ID, start time, and water height to record infiltration measurements.*



**C. Instrument setup**

- Select location for measurement. The ground surface should be flat and free of debris.
- Record measurement location ID on field datasheet.
- Vertically hammer the bore hole tool into the ground to a depth of 4 inches.
- Gently remove the bore hole tool from the ground.
- Remove the soil from the bore hole tool with the dowel/rebar or by tapping the back of the tool on the ground or the hammer.
- *Note: In very sandy, dry, or uncompacted soils, material may fall out of the bore hole tool and back into the measurement hole when the tool is extracted. If this happens, slowly apply ~½ liter of water to the measurement hole and allow it to infiltrate; this will make the sediment more cohesive. Use the bore hole tool to clean out the hole to a depth of 4 inches.*
- Clean the soil debris away from the rim of the hole and place spacer base over the hole.
- Fill the CHP with water to the 175 mark. Do not over fill the CHP.
- Gently place the CHP tip through the hole in the spacer base, and slide in the spacer.

**D. Observation**

- Slowly open the flow valve. Bubbles will enter the water storage chamber as water flows down through the insertion probe and displaces air. The water level within the storage chamber should stabilize within 30 seconds.
- Begin the stop watch after opening valve.
- Take the first reading at 2 minutes. This allows the surrounding soils to saturate during the first 2 minutes. Record location ID), time as minute (Time), and reading (Reading).
- Take a second reading in the middle of the infiltration process within 8 minutes and record. Be sure to use the same location ID.
- Take a third reading at 15 minutes and record. Be sure to use the same location ID.
- If it appears that the entire volume of water may drain during 15min, record the reading and time on an even minute prior to the water level reaching 0. It is not necessary to refill the tank to complete the 15-minute period.
  - i. When water infiltrates completely prior to the designated reading interval, take note of the time when all water was infiltrated. Record the time, by rounding to the nearest ¼ minute (:00, :15, :30, :45) and enter as a decimal, record depth as 0 (Reading).

**Troubleshooting**

- If the CHP is losing water but no bubbles are observed in the chamber, air is coming in from the top. Reseal the cap.
- If small bubbles are observed, there may be leaking through the joints above or below the valve. This is common with new valves. If the small bubbles are accompanied by regular larger bubbles coming from the bore hole, the CHP is operating properly. This is because the Ksat of the soil is exceeding the minor air leak. To stop these small leaks try applying some silicone grease to both sides of the ball in the ball valve and reapply plumber's tape to the threads in the joints and tighten until snug.
- No water flow is observed when the CHP valve is open. Likely the CHP chamber has been overfilled. Empty all water and refill to 175.
- If a reading is incorrectly entered, delete the entry from the table and re-enter.

## FIELD OBSERVATION PROTOCOL

### Conveyance

**Objective:** Visually determine if the BMP inlets, outlets, bypass structures or drop inlets are capable of conveying stormwater as intended.

#### BENCHMARK OBSERVATION

No benchmark observations are necessary for this protocol.

#### FIELD OBSERVATION

**Personnel Required:** One field worker will require 3 minutes to make an observation at each BMP inlet, outlet, bypass structure or drop inlet.

#### Equipment Required:

- Field datasheet, either hard copy or accessed on website through mobile device
- Map of structural BMP locations

**Optimal time to perform:** Not season dependent.

#### A. Preparation

- Avoid making observations within 24hrs of most recent runoff event.

#### B. Observations

- Has a runoff event occurred in the past 24 hours (yes/no)?
  - If yes, return at time when answer is NO.
- Visually inspect each inlet structure. Does the inlet appear capable of delivering stormwater to the structural BMP as intended (Yes/No)? The following are indications it is NOT functioning:
  - The elevation of the inlet is higher than the surrounding drainage area, preventing flow into the BMP.
  - The elevation of the inlet is below the BMP surface, such that water may not get to or exit the BMP through the inlet.
  - The slope of the inlet is too shallow and stormwater backflows from the structural BMP.
  - Evidence of a flow path suggests water is diverted around or away from the inlet structure.
  - Inlet culvert is clogged or crushed.
  - Inlet pipe is separated, and water is seeping out of culvert before entering BMP.
  - Trash capture device is full of debris and essentially clogged.



- Visually inspect each outlet structure. Does the outlet appear capable of delivering stormwater from the structural BMP as intended (Yes/No)? The following are indications it is NOT functioning:
  - In BMPs where ponding should occur, the elevation of the outlet is too low to allow sufficient ponding and flow attenuation.
  - Flow is being diverted around or away from the outlet.
  - Outlet culvert is clogged or crushed.
  - Outlet pipe is separated, and water is seeping out of culvert before entering the stormwater conveyance system as intended.
  - Trash capture device is full of debris and essentially clogged.
- Visually inspect each bypass structure. Does the bypass structure appear capable of conveying stormwater around the structure BMP as intended (Yes/No)? The following are indications it is NOT functioning:
  - For bypass structures near inlets, the bypass invert elevation is below the inlet invert and stormwater is diverted away from the structural BMP.
  - For bypass outlet structures, bypass invert elevation is below the outlet invert and stormwater short-circuits the primary flow path and treatment provided by the BMP.
  - Bypass structure is clogged, crushed, or full of holes.



### C. Next Steps

- If the answer for any inlet or outlet is NO, further evaluate the site to direct the proper actions to improve the conveyance function at the structural BMP:
  - Does the conveyance feature appear to require debris removal to restore intended function?
  - Does it appear that the conveyance feature may need to be replacement, re-plumbing, or other more substantial improvement? Consider perceived issues including safety hazard identified, liability to create flooding upstream identified, etc. in the notes section.
  - Photograph any inlet or outlet that appears to need maintenance and/or replacement.

## FIELD OBSERVATION PROTOCOL

### Infiltrometer

Objective: Quantitatively measure the infiltration rate of a structural BMP.

#### BENCHMARK OBSERVATION

Benchmark observations should be made immediately following construction or complete maintenance actions, when the BMP is in best achievable condition. Benchmark observations are made following the field observation protocols detailed below. User must select "Infiltrometer" as the method and conduct infiltration tests at the recommended number of locations.

**INFILTRATION**

RECOMMENDED # OF LOCATIONS:

2

METHOD:

CHP ☒ Infiltrometer ☐ Other

LOCATION ID:

ID

MINUTES:

READING:

Save Record

*In benchmark and threshold form, user must specify the method as "infiltrometer". The tool recommends the number of locations that infiltration measurements should be made based on the asset's footprint.*

#### FIELD OBSERVATION

Personnel Required: One field worker will require 10 minutes to conduct one infiltration measurement. Observation will take 15 to 30 minutes per structural BMP depending upon the number of measurements required.

Equipment Required:

- 2 gallons of water (per measurement)
- Double-ring infiltrrometer
- Ruler or tape measure
- Rubber mallet
- Stop watch
- Field datasheet or mobile device
- Map of structural BMP locations

Optimal time to perform: May 1- June 30<sup>th</sup>





**A. Preparation**

- Avoid making observation within 24 hours of most recent runoff event.
- Prior to making infiltrometer measurements, field observations should be conducted to determine the distribution of the structural BMP footprint that will experience different inundation frequencies. The surfaces at lower elevations will be inundated more frequently and have a greater rate of sediment and material accumulation (see graphic for examples of inundation frequencies). This characteristic will result in different infiltration rates in areas with different elevations. The goal of the infiltrometer measurements is to complete distinct measurements in both the frequently inundated and occasionally inundated areas.
- 2Nform automatically recommends the number of measurement locations based on the asset's footprint. Perform up to 3 measurements in the frequently inundated area. Should the recommended # of locations exceed 3, additional measurements can be made in the occasionally inundated area.

**B. Select Measurement Locations**

- Divide the structural BMP into equal sections based on the number of recommended measurements.
- Location ID is for the user to keep track of infiltrometer measurements. A simple map of the locations of each measurement may be useful, though the map is not required and is for internal use only. The measurement location should be consecutive numbers starting at 0.
- It is not necessary for the user to repeat measurements in the exact location during each subsequent field observation.

**C. Instrument Setup**

- Find a flat surface in the area to be tested.
- Insert infiltrometer into the soil by pushing down on the handle while twisting the instrument back and forth until the rings are inserted deep enough to prevent water from escaping (~1").
  - If harder soils are being tested, use a driving plate to cover the infiltrometer and rubber mallet to pound the plate and insert the rings into the ground.
  - If using an infiltrometer on gravel surface, excavate gravel where rings will be inserted and push and twist the instrument into place.
- Tamp down the disturbed soil, or replace excavated gravel, adjacent to the ring on the inside of the outer ring and both sides of the inner ring to ensure a seal.
- Set ruler inside the inner ring to monitor water depth.

**D. Observation**




- Fill both the inner and outer rings with water (roughly 1 – 2 gallons of water). Add enough water so the water level is even to start between the inner and outer rings.
- Begin the stopwatch and measure the height of water (in inches) in the inner ring using the ruler.
- Record the Observed Measurements (assign each observation a Location ID number), start time as 0 (Minutes), and reading as water height (Reading; in inches).
- Click the "Save Record" button to save data entry and move on to the next line entry.

- At 2 minutes, record the Location ID, time as 2 minutes, and measure and record the water level in the inner ring (Reading; in inches). Note: water level measurements can be entered to the hundredths of an inch.
- Click the "Save Record" button to save data and move on to the next line entry.
- Take a third reading at 5 minutes and record ID, Minutes and Reading (inches).
  - If the water infiltrates completely prior to the 2-minute or 5-minute reading, take note of the time when all water was infiltrated. Record the time, by rounding to the nearest ¼ minute (:00, :15, :30, :45) and enter as a decimal (0.00, 0.25, 0.50, 0.75), record depth as 0 (Reading; in inches).

**INFILTRATION**

RECOMMENDED # OF LOCATIONS:

METHOD\* ☒ CHP ☐ Infiltrometer ☐ Other

LOCATION ID*	MINUTES*	READING*	
<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="12"/>	<a href="#">Save Record</a>
0	0	12	 <a href="#">Click X to delete entry.</a>
0	2	10	
0	5	9.50	

*Round to nearest ¼ minute.*

*Round to nearest hundredth inch*

*For field observations, measure and record water depth (in inches) in the inner ring at minute 0, 2, and 5. If water in the inner ring all infiltrates prior to a designated time interval, round time to the nearest ¼ minute and record 'reading' as 0. Infiltration rates for each observed measurement will be automatically calculated in BMP RAM.*

- Gently extract the infiltrometer from the soil.
- Repeat instrument set up and observation at the next measurement location.
- If a reading is incorrectly entered, delete the entry from the table (X) and re-enter.

Infiltration rates will be calculated in BMP RAM as inch per hour based on time and reading entries at each location.

## FIELD OBSERVATION PROTOCOL

### Material Accumulation – Staff Plate

**Objective:** Determine the level of material accumulated within a structural BMP using permanent staff plates installed within the structural BMP.

#### BENCHMARK OBSERVATION

Benchmark observations should be made immediately following construction or complete maintenance actions, when the BMP is in best achievable condition.

**Personnel Required:** One to two field workers will require 15-30 minutes to install one staff plate within the structural BMP.

#### Equipment Required:

- Metal staff plate similar to Ben Meadows Product #113470 in tenths of feet.
- Cement screw, wood screws or nails
- Power drill
- Saw
- 2x4 wood post
- Rebar or fence posts
- Fence post driver or mallet
- Hose clamps
- Permanent marker or paint
- Stadia rod or tape measure



#### A. Installation

**Note:** For BMPs where the user is not authorized to install, or installation is not feasible, please reference field protocols for - *Material Accumulation – Stadia Rod*.

- 2Nform automatically recommends the number of measurement locations based on the asset's footprint.
- *If base of structural BMP cannot be penetrated:*
  - Mount staff plate to vertical wall of structural BMP using cement screws and a power drill.
- *If base of the structural BMP can be penetrated:*
  - Cut the corners of one end of a 2x4 to create a point for insertion into ground.
  - Mount the staff plate to the 2x4 using nails or screws. The zero (0) on the staff plate should be mounted 6" from the bottom of the 2x4. The top of the staff plate does not need to extend vertically above the maximum water quality depth of the structural BMP.
  - Using a fence post driver or mallet, drive the fence posts vertically into the base of the BMP as far as possible to provide support.
  - Drive the staff plate vertically between the two fence posts, aligning the zero (0) with the base of the structural BMP. The fence posts should be on either side of the staff plate to provide support.
  - Attach staff plate with hose clamps.
- Write the ID on the staff plate either with paint, permanent marking or engraving into the 2x4 for simple reference by the field personnel in the future.

#### B. Data Entry

- For each staff plate installed, select Type as "Staff Plate", enter a brief description under Location, the bottom-most value that can be read on the staff plate as Depth, and the units of measurement.

- Click "Save Record."

**MATERIAL ACCUMULATION**  
RECOMMENDED # OF LOCATIONS:  
  

TYPE	LOCATION	DEPTH		
Staff Plate	Inlet	0.01	ft	Save Record

*The tool recommends the # of locations where a staff plate is needed. For staff plate installations, the user must select Staff Plate under the Type dropdown. User also will determine the units used to perform field measurements.*

## FIELD OBSERVATION

Personnel Required: One field worker will require 5 – 10 minutes to make observation, with 1 – 3 measurements required per structural BMP depending on the number of staff plates installed.

Equipment Required:

- Installed permanent staff plate
- Field datasheet or mobile device
- Map of structural BMP locations

Optimal time of year to perform: Not season dependent, but avoid completing when standing water is present, if possible.

### A. Preparation

- Avoid making observations within 24hrs of most recent runoff event.

### B. Observations

- Locate the structure's staff plate(s).
- Record the lowest value visible on the staff plate as Depth for each staff plate.

**MATERIAL ACCUMULATION**  

TYPE	LOCATION	DEPTH	UNITS
Staff Plate	inlet	.75	ft

*During field assessments, the user only enters the depth. The type, location, and units cannot be edited from the information entered at the benchmark.*



## FIELD OBSERVATION PROTOCOL

### Material Accumulation – Stadia Rod

**Objective:** Rapidly determine the material accumulated within a structural BMP using a stadia rod or tape measure.

#### BENCHMARK OBSERVATION

Benchmark observations should be made immediately following construction or complete maintenance actions, when the BMP is in best achievable condition.

**Personnel Required:** One to two field workers will require 5-10 minutes to identify measurement locations and conduct initial depth measurement.

#### Equipment Required:

- Tape measure/ stadia rod / ruler
- Level or hand-held sight level (bioretention/biofiltration)
- Halogen Flashlight (confined/closed spaces)
- Field datasheet or mobile device
- Map of structural BMP locations

**Optimal time to perform:** Any, observation is not season dependent.

#### A. Measurement Locations

- 2Nform automatically recommends the number of measurement locations based on the asset's footprint.
- **For structural BMPs with closed space field protocols:**
  - There are a variety of proprietary systems available that treat stormwater. Treatment vaults are an example of proprietary BMPs with closed space. BMP RAM users **should not** enter confined space for any reason. Each manufacturer has specific installation specifications and maintenance recommendations. The BMP RAM user must determine the specific configuration of the system and associated access ports in order to perform the appropriate material accumulation field observations. Underground structural BMPs vary greatly in their individual design characteristics, but all have one or more chambers where floatables and sediment accumulate.
  - Consult available documentation provided by the manufacturer to locate access points (manholes) where vertical measurements to the structure's bottom can be made with stadia rod. Identify as many access chambers as possible to improve the spatial distribution of material accumulation estimates. In most configurations, a maximum of 5 discrete measurements is adequate. The measurement locations should be verified in the field.
  - Each access port (i.e., manhole) should be identified with an ID to distinguish it and ensure it can be relocated by the field personnel during each subsequent BMP RAM field observation.
  - Write the ID on the manhole or on the cement nearby with spray paint for reference in the future. Note locations of each access point in field notebook, drawing a sketch of site.
- **For open air centralized BMP:**
  - Identify a fixed structure or element that is easily accessible and where field staff can return in future years to make a measurement. Examples include top of an inlet culvert, top of headwall; etc. It is important to select a fixed point that is several feet above the ground



surface to provide a stable location from which vertical depth measurements can be made for subsequent years.

- Write the ID on fixed structure and take detailed notes of its location and how to return to it.
- **For decentralized BMPs:**
  - Locate where outflow occurs. Often the outlet is just the top of vertical corrugated metal pipe, a raised grate, or sump at the down gradient edge. If there are multiple outlets, each outlet should be considered a unique measurement location.
  - Identify each outlet with a simple ID to ensure it can be relocated by field personnel during subsequent field observations.
  - Write the ID on the outlet or on the cement nearby with spray paint for reference in the future.

#### B. Observations

- When the structural BMP is known to be free of debris (following installation and/or recent maintenance) measure the depth:
  - Treatment Vaults: from the bottom of the clean vault to top of the manhole used for access for each measurement location.
  - *Open air centralized BMPs: measure the vertical distance from the ground surface equal to the top of the fixed structure. Perform measurements at noted horizontal distance from the fixed point, so that field staff can return to the same location for future measurements.*
  - Bioretention/Biofiltration: from the lowest point of the ponding surface to the invert of the outlet structure.
  - Sediment Trap: from the bottom of the clean BMP to the lowest elevation at which water can flow out of the BMP.
- For each identified measurement location, enter a brief description for the measurement location, the total depth measured, and the measurement units.

**MATERIAL ACCUMULATION**

RECOMMENDED # OF LOCATIONS:

1

TYPE*	LOCATION*	DEPTH*	
Stadia Rod ▾	Description	#	ft ▾

[Save Record](#)

*The tool recommends the # of locations where a stadia rod measurement is needed. The user must select Stadia Rod under the Type dropdown. User also will determine the units used to perform field measurements.*

## FIELD OBSERVATION

Personnel Required: One to two field workers will require 10-15 minutes to conduct observation, depending upon the number of measurements required.

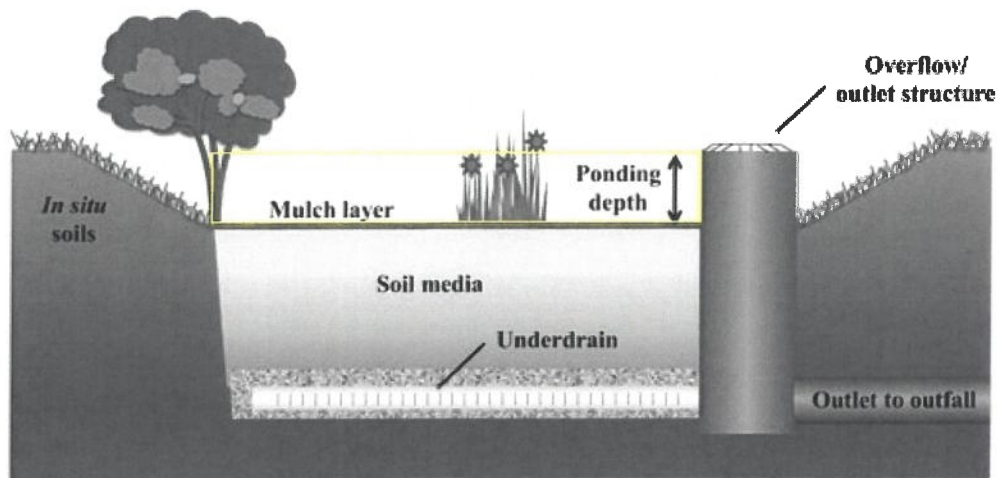
#### Equipment Required:

- Tape measure/ stadia rod / ruler
- Level or hand-held sight level (bioretention/biofiltration)
- Halogen Flashlight (closed spaces)
- Field datasheet, either hard copy or accessed on website through mobile device
- Map of structural BMP locations

Optimal time to perform: Any, observation is not season dependent.

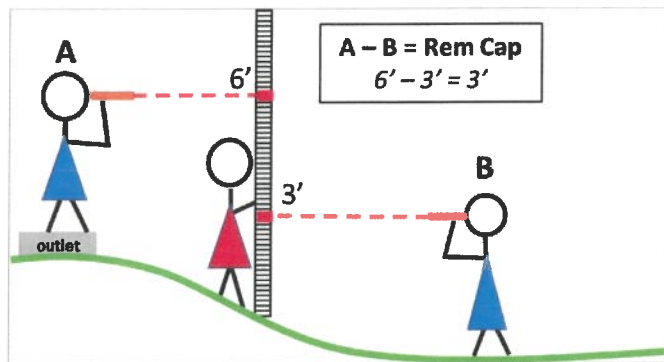
#### A. Preparation

- Avoid making observation within 24hrs of most recent runoff event.
- Arrive at structural BMPs and locate measurement locations. Identify and verify each measurement location and ID.



## B. Observation

- Measure the material accumulation of the structural BMP:
  - **Closed Spaces:** Measure and record the vertical distance between the bottom of the system and the top manhole using a stadia rod or tape measure.
  - **Bioretention/Biofiltration:** Locate the ponding area within the structural BMP and identify the deepest location. Measure the vertical distance from the deepest spot to the invert of the outlet structure (as illustrated in yellow in the schematic above). In some cases, the ponding area may be some distance from the outlet structure. Material accumulation with a stadia rod measures the vertical ponding depth at the deepest point and can be measured in 2 ways:
    - Use a tape measure and ruler. One field crew member pulls a tape measure level from the outlet to the deepest point. The second field staff uses a ruler or a second tape measure to determine the vertical ponding depth.
    - Utilize a handheld sight level tool and a stadia rod to determine an accurate ponding depth. Sight levels can be used to calculate depth in multiple ways. Use preferred method or follow the example below.



within it.

- Have one field crew member hold a stadia rod at a point in between the outlet and the lowest ponding depth. The other field crew member uses the handheld sight level to make 2 separate height readings on the stadia rod – one from the outlet structure looking towards the deepest part (A) and another standing in the deepest part looking towards the outlet (B). Calculate the difference in stadia rod readings. This difference is the remaining capacity of the BMP.

- **Sediment Trap:** Measure the vertical distance between the lowest elevation at which water can flow out of the BMP and the top of the material accumulated

- In order to measure the amount of material accumulated, be careful not to force the measuring tool into accumulated debris.
- Record depth to the nearest hundredth (Depth).
- Repeat for all established measurement locations.

MATERIAL ACCUMULATION

TYPE	LOCATION	DEPTH <sup>in</sup>	UNITS
Stadia Rod	outlet	#	ft

*During field assessments, the user only enters the depth. The type, location, and units cannot be edited from the information entered at the benchmark.*

### Standing Water- Closed Space BMPs

This closed space protocol provides the user with the proper steps to inventory and assess inaccessible closed spaces and closed spaces with visual ports.

## INVENTORY

Fill out all relevant general information about the BMP. Indicate the BMP's System Accessibility is **closed space**. In the "Closed Space Information" section, determine whether the BMP possesses observation ports for standing water and/or material accumulation. If the BMP **does** possess observation ports for standing water and/or material accumulation, select "Yes." If it **doesn't** possess any observation ports, select "No." Enter the recommended maintenance interval for the BMP.

### BENCHMARK OBSERVATION @ OBSERVATION PORTS

*Note: If the Closed Space BMP also has an observation port for material accumulation, material accumulation benchmark data is required. See the material accumulation protocol for more details.*



**FIELD OBSERVATION @ OBSERVATION PORTS**

Personnel Required: One field worker will require 10 minutes to make visual assessment.

Equipment Required:

- Halogen Flashlight
- Stadia rod and/or long wooden dowel
- Field datasheet or mobile device
- Map of structural BMP locations

Optimal time to perform: Not season dependent but recommended from May 1 – June 30<sup>th</sup>.

**A. Preparation**

- Avoid making observations within 24hrs of most recent runoff event.

**B. Observations**

- Has a runoff event occurred in the past 24 hrs (yes/no)?
  - If yes, return at time when answer is NO.
- Open the access observation port to inspect for standing water.
- Visually inspect each observation port. Does the structure have standing water on the floor? If yes, return 24 hours later to inspect again and if standing water still exist (yes/no).

OBSERVATION PORT - STANDING WATER	
DOES THE FLOOR OF THE BMP HAVE STANDING WATER? <sup>2</sup>	IF YES, 24 HOURS LATER DOES THE FLOOR OF THE BMP STILL HAVE STANDING WATER? <sup>2</sup>
Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>

## FIELD OBSERVATION PROTOCOL

### Substrate Type

**Objective:** Qualitatively estimate the biogeochemical cycling capacity of the substrate material of the structural BMP.

#### BENCHMARK OBSERVATION

No benchmark observations are necessary for this protocol.

#### FIELD OBSERVATION

**Personnel Required:** One field worker will require 10-15 minutes to conduct observation.

##### Equipment Required:

- Field datasheet or mobile device
- Map of structural BMP locations
- Hand trowel
- Water
- Towel

**Optimal time to perform:** Any, observation is not season dependent.

#### A. Preparation

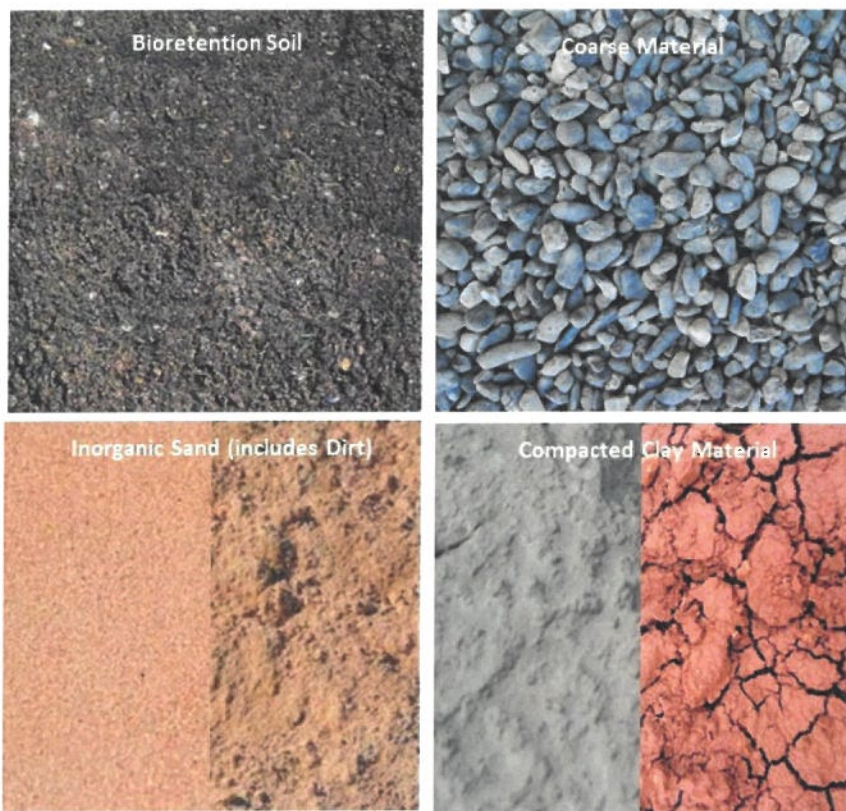
- Upon arrival to the site the user should walk the entire boundary of the structural BMP and visually determine structural BMP inundation regime boundaries. Visually identify areas within the primary stormwater flow path that are frequently inundated (BMP inlet, outlet, and topographic lows where water collects during smaller sized events).
- Divide the area of frequent inundation into equal thirds along the primary flow path, where the first third is closest to the inlet and the last third is closest to the outlet.
- It is not necessary for user to repeat exact measurement location during each subsequent field observation.



#### B. Observation

- Within each third of the BMP, select a location within the primary flow path to collect a sample.
- Use the hand trowel to remove any surface layer material (mulch, pea gravel, vegetation debris) to investigate the top 6 inches of the substrate material.
- Determine the primary substrate with the highest distribution at the location as:
  - Bioretention soil – uncompacted, soft, organic material that is easy to dig and crumbles in hand.
  - Coarse material – larger-sized cobbles, gravel, pea gravel or coarse sand with minimal organic content.

- Inorganic sand – smaller size material that is easy to dig, easily sifts through fingers. Regular, uncompacted dirt with little organic material is considered functionally equivalent to inorganic sand and should be classified accordingly.
  - Clay compacted soil – fine grained, dense material that is hard to dig. If water is added to this material, you can easily roll between your hands to create a 'worm'.
- If more than one substrate material is present, determine the substrate type with the second highest distribution from the four options.

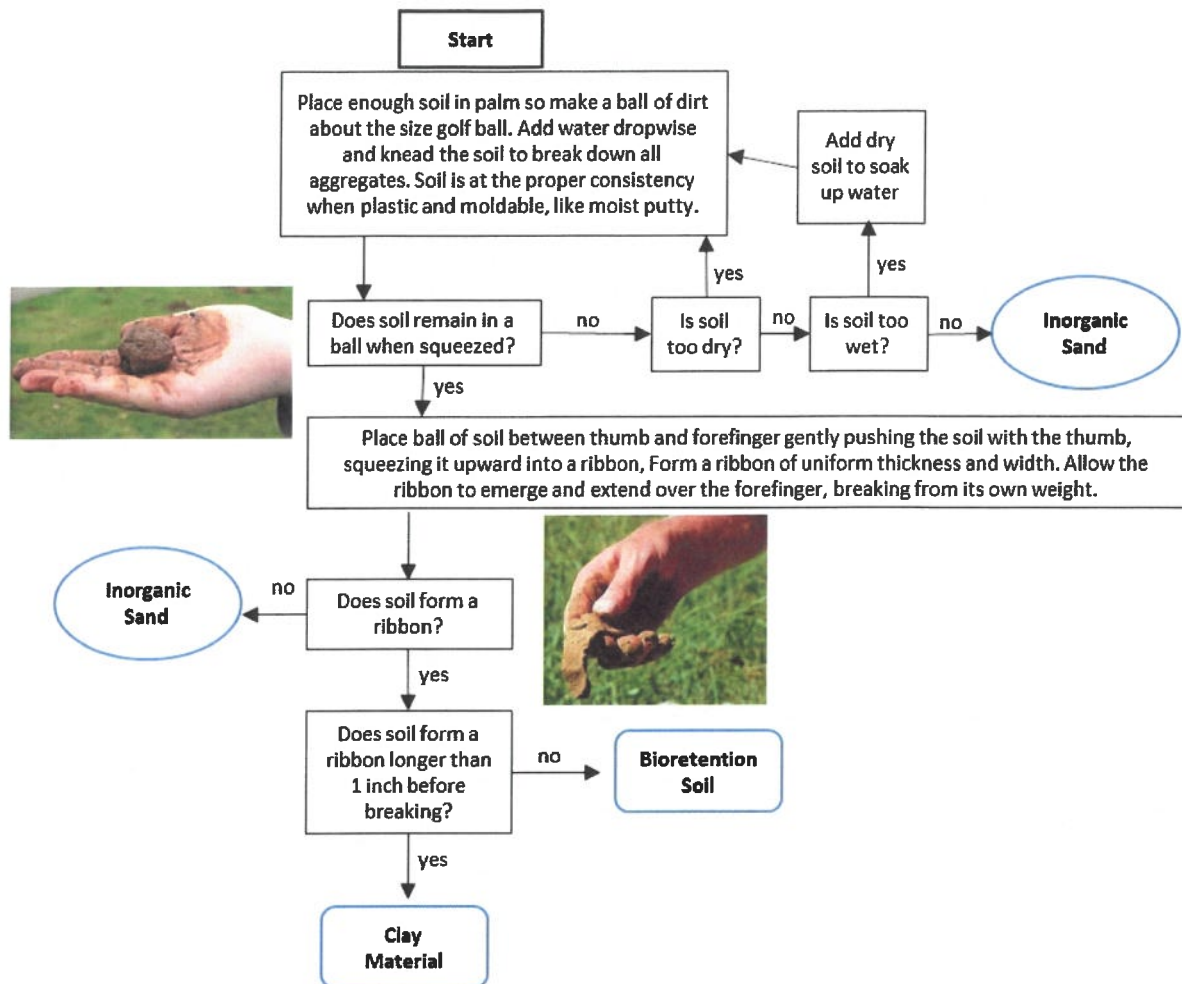


- For each location, use the drop-down list to select the primary and secondary (if present) substrate types.
- If the user is unsure of which substrate to select, follow the soil texture flowchart on the following page (Modified from S.J. Thien. 1979. *A flow diagram for teaching texture by feel analysis*. Journal of Agronomic Education. 8:54-55).
- Once the texture is determined, enter the correct substrate type in BMP RAM.

SUBSTRATE TYPE		
LOCATION*	PRIMARY TYPE*	SECONDARY TYPE*
First Third*	Sand ▼	Sand ▼
Second Third*	Select Type ▼	Select Type ▼
Last Third*	Select Type ▼	Select Type ▼

***Make sure that both the primary and secondary types are selected for all 3 locations (it can be the same type).***





## FIELD OBSERVATION PROTOCOL

### Vegetation Cover

**Objective:** Qualitatively estimate the relative density of each type of vegetative present within a structural BMP.

#### BENCHMARK OBSERVATION

No benchmark observations are necessary for this protocol. Benchmark values are set as default values based on typical design standards by structural BMP type. Review the table below for default benchmark values.

Default benchmark values can be changed if BMP design plans or other local knowledge indicates different standards for vegetation cover.

BMP Type	Benchmark	Threshold
Dry Basin	0%	20%
Wet Basin	75%	40%
Infiltration Basin	0%	20%
Bioswale	100%	80%
Infiltration Feature	0%	20%

#### FIELD OBSERVATION

**Personnel Required:** One field worker will require 10-15 minutes to conduct observation, depending upon the number of measurements required.

**Equipment Required:**

- Field datasheet or mobile device
- Map of structural BMP locations

**Optimal time to perform:** May 1<sup>st</sup> - June 30<sup>th</sup>.

##### A. Preparation

- Qualitative estimates of % cover can be difficult and subject to user discretion. To improve the consistency of the observation results across users, the user should walk the perimeter of the structural BMP and visually determine structural BMP inundation regime boundaries. Visually identify areas within the primary stormwater flow path that are frequently inundated (BMP inlet, outlet, and topographic lows where water collects during smaller sized events). Then locate and evaluate the areas that are at a slightly higher elevation and are occasionally inundated during larger volume runoff events. Assess the vegetation within the area of these two inundation regimes (frequently and occasionally inundated).



- Users should review and become familiar with potential examples of the 3 different vegetation types: wetland/riparian species, trees, and grasses.
- Do not consider the vegetation cover that is rooted at an elevation higher than the top of the structural BMP outlet.

**B. Observation**

- For each vegetation type, estimate the % cover within the structural BMP surface area that is within the frequently and occasionally inundated areas. Enter this estimate to the nearest integer.
- The percent cover of bare soil estimate is automatically calculated by the tool.

VEGETATION COVER

WETLAND/RIPARIAN %\*

TREES %\*

GRASS %\*

NO VEGETATION %:

0

5

10

85%

- The BMP type will dictate which vegetation types affect its condition score. For example, at some structures, such as infiltration features, grass can help with infiltration, because it opens pore spaces for water to drain into the subsurface. Users will enter the percent cover by species type, and condition scores are calculated based on vegetation that could impact the feature's optimal functionality. For example, an infiltration feature with 50% grass and 50% wetland species, only the 50% wetland species will affect its condition score. See table below for condition score breakdown. *(Note: even if a specific vegetation type doesn't affect the score, it should still be recorded during field observation).*

BMP Type	Vegetation Type That Affects Score		
	Wetland/Riparian	Grass	Trees
Dry Basin	x		
Wet Basin	x		
Infiltration Basin	x		
Bioswale	x	x	
Infiltration Feature	x		x

**APPENDIX D**  
**OLDCASTLE CUDO CUBE OPERATIONS**  
**AND MAINTENANCE MANUAL**

**for**  
**Aptos Public Library**

APN: 039-102-21 & -43  
Soquel Drive  
Aptos, California 95003

**Prepared for:**

Santa Cruz County

**Prepared by:**

Ifland Engineers, Inc.  
5300 Soquel Avenue, Suite 101  
Santa Cruz, CA 95062





# CUDO® CUBES

## Operations and Maintenance Manual (Underground Retention/Detention/Infiltration/Water Reuse Systems)



 Water

## **CUDO® Stormwater Cube - Modular Stormwater Systems**

### **Description / Basic Function**

CUDO is a modular stormwater system comprised of a grouping of modular polypropylene or concrete cubes that when constructed form an underground storage area for stormwater. This system can be used for infiltration, retention, detention or water reuse. CUDO can help achieve runoff detainment and storage to help attenuate the peak flow to pre-construction levels and can help conform to current Low Impact Development requirements.

### **Infiltration**

The purpose of a CUDO infiltration system is to capture stormwater runoff, store the runoff, and then allow it to percolate into the ground via the open space area of the cubes and perforations in the side wall. The system is backfilled with a Class I material defined by ASTM D2321 as a cleaned open graded rock or a Class II permeable sand. The rock or sand provide additional storage capacity but also allow for a percolation interface with the native material. The ground water is "recharged" with this type of system.

### **Detention**

The purpose of a CUDO detention system is to capture stormwater runoff, store the runoff, and then allow it to be released at a controlled rate through an appropriately sized orifice control. A detention system helps attenuate the peak flow from the site assuring that pre-development runoff flows are not exceeded as a result of the development. A CUDO detention requires the cubes to be encapsulated with an impermeable liner for the polypropylene system or the seams of the concrete system to be sealed with a water proof mastic.

### **Retention**

A CUDO retention system is a hybrid system. It is a combination of a detention system and an infiltration system. A retention system is utilized to attenuate peak flow as well as promote groundwater re-charge. A retention system is outfitted with an overflow pipe at the top of the system which allows the system to fill for infiltration but also outlet if the ground is saturated.

### **Water Reuse**

The purpose of a water-reuse CUDO system is to capture and store water for future use. The system is constructed in a similar fashion to a detention system but instead of a controlled outlet the system is constructed with an emergency overflow. A water reuse system is a Low-Impact Development (LID) device that helps attenuate peak flows as well as conserve water. Water may be reused through an active pump system or passive irrigation.

### **Inspection/Cleanout Ports**

Inspection and cleanout ports are 18-inch diameter vertical risers connected to the uppermost polypropylene CUDO cubes or up to 30-inch manhole access connected to the concrete CUDO. They are used for entrance into the system, or for access to place vacuum truck hoses or water-jetting devices or CCTV equipment. Ports are strategically located near inlet and outlet pipes and in other areas or probable deposition in the system. It is recommended to keep surface level access lids sealed and bolted at all times when the system is in service.

### **Inlet Bay**

Some systems are configured so that pretreatment of the stormwater occurs within the CUDO system. In this case, the CUDO system will house an inlet bay. The inlet bay is separated from the rest of the CUDO system by sidewall plugs and is intended to separate gross pollutants, trash and debris and floatables from the CUDO system and pre-treatment device. The bay contains its own sump area and unique access ports.



## **Maintenance Overview for CUDO**

State and Local regulations require that stormwater storage systems be maintained and serviced on a recurring basis. The purpose of maintaining a clean and obstruction free CUDO system is to ensure the system performs the intended function of the primary design. Trash and debris, floatables, gross pollutants and sediment can build up in the CUDO leading to clogging of the native soil interface or blockage of the inlet or outlet pipes. This can cause the system to function improperly by limiting storage volume, limiting the design percolation rates or impeding flow in and out of the system. Downstream and upstream, areas could run the risk of flooding and deleterious environmental impact.

### **Recommended Frequency of Service**

It is recommended that the CUDO stormwater systems be serviced on a regularly occurring basis. Ultimately the frequency depends on the amount of runoff, pollutant loading, and interference from trash, debris and gross pollutants as well as proper maintenance of upstream pretreatment devices. However, it is recommended that each installation be inspected at least two times per year to assess service needs.

### **Recommended Timing of Service**

Guidelines for the timing of service are as follows:

1. For areas with a definite rainy season the system should be serviced prior to and following the rainy season.
2. For areas subject to year-round rainfall service should occur on a regularly occurring basis. (A minimum of two times per year.)
3. For areas with winter snow and summer rain the system should be serviced prior to and after the snow season.
4. For installed devices that are subject to dry weather flows only (i.e. wash racks, parking garages, etc...) the unit should be serviced on a regularly occurring basis. (A minimum of two times per year.)

## **Inspection**

An inspection should be performed when the system is new. This allows the owner to establish a baseline condition for comparison to future inspections. Sediment build up can typically be monitored without entering the system. (No confined space entry.) Initial and subsequent inspection data should be recorded and filed for reference. Some regulatory agencies require that the results of the inspections be documented and reported. Inspection reports should comply with regulatory requirements and be submitted as required.

### **Inspection Procedures**

5. Locate the inspection, cleanout and access ports. Inspection and cleanout ports are typically 18-inch diameter. Access ports are typically 24-inch or 30-inch diameter. Pictures should be taken to document the location or a site map should be generated to detail the as-built locations of the ports.
6. Unbolt and remove the access port lids.
7. Insert a measuring device into the opening making note of a point of reference to determine the quantity of sediment and other accumulated material. If access is required to measure, ensure only certified confined space entry personnel having appropriate equipment are allowed to enter the system.
8. In addition, for accessible concrete CUDO systems personnel should utilize appropriate confined space entry procedures to enter the system and photograph its condition.
9. Inspect inlet and outlet locations for obstructions. Obstructions should be removed at this time.
10. Inspect the structural components of the system.
11. Fill in the CUDO Inspection/Maintenance Data Sheet and send a copy to the regulatory agency if necessary.

## **Disinfection of Water Reuse System**

Periodic disinfection of water held for reuse may be required to abate bacteria and algae growth. This may be done using calcium hypochlorite tablets or by the addition of an ozone generator in a small recirculation system.

## Maintenance

Cleanout of the CUDO system should be considered if there is sediment buildup of two or more inches at over 50% of the inspection ports. Cleaning shall be performed if sediment buildup is two inches or more over 75% of the system floor. In the event of a spill of a foreign substance, cleanout of the system should be considered.

## Maintenance Procedures

1. Locate the inspection, cleanout and access ports. Inspection and cleanout ports are typically 18-inch diameter. Access ports are typically 24-inch or 30-inch diameter. Pictures should be taken to document the location or a site map should be generated to detail the as-built locations of the ports.
2. Unbolt and remove the access port lids.
3. Measure the sediment buildup at each port. If access is required to measure ensure only certified confined space entry personnel having appropriate equipment are allowed to enter the system.
4. A thorough cleaning of the system (inlets, outlets, ports, and inlet bays) shall be performed by either a vacuum truck or by manual methods.
5. Inspect inlet and outlet locations for obstructions. Obstructions should be removed at this time.
6. Inspect the structural components of the system.
7. Fill in the CUDO Inspection/Maintenance Data Sheet and send a copy to the regulatory agency if necessary.

## Inspection / Maintenance Requirements

Below are some recommendations for equipment and training of personnel to inspect and maintain a CUDO system.

Personnel: OSHA Confined Space Entry Training is a prerequisite for entrance into a system. In the state of California personnel should be CalOSHA certified.

Equipment: Record Taking (pen, paper, voice recorder)  
 Proper Clothing (appropriate footwear, gloves, hardhat, safety glasses, etc.)  
 Flashlight  
 Tape Measure  
 Measuring Stick  
 Pry Bar  
 Traffic Control (flagging, barricades, signage, cones, etc.)  
 First Aid Materials  
 Debris and Contaminant Containers  
 Vacuum Truck

## Disposal of Gross Pollutants, Hydrocarbons, and Sediment

The collected gross pollutants, hydrocarbons, and sediment shall be offloaded from the vacuum truck into DOT approved containers for disposal. Once in the container the maintenance contractor has possession and is responsible for disposal in accordance with local, state and federal agency requirements.

*Note: As the generator, the landowner is ultimately responsible for the proper disposal of the collected materials. Because the material likely contains petroleum hydrocarbons, heavy metals, and other harmful pollutants, the materials must be treated as EPA class 2 Hazardous Waste. Proper disposal is required.*



## Cudo Inspection & Maintenance Log

Refer to as-built records for details about system size and location onsite

Location \_\_\_\_\_

**System Configuration:**

Inspection Date \_\_\_\_\_

☐ Detention      ☐ Infiltration      ☐ Retention/Harvesting

***Inlet or Outlet Blockage or Obstruction*****Notes:**

☐ Yes      ☐ No

***Condition of Internal Components*****Notes:**

☐ Good      ☐ Damaged      ☐ Missing

***Sediment Depth Observed*****Notes:**

☐ Inches of Sediment: \_\_\_\_\_

***Trash and Debris Accumulation*****Notes:**

☐ Significant      ☐ Not Significant

***Drain Down Observations*****Notes:**

☐ Appropriate Time Frame      ☐ Inappropriate Time Frame

***Maintenance Requirements***

☐ Yes - Schedule Maintenance      ☐ No - Inspect Again in \_\_\_\_\_ Months

**APPENDIX E**  
**NORTH PARKING LOT DETENTION SYSTEM**  
**PLANS (2009)**

# INDEX OF SHEETS

SHEET NO.	DESCRIPTION
C1	TITLE SHEET, VICINITY MAP, GENERAL NOTES, BENCH MARK, ABBREVIATIONS, EARTH WORK.
C2	GRADING AND DRAINAGE PLAN
C3	DETAILS & DRAINAGE CALCULATIONS
C4	SITE SECTIONS
C5	SITE SECTIONS
C6	TEMPORARY STRIPING PLAN DURING CONSTRUCTION
C7	FINAL STRIPING PLAN
C8	EROSION CONTROL PLAN

## GENERAL NOTES

1. ALL CONSTRUCTION SHALL COMPLY WITH APPLICABLE REQUIREMENTS IN THE CURRENT EDITION OF THE SANTA CRUZ COUNTY DESIGN CRITERIA.
2. NO CHANGES IN THE APPROVED PLANS SHALL BE MADE WITHOUT PRIOR APPROVAL BY THE SANTA CRUZ COUNTY PUBLIC WORKS DEPARTMENT.
3. THE DIRECTOR OF PUBLIC WORKS OR HIS AUTHORIZED REPRESENTATIVE, SHALL HAVE THE AUTHORITY TO STOP WORK IF THE WORK IS NOT BEING DONE IN ACCORDANCE WITH THE APPROVED APPROVED PLANS.
4. ALL FORMS REFERENCED (FRL) REFER TO STANDARD DETAILS IN THE CURRENT EDITION OF THE SANTA CRUZ COUNTY DESIGN CRITERIA.
5. THE TOP OF OF SUBGRADE UNDER ALL PAVED AREAS SHALL BE SCAMPED, LUSTRE, UNIFORMED, AND COMPACTED TO 98% RELATIVE COMPACTION.
6. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE RECOMMENDATIONS OF THE GEOTECHNICAL INVESTIGATION PREPARED FOR THE SITE BY BULAND GEOTECHNICAL ENGINEERING INC., PROJECT NO. 08-125-05 DATED MAY 31, 2008.
7. EXISTING UNDERGROUND UTILITY LOCATIONS SHOWN ARE COMPILED FROM INFORMATION SUPPLIED BY THE APPLICABLE UTILITY AGENCIES. CONTRACTOR SHALL VERIFY LOCATION OF ALL UTILITY LOCATIONS IN THE VICINITY OF THE WORK AREA PRIOR TO THE COMMENCEMENT OF THE WORK AND SHALL TAKE APPROPRIATE MEASURES TO PROTECT UTILITIES DURING THE CONSTRUCTION OPERATIONS.
8. CONTRACTOR SHALL REQUEST LOCATION OF UNDERGROUND UTILITIES BY CONTACTING USA ALERT (1-800-842-5444) AND APPROPRIATE UTILITY AGENCIES PRIOR TO COMMENCEMENT OF THE CONSTRUCTION.
9. TO MINIMIZE NOISE, DUST, AND VIBRATION IMPACTS ON SURROUNDING PROPERTIES DURING CONSTRUCTION, THE PROJECT CONTRACTOR SHALL COMPLY WITH THE FOLLOWING MEASURES DURING ALL CONSTRUCTION WORK:
  1. LIMIT ALL CONSTRUCTION TO THE TIME BETWEEN 8:00 AM AND 5:00 PM WEEKDAYS.
  2. EACH DAY IF DOES NOT RAIN, WEET ALL EXPOSED SOIL, FREQUENTLY EXPOSED TO PREVENT SIGNIFICANT AMOUNTS OF DUST FROM LEAVING THE SITE. STREET SWEEPING ON ADJACENT OR NEARBY STREETS MAY BE REQUIRED TO CONTROL THE EXPOSURE OF EXCESS DUST AND DIRT.
10. NO LAND CLEARING, GRADING, OR EXCAVATING SHALL TAKE PLACE BETWEEN OCTOBER 15 & APRIL 15 UNLESS A SEPARATE WRITER DOWING PERMIT IS ISSUED BY THE PLANNING DEPARTMENT. DURING CONSTRUCTION, DISTURBED AREAS SHALL BE PROTECTED BY MAINTAINING AROUND PLANTING OF NATIVE VEGETATION OF ADJACENT PROPERTY. BEFORE COMPLETION OF THE PROJECT ANY EXPOSED SOIL OR DISTURBED AREAS SHALL BE PERMANENTLY PROTECTED FROM EROSION.

## ABBREVIATIONS

AC	ASPHALT CONCRETE	FL	FLOWLINE	S	SLOPE
ADD	ADJUSTMENT	FS	FRESH SURFACE	SD	STORM DRAIN
BC	BEGIN CURVE	GR	GRADE BROW	TD	TOP CURB
BOT.	BOTTOM	INT	INTERSECT	TF	TOP OF FLOODING
CL	CENTERLINE	LF	LINEAL FEET	TO	TOP OF GRADE
CD	CURB DRAIN	PC	POINT OF BEGINNING CURVE	TV	TOP OF WALL
EG	EXISTING GROUND	PRC	POINT OF REVERSE CURVE		
FG	FINISHED GRADE	RC	RELATIVE COMPACTION		

## BENCH MARK

IS SANTA CRUZ COUNTY BENCH MARK NO. 504, A SET CONCRETE MONUMENT WITH BRASS CAP LOCATED 40' WEST OF STATE PARK DRIVE AND 20' NORTH OF S.P.A.R. RAILROAD TRACKS. ELEVATION = 130.23'.

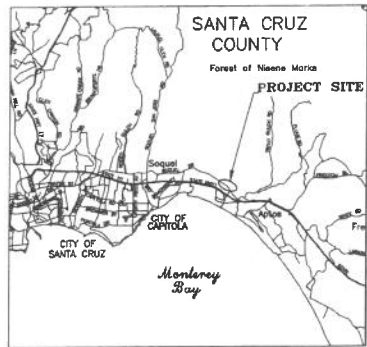
## EARTH WORK

TOTAL CUT = 540 CUBIC YARDS  
TOTAL FILL = 80 CUBIC YARDS  
NET = 460 C.Y. EXPORT  
DRAINAGE VOLUMES INCLUDE EXCAVATION FOR THE NEW ASPHALT STRUCTURAL SECTION.

THE CONTRACTOR SHALL POSSESS A CLASS "A" LICENSE AT THE TIME THE CONTRACT IS AWARDED.

# COUNTY OF SANTA CRUZ DEPARTMENT OF PUBLIC WORKS PROJECT PLANS FOR CONSTRUCTION ON APTOS LIBRARY PARKING LOT EXPANSION PROJECT

To be supplemented by Standard Plans dated May 2006



VICINITY MAP  
NOT TO SCALE

DIST	COUNTY	ROUTE	POST MILE TOTAL PROJECT	SHEET NO.	TOTAL SHEETS
02	SCR	2416		C1	8



*SEB* 8/11/08  
Senior Design Engineer  
Registered Civil Engineer



*[Signature]* 8-11-08  
Assistant Director of Public Works  
Transportation Engineering Division  
Registered Civil Engineer



*[Signature]* 8-18-08  
Director of Public Works  
Registered Civil Engineer



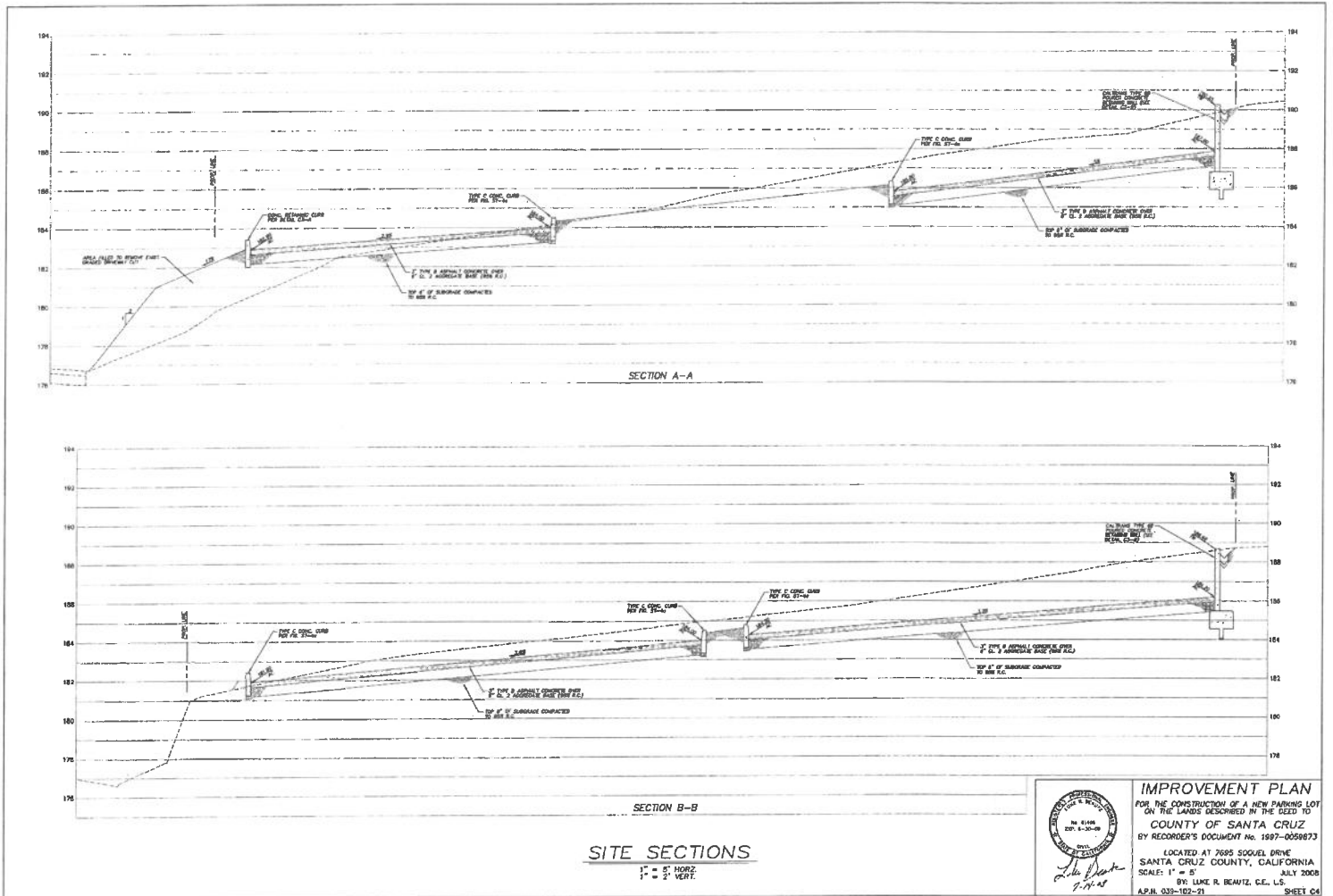
*[Signature]*  
Chair, Board of Supervisors

August 26, 2008  
Approved by Board of Supervisors

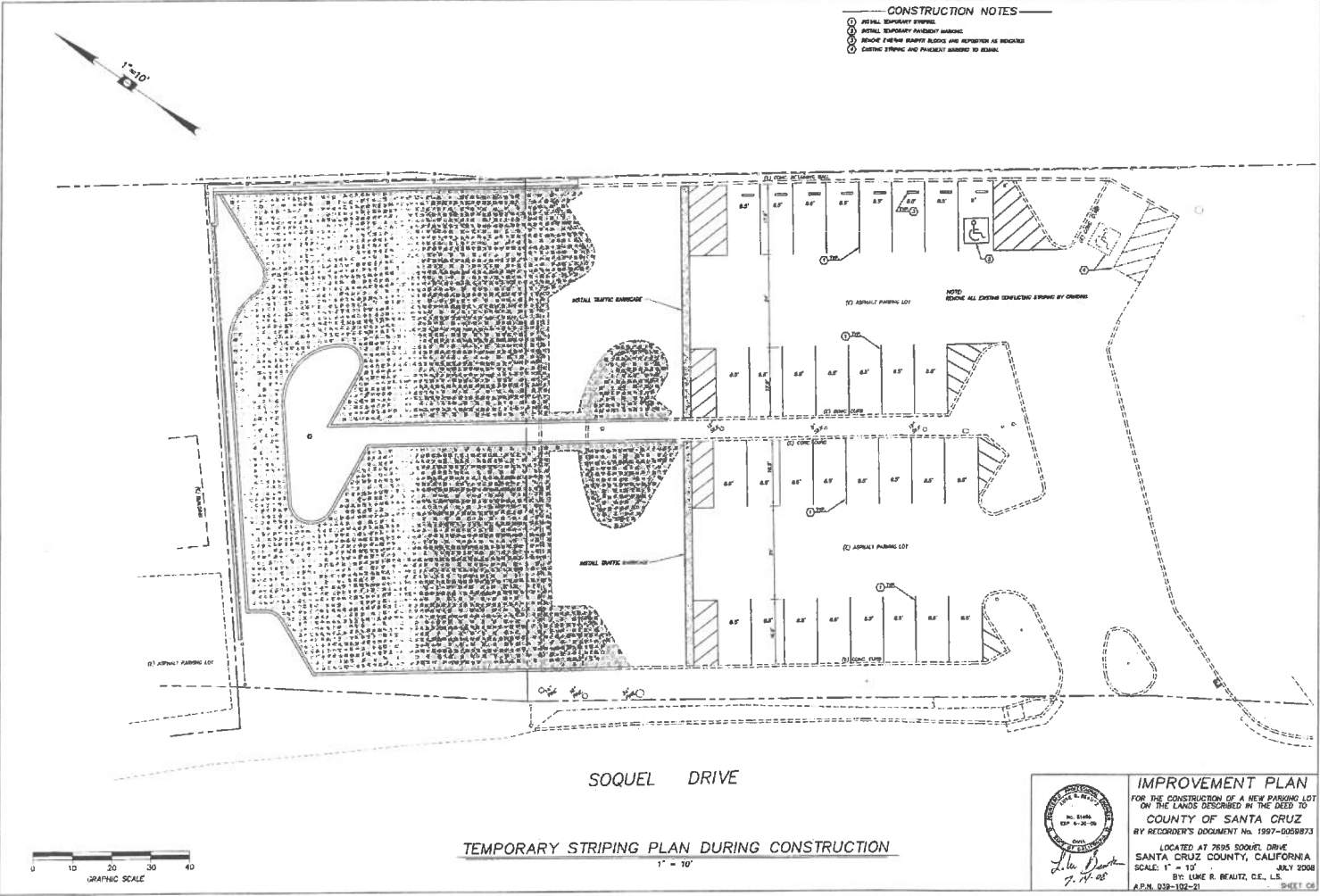
County Job No. 63101



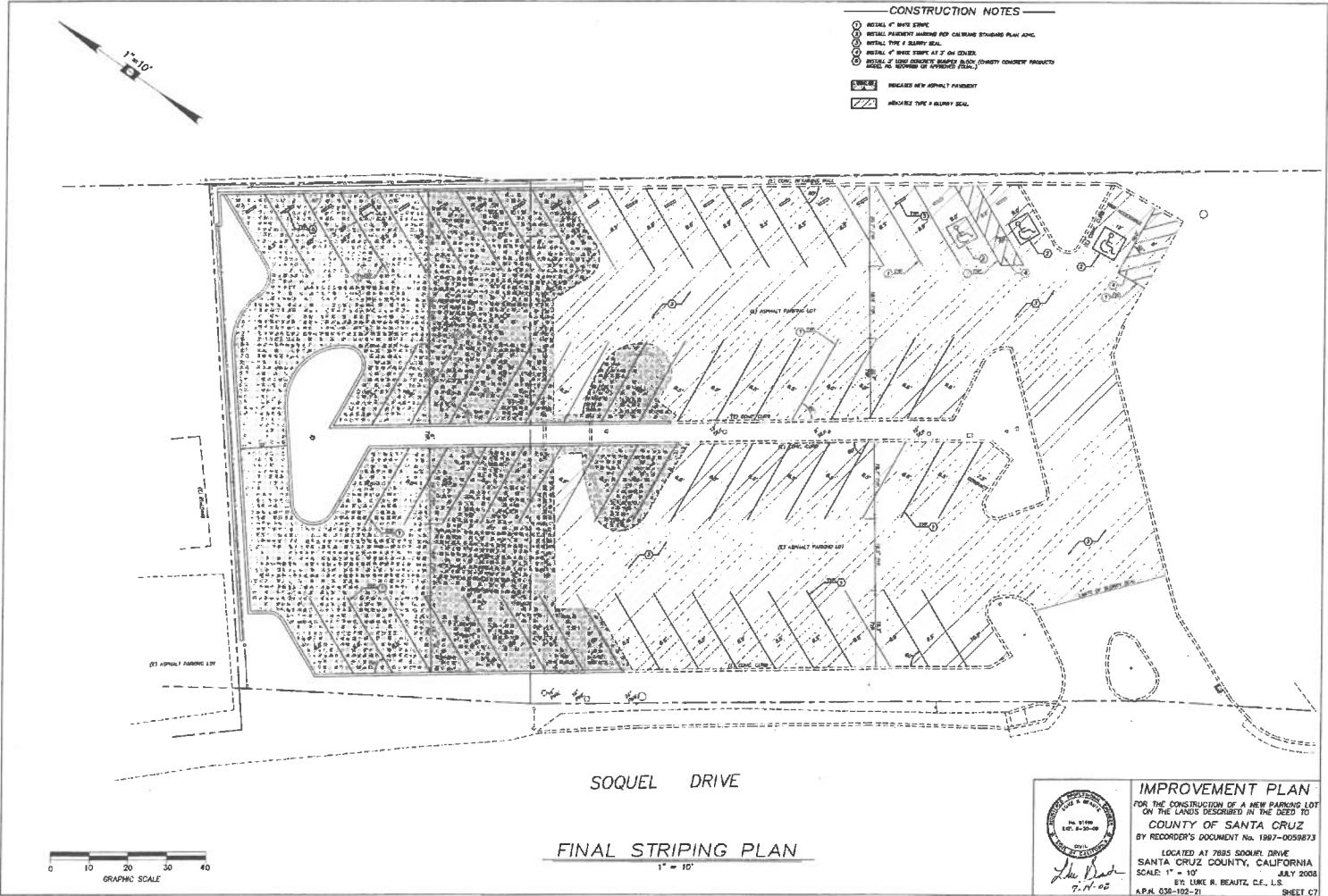












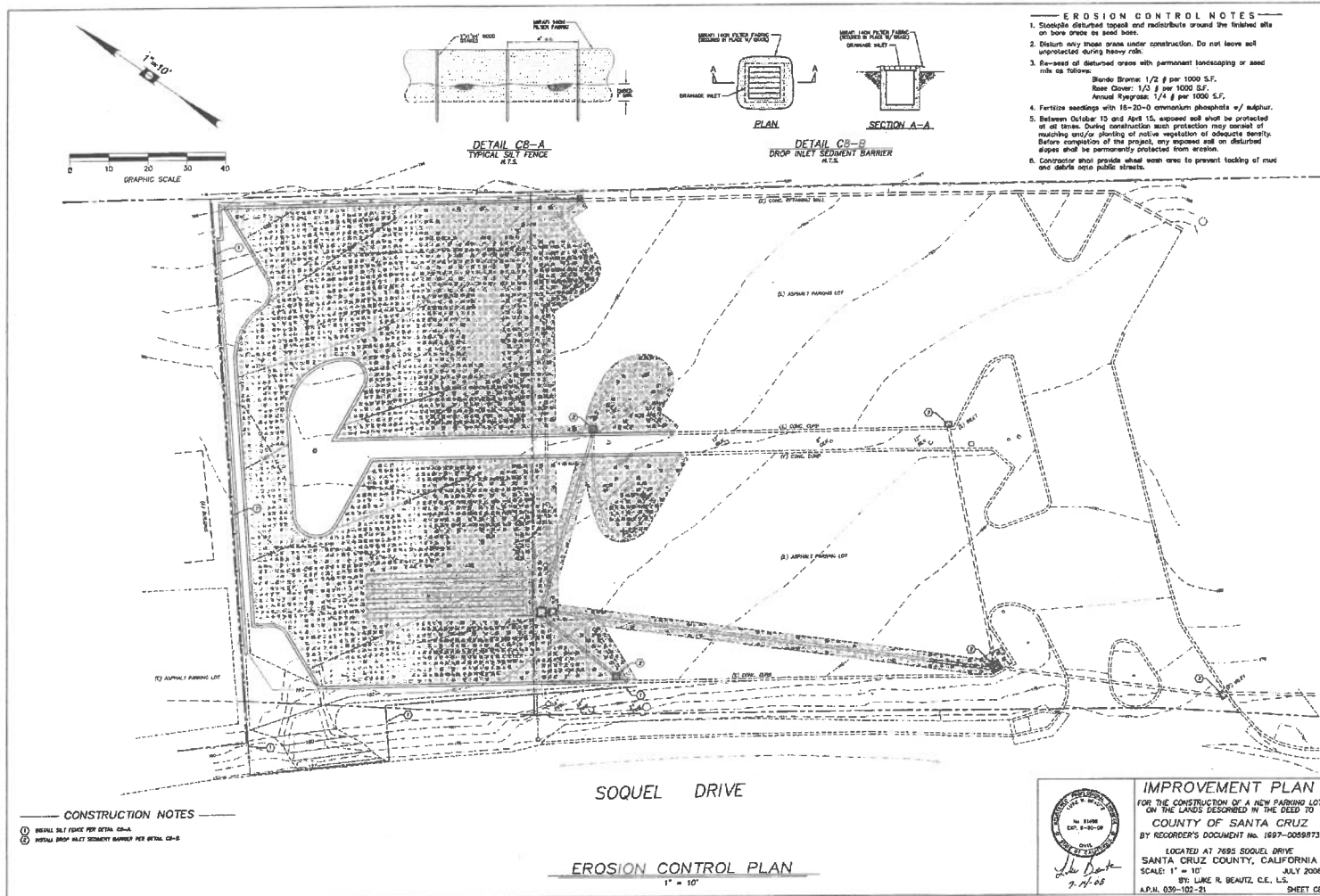


EXHIBIT "C"  
SOLAR PPA AND PPA LEASE

DS



## SITE LEASE AGREEMENT

This Site Lease Agreement (“Agreement”) made and entered into as of \_\_\_\_\_, 2023 (the “Effective Date”), between Nobell Energy Solutions, LLC, a California limited liability company (“Tenant”) and the County of Santa Cruz, CA, Department of Community Development and Infrastructure, (“Landlord”).

**WHEREAS**, Concurrently herewith Landlord and Tenant have entered into that certain Solar Power Purchase Agreement (“PPA”) wherein Tenant has agreed to develop, finance, install, own, operate, maintain and repair a solar energy facility, as more particularly described in Exhibit “B” of the PPA (the “System”), on the Site (as defined in Section 1 below) and Landlord has agreed to lease the Site, and to provide certain access rights, to Tenant for such purpose. Landlord has also agreed to purchase from Tenant energy generated by the System in accordance with the term of the PPA.

**WHEREAS**, Landlord currently owns the real property more particularly described on Exhibit “A” attached hereto (“Property”) and all structures (“Buildings”) and other improvements (“Improvements”) located thereon other than the System.

**WHEREAS**, in order to carry out the terms of the PPA, and to enable Landlord to enjoy its rights and perform its obligations under the PPA, Landlord agrees to lease the Site (as defined below) to Tenant on the terms and conditions set forth below.

**NOW, THEREFORE**, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Tenant and Landlord hereby agree as follows:

### 1. LEASE

Landlord does hereby lease to Tenant, and Tenant hereby leases from Landlord, in accordance with the terms and conditions set forth herein, a portion of the Property consisting of approximately 10,000 square feet of roof top space as shown on the site plan attached hereto as Exhibit “B” (the “Site”) where the System will be installed. At the completion of the installation of the System and supporting infrastructure, Tenant shall provide Landlord with “as built” plans for the System. Landlord hereby also grants to Tenant non-exclusive right of way across or through the Property to the Site as may be reasonably required for (i) the delivery, installation, operation, maintenance and repair of the System; (ii) utility lines, pipes and conduit for the transmission of electricity or otherwise serving the System; and (iii) as may be otherwise reasonably required by Tenant in connection with this Agreement and the System. For the avoidance of doubt, the System will have a right to exist on the Host Customer’s roof, alongside or inside the Host Customer’s building as wiring inside of conduit, and inside the Host Customer’s electrical room. All plans for any modifications to the Site will be subject to the prior review and approval of Landlord, its architect or other professional advisors, which approval will not be unreasonably withheld, conditioned or delayed.

### 2. RENT

Tenant hereby covenants to pay Landlord, on or before the Service Commencement Date (as defined in the PPA), as and for rent of the Site for the Term (as defined in paragraph 8(a) below), the sum of One Dollar (\$1.00) per year.

### **3. SYSTEM CONSTRUCTION**

(a) Installation. Subject to the approval rights set forth below, Landlord hereby consents to the construction and installation of the System, including, without limitation, solar panels, mounting substrates or supports, wiring and connections, power inverters, service equipment, metering equipment and utility interconnections in accordance with the PPA. Tenant will be solely responsible for obtaining all necessary permits and approvals for such installation and for compliance with all requirements of federal, state or local law. All plans for any modifications to the Site will be subject to the prior review and approval of Landlord, its architect or other professional advisors, which approval will not be unreasonably withheld.

(b) System Support. Landlord has provided all plans and other information required by Tenant to determine the rooftops Buildings on which the System will be installed have sufficient structural strength and integrity to support the System in accordance with all applicable building codes without any further modification or improvements to the Site by Landlord (unless otherwise provided for in Exhibit “B”). In the event that any modifications or improvements are required in connection with the installation of the System, it will be at the sole cost and expense of Tenant.

### **4. SYSTEM INSTALLATION, OPERATION AND OWNERSHIP**

(a) Tenant Rights. Tenant shall have the right from time to time during the term hereof:

- (i) to construct, install and operate the System on the Site;
- (ii) to maintain, clean, repair, replace and remove part or all of the System;
- (iii) to add or remove equipment as needed provided that there is no material change in the character or appearance of the Site;
- (iv) to access the Site in accordance with Section 5;
- (v) to perform (or cause to be performed) all tasks necessary or appropriate, as reasonably determined by Tenant, to carry out the activities set forth in this Section 4 and in the PPA; and
- (vi) to install higher efficiency equipment or additional equipment as permitted by the PPA.

(b) Transfer of Property. Landlord acknowledges and agrees that Tenant or Tenant’s affiliate is the exclusive owner and operator of the System, and that the System may not be sold, leased, assigned, mortgaged, pledged or otherwise alienated or encumbered (collectively, a “Transfer”) with the fee interest or leasehold rights to the Property. Landlord shall not Transfer

the Property unless Landlord shall have given Tenant at least ten (10) days' prior written notice thereof, which notice shall identify the Transferee, the Property to be so Transferred and the proposed date of Transfer. Landlord agrees that this Agreement and the rights granted in Section 1 of this Agreement shall run with the Property and survive any Transfer of any of the Property. Landlord shall cause any Transferee to acknowledge and consent to be obligated under the terms herein, and acknowledge Tenant's rights in the Site as set forth herein including, without limitation, an acknowledgement by such Transferee that it has no interest in the System and shall not gain any interest in the System by virtue of the Landlord's Transfer.

## **5. ACCESS TO SITE**

Tenant will give Landlord reasonable written or telephonic notice before any entry onto the Site by Tenant's employees, agents or contractors. Landlord will provide Tenant access to the System and the Site for the purposes set forth in Section 4 hereof. Notwithstanding anything to the contrary in this Agreement, Tenant shall be permitted to access the Site twenty-four (24) hours a day, seven (7) days a week for *emergency purposes*, as reasonably determined by Tenant. Within twenty-four (24) hours of such emergency access, Tenant shall provide Landlord with a written explanation of the nature of the emergency. Non-emergency access shall be limited to normal business hours (i.e., Monday through Friday, excluding holidays, between the hours of 8:00 am. and 6:00 p.m.).

## **6. REPRESENTATIONS AND WARRANTIES, COVENANTS OF LANDLORD**

(a) Authorization and Validity. The execution and delivery by Landlord of, and the performance of its obligations under, this Agreement have been duly authorized by all necessary action, do not and will not require any further consent or approval of any other person, and do not contravene any provision of, or constitute a default under, any indenture, mortgage or other material agreement binding on Landlord or any valid order of any court, or regulatory agency or other body having authority to which Landlord is subject. This Agreement constitutes a legal and valid obligation of Landlord, enforceable against Landlord in accordance with its terms.

(b) Landlord's Interest in Property. Landlord represents, warrants and covenants that Landlord has lawful authorization to use and occupy the Property and Buildings and Improvements thereon; and that Tenant shall have quiet and peaceful possession of the Site, free from any claim of any entity or person of superior title thereto without hindrance to or interference with or molestation of Tenant's quiet enjoyment thereof, throughout the term of this Agreement.

(c) No Interference with and Protection of System. Landlord represents and warrants to Tenant that there are no circumstances known to Landlord and commitments to third parties that may damage, impair or otherwise adversely affect the System or its construction, installation or function (including activities that may adversely affect the System's exposure to sunlight). Landlord will not initiate, conduct or permit activities on, in or about the Site or the Property that have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the System (including activities such as, but not limited to, the growth of trees or other vegetation, that may adversely affect the System's exposure to sunlight). Landlord shall take all reasonable steps

to limit access to the Site to Tenant and Tenant's employees, invitees, agents and representatives. Landlord shall have no obligation to provide security for the System.

(d) Mortgage Subordination. Landlord covenants that it will obtain a subordination, non-disturbance and attornment agreement ("SNDA") from any third party who now has or may in the future obtain an interest in the Property, including, without limitation, any lenders to Landlord or any lenders to the fee title owner, as applicable. Such SNDA shall (i) acknowledge and consent to the Tenant's rights in the Site and the Property, (ii) acknowledge that such third party has no interest in the System and shall not gain any interest in the System by virtue of the parties' performance or breach of this Agreement, (iii) subordinates any lien such third party may have in and to the Property to this Agreement, and (iv) acknowledge that any such third party shall not disturb Tenant's use and enjoyment of the Site in accordance with the terms of this Agreement should such third party (or such third party's successors-in-interest) acquire title to the Property through foreclosure, a deed in lieu, or otherwise.

(e) Utilities. Landlord shall provide Tenant with Station Power during the term of this Agreement provided the cost to Landlord for the same does not exceed ten dollars (\$10.00) in any calendar month. For purposes of this Agreement, "Station Power" shall mean electric energy consumed in the start-up and operation of the System, which is distinct from the alternating current output of the System.

(f) Insolation. Landlord acknowledges and agrees that access to sunlight ("insolation") is essential to the value to Tenant of the rights granted hereunder and is a material inducement to Tenant in entering into this Agreement. Accordingly, Landlord shall not permit any interference with insolation on and at the Site. Without limiting the foregoing, Landlord shall not construct or permit to be constructed any structure on the Property that could adversely affect insolation levels, or permit the growth of foliage on the Property that could adversely affect insolation levels. If Landlord becomes aware of any potential development or other activity on adjacent or nearby properties that could diminish the insolation to the Site, Landlord shall advise Tenant of such information and reasonably cooperate with Tenant at no cost to Landlord in measures to preserve existing levels of insolation at the Site. Notwithstanding any other provision of this Agreement, the Parties agree that (i) Tenant would be irreparably harmed by a breach of the provisions of this Section 6(f), (ii) an award of damages would be inadequate to remedy such a breach, and (iii) Tenant shall be entitled to equitable relief, including specific performance, to compel compliance with the provisions of this Section 6(f).

(g) Hazardous Materials. Landlord represents and warrants that to the best of Landlord's knowledge with no obligation to investigate the same, there are no Hazardous Materials (as defined herein) on the Property that would adversely affect the construction, installation or operation of the System. If Landlord becomes aware of the presence of any Hazardous Materials that would adversely affect the construction, installation or operation of the System, Landlord shall promptly notify Tenant of the type and location of such Hazardous Materials in writing. Landlord agrees to assume full responsibility for (and protect, indemnify and defend Tenant against) any liability or cleanup obligations for any contamination or pollution or breach of Environmental Laws related to the Property, unless, but only to the extent, attributable to the actions of Tenant. For purposes of this Agreement, "Hazardous Materials" means and includes each substance

designated as a hazardous waste, hazardous substance, hazardous material, pollutant, contaminant or toxic substance or as designated with words of similar meaning and regulatory effect under any Environmental Law, petroleum and petroleum products or derivatives, and any other substance for which liability or standards of conduct may be imposed under Environmental Law. For purposes of this Agreement, “Environmental Law” means the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. § 1471 et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 2601 through 2629; and all laws of any governmental authority having jurisdiction over the Property or the Site addressing pollution or protection of the environment and all amendments to such laws and all regulations implementing any of the foregoing.

(h) Liens. Landlord represents and warrants to Tenant that there are no liens, security interests or other encumbrances on the Property that to its actual knowledge would affect the System. Landlord covenants to Tenant that it will not directly or indirectly cause, create, incur, assume or suffer to exist any mortgage, pledge, lien (including mechanics', laborers' or materialmen's liens), charge, security interest, encumbrance or claim of any nature (“Liens”) on or with respect to all or a part of the System or any of Tenant’s interest therein. If Landlord breaches its obligations under this Section 6(h), it shall immediately notify Tenant in writing, shall promptly cause such Lien to be discharged and released of record without cost to Tenant, and shall defend and indemnify Tenant against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing such Lien. If Landlord shall fail to remove and discharge any Lien as required under this Section 6(h) within ten (10) days following written notice by Tenant, then, in addition to any other right or remedy of Tenant, Tenant may, but shall not be obligated to, discharge the same, either by paying the amount claimed to be due, or by procuring the discharge of such Lien by depositing in a court a bond or the amount claimed or otherwise giving security for such claim, or by procuring such discharge in such manner as is or may be prescribed by law. Landlord shall, within 10 days after demand therefor by Tenant, pay to Tenant an amount equal to all reasonable costs and expenses incurred by Tenant in connection with the exercise by Tenant of the foregoing right to discharge any Lien, together with interest thereon from the date of each such expenditure at the maximum rate permitted by law.

(i) Reports, Plans and Studies. With respect to the reports, plans and studies Landlord has provided Tenant relating to the Property, or the Buildings or Improvements thereon, Landlord represents and warrants to Tenant that it is actually unaware, without duty of inquiry, of (a) any material incorrect or omitted fact or (b) a false or misleading opinion or conclusion contained therein.

(j) Consent and Non-Disturbance Letter. Landlord covenants that it will deliver to Tenant’s lender the landlord’s agreement substantially in the form set forth on Exhibit “C”.

## **7. REPRESENTATIONS AND WARRANTIES, COVENANTS OF TENANT**



(a) Authorization and Validity. The execution and delivery by Tenant of, and the performance of its obligations under, this Agreement have been duly authorized by all necessary action, do not and will not require any further consent or approval of any other person, and do not contravene any provision of, or constitute a default under, any indenture, mortgage or other material agreement binding on Tenant or any valid order of any court, or regulatory agency or other body having authority to which Tenant is subject. This Agreement constitutes a legal and valid obligation of Tenant, enforceable against Tenant in accordance with its terms.

(b) Due Diligence; AS-IS. Tenant acknowledges that it has conducted its own investigation of the suitability of the Site for the System and is not relying on any representation or warranty of Landlord except as specifically set forth in this Agreement in making its decision to enter into this Agreement.

(c) Hazardous Materials. Tenant will not use or bring any Hazardous Materials to the Property or the Site in connection with its installation, operation or maintenance of the System unless such Hazardous Materials are routinely and customarily used in the construction, operation, maintenance or repairs of photovoltaic solar power generation systems. Tenant agrees to assume full responsibility for (and protect, indemnify and defend Landlord against) any liability or clean-up obligations for any contamination or pollution or breach of Environmental Laws directly caused by Hazardous Materials brought onto the Property by Tenant or its employees, contractors, or representatives.

(d) Compliance with Law. Tenant will install, operate and maintain the System and undertake all of its obligation under this Agreement in compliance with the requirements of all applicable federal, state and local laws, rules, regulations or ordinances.

(e) Liens. Tenant will not directly or indirectly cause, create, incur, assume or suffer to exist any Liens on or with respect to all or a part of the Property or Site or any of Landlord's interest therein. If Tenant breaches its obligations under this Section 7(e), it shall immediately notify Landlord in writing, shall promptly cause such Lien to be discharged and released of record without cost to Landlord, and shall defend and indemnify Landlord against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing such Lien. If Tenant shall fail to remove and discharge any Lien as required under this Section 7(e) within ten (10) days following written notice by Landlord, then, in addition to any other right or remedy of Landlord, Landlord may, but shall not be obligated to, discharge the same, either by paying the amount claimed to be due, or by procuring the discharge of such Lien by depositing in a court a bond or the amount claimed or otherwise giving security for such claim, or by procuring such discharge in such manner as is or may be prescribed by law. Tenant shall, within 10 days after demand therefor by Landlord, pay to Landlord an amount equal to all reasonable costs and expenses incurred by Landlord in connection with the exercise by Landlord of the foregoing right to discharge any Lien, together with interest thereon from the date of each such expenditure at the maximum rate permitted by law.

## **8. TERM; EVENT OF DEFAULT**

(a) Term. The term of this Agreement (“Term”) shall commence on the Effective Date, and terminate on the date that is ninety (90) days after the termination of the PPA to allow for the orderly removal of the System.

(b) Removal. Upon the expiration of the Term or the termination of this Agreement for any reason, Tenant will promptly dismantle, pack and remove the System from the Site within the period specified above and repair any damage caused by such removal. If Tenant fails to undertake such action within thirty (30) days written notice from Landlord, then Landlord may arrange to have the System removed at Tenant’s sole cost and expense.

(c) Event of Default. If either party hereto fails to cure a material breach of this Agreement within thirty (30) days after written notice from the non-defaulting Party, such uncured breach shall be an event of default (“Event of Default”) under this Agreement; provided, however, that the cure period shall be extended by the number of days during which the defaulting Party is prevented from taking curative action solely by Force Majeure if the defaulting Party had begun curative action and was proceeding diligently, using commercially reasonable efforts, to complete such curative action. Upon the occurrence of an Event of Default, in addition to any other rights and remedies available to the non-defaulting Party at law or in equity, such non-defaulting Party shall have the option to terminate this Agreement upon written notice to the defaulting Party.

## **9. DISPUTE RESOLUTION AND ARBITRATION**

In the event that there is any controversy, claim or dispute between the parties hereto arising out of or related to this Agreement, then either Tenant or Landlord may invoke the dispute resolution procedure set forth in Section 14.1 of the PPA.

## **10. INSURANCE**

Each of Landlord and Tenant shall obtain and maintain the insurance coverages required under the PPA.

## **11. TAXES**

Landlord shall pay all (a) real and personal property taxes relating to the Property on which the Site is situated, (b) taxes computed upon the basis of the net income or payments derived from the Property by Landlord or the owner of any interest therein, and (c) taxes, fees, service payments, excises, assessments, bonds, levies, fees or charges of any kind which are adopted by any public authority after the Effective Date. The Tenant agrees to pay all ad valorem taxes and related property taxes, if any, relating to the System as provided in the PPA.

## **12. LIABILITY AND INDEMNITY.**

The Liability and indemnity provisions of Section 12 of the PPA shall apply to this Agreement.

### 13. ASSIGNMENT.

This Site Lease may only be assigned in connection with a permitted transfer or assignment of the PPA.

### 14. MISCELLANEOUS

(a) Amendment. This Agreement may be amended only in writing signed by Tenant and Landlord or their respective successors in interest.

(b) Notices. All notices will be given in the manner specified in the PPA.

(c) Waiver. The waiver by either party of any breach of any term, condition, or provision herein contained shall not be deemed to be a waiver of such term, condition, or provision, or any subsequent breach of the same, or any other term, condition, or provision contained herein. Any such waiver must be in a writing executed by the party making such waiver.

(d) Remedies Cumulative. No remedy herein conferred upon or reserved to Tenant or Landlord shall exclude any other remedy herein or by law provided, but each shall be cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

(e) Headings. The headings in this Agreement are solely for convenience and ease of reference and shall have no effect in interpreting the meaning of any provision of this Agreement.

(f) Choice of Law. This Agreement shall be construed in accordance with the laws of the State of California (without regard to its conflict of laws principles). Venue shall be Santa Cruz County.

(g) Binding Effect. This Agreement and its rights, privileges, duties and obligations shall inure to the benefit of and be binding upon each of the parties hereto, together with their respective successors and permitted assigns.

(h) Counterparts. This Agreement may be executed in counterparts, which shall together constitute one and the same agreement. Facsimile signatures shall have the same effect as original signatures and each party consents to the admission in evidence of a facsimile or photocopy of this Agreement in any court or arbitration proceedings between the parties.

(i) Entire Agreement. This Agreement (including the exhibits, any written schedules, supplements or amendments) along with the PPA represents the full and complete agreement between the parties hereto with respect to the subject matter contained herein and supersedes all prior written or oral agreements between said parties with respect to said subject matter.

(j) Further Assurances. Upon the receipt of a written request from the other party, each party shall execute such additional documents (e.g., utility interconnection agreement), instruments and assurances and take such additional actions as are reasonably necessary and

desirable to carry out the terms and intent hereof. Neither party shall unreasonably withhold, condition or delay its compliance with any reasonable request made pursuant to this section.

(k) Estoppel Certificate. From time to time, upon written request by Tenant or Landlord (or their respective lenders), the other party shall provide within ten (10) days thereafter an estoppel certificate attesting, to the knowledge of Landlord or Tenant of the other party's compliance with the terms of this Agreement or detailing any known issues of noncompliance.

(l) Attorneys' Fees. If any action shall be instituted between Tenant and Landlord in connection with this Agreement, each party shall bear its own attorney's fees and costs.

**IN WITNESS WHEREOF**, the duly authorized representatives of the Parties have each executed this Site Lease Agreement as of the Effective Date.

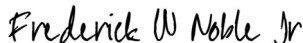



Nobell Energy Solutions, LLC (“Contractor”)	COUNTY OF SANTA CRUZ (“County”)
<p>[Signature of person signing for Contractor]</p> <p>DocuSigned by:    56BFEB170FDE4FC...</p> <p>Frederick W. Noble Jr. Date</p>	<p>Matt Machado</p> <p>Deputy CAO, Director of Community Development and Infrastructure</p> <p>DocuSigned by:    50EBAC64454C48C...</p> <p>Matt Machado  3/30/2023  Date</p>
<p>Address: 2045 East Tahquitz Canyon Way  Palm Springs, CA 92262</p> <p>Telephone: (760) 837-7400</p> <p>Email: <a href="mailto:fritz@nobellenergy.com">fritz@nobellenergy.com</a></p>	<p>Approved as to Form:</p> <p>DocuSigned by:    40E85ACDEDAB42D...</p> <p>Office of County Counsel  Date 3/22/2023</p>
<p><b>DISTRIBUTION:</b>  Community Development and Infrastructure Contractor</p>	<p>Approved as to Insurance:</p> <p>DocuSigned by:    F88BB4ED1F11445...</p> <p>Risk Management  Date 3/22/2023</p>

EXHIBIT "A"

DESCRIPTION OF PROPERTY

The real property located in Santa Cruz County, State of California, commonly known as the Aptos Branch Library, identified by the municipal address of 7695 Soquel Drive, Aptos, CA 95003.

EXHIBIT “B”  
SITE PLAN

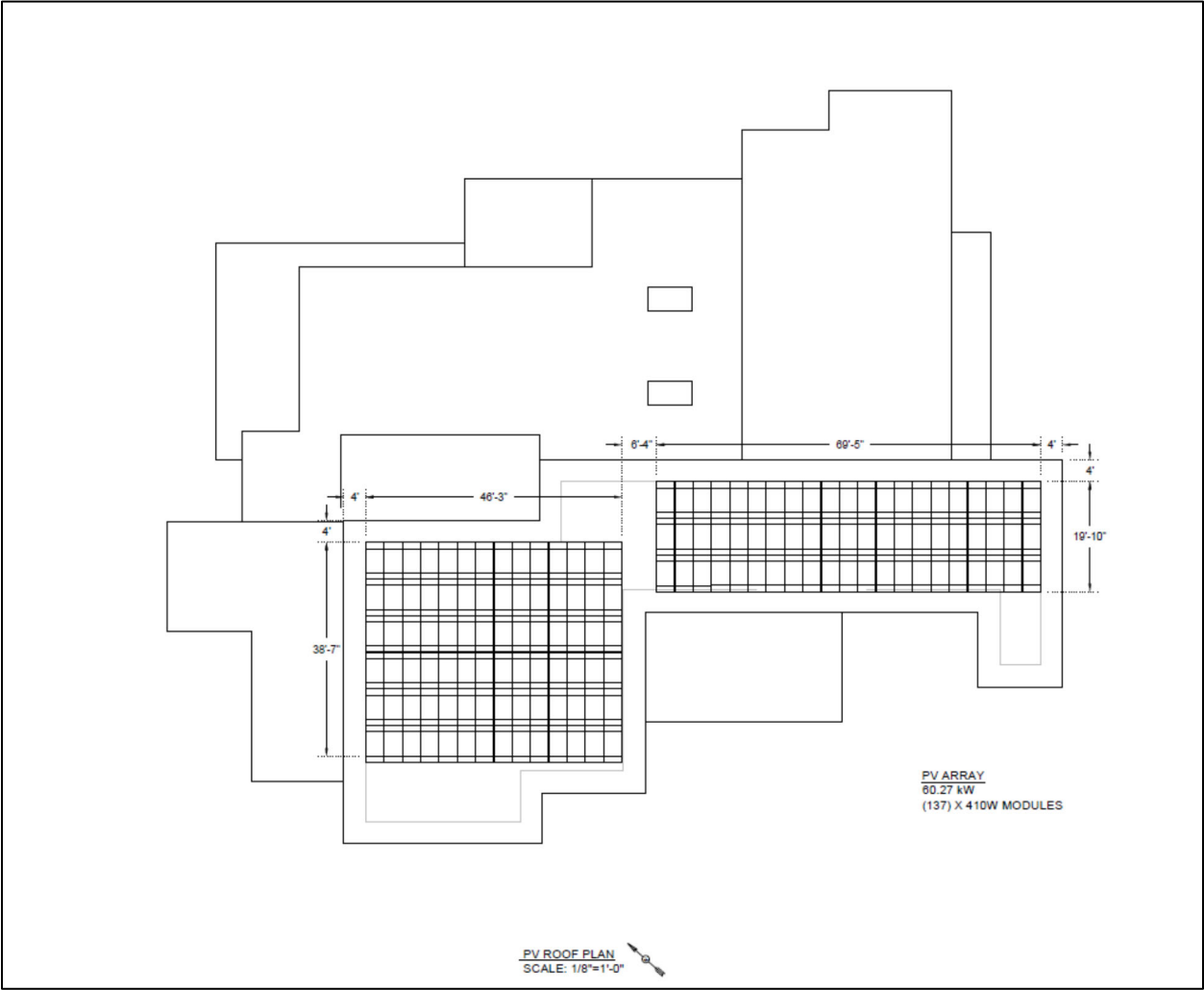


EXHIBIT "C"

LANDLORD AGREEMENT

Follows on the next page



<u>Borrower</u>	<u>Lender</u>	<u>Loan Number</u>
(Nobell project company name), LLC c/o Nobell Energy Solutions, LLC 2045 East Tahquitz Canyon Way 92243 Palm Springs, CA 92262	Community Valley Bank 1443 Main St. El Centro CA	

---

THIS LANDLORD’S AGREEMENT is entered into among (Nobell project company name), LLC (“Borrower”), whose address is 2045 E. Tahquitz Canyon Way, Palm Springs, CA 92262; Community Valley Bank (“Lender”), whose address is 1443 Main St, El Centro CA 92243; and XXXX, a XXXX company, whose address is 44 Montgomery Street, Suite 1300, San Francisco, CA 94104 (“Landlord”). Landlord and Borrower (as successor-in-interest to Nobell Energy Solutions, LLC, a California limited liability company) are parties to that certain Solar Power Purchase Agreement dated TBD (“PPA”), in part to allow Borrower (as the “Power Provider under the PPA) to construct and operate a solar system (“Solar System”) as also described below) upon the Premises, and to permit Landlord to purchase energy produced by the Solar System from Borrower. Under the Easement & PPA, Landlord possesses an option to purchase the Solar System from Borrower after the tenth anniversary of the Effective Date (as defined in the PPA) of the PPA (“Option”).

Under the PPA, Landlord has granted certain easements to the Borrower for purposes of effectuating the intent of the parties under the PPA. Borrower and Lender have entered into, or are about to enter into, an agreement whereby Lender has acquired or will acquire a security interest or other interest in the Collateral (described below). Some or all of the Collateral may be affixed or otherwise become located on the Premises. To induce Lender to extend the Loan to Borrower against such security interest in the Collateral and for other valuable consideration, Landlord hereby agrees with Lender and Borrower as follows.

COLLATERAL DESCRIPTION. The word “Collateral” means certain of Borrower’s personal property, equipment and fixtures (excluding fixtures not owned by Borrower) in which Lender has acquired or will acquire a security interest, including without limitation the following specific property:

Solar Panel and all related equipment with corresponding serial numbers and bar codes located at XXXX (“Solar System”) as more fully described in Exhibit “A” attached hereto and made a part

hereof; whether any of the foregoing is owned now or acquired later; all accessions, additions, replacements, and substitutions relating to any of the foregoing; and all records of any kind relating to any of the foregoing.

DISCLAIMER OF INTEREST. Landlord hereby consents to Lender's security interest (or other interest) in the Collateral and, with respect to the Lender, disclaims all interests, liens and claims which Landlord now has or may hereafter acquire in the Collateral but only through as the date Landlord exercises its option to purchase the Solar System. If Landlord does not exercise its option to purchase the Solar System, Landlord shall continue to disclaim all interests, liens and claims which Landlord has or may thereafter acquire in the Collateral. Landlord agrees that, so long as Landlord has not exercised the Option under the PPA, any lien or claim it may now have or may hereafter have in the Collateral will be subject to Lender's security interest (or other present or future interest) in the Collateral and will be subject to the rights granted by Landlord to Lender in this Agreement. Notwithstanding the foregoing, Landlord hereby agrees that any lien or claim it may hereafter have in the Collateral will be subject to Lender's security interest (or other present or future interest) in the Collateral and will be subject to the rights granted by Landlord to Lender in this Agreement until all amounts due and owing under the Loan and Related Documents are paid in full; provided, however, that Landlord's rights under the PPA, including Landlord's rights to exercise the Option under the terms set forth in the PPA, shall not in any way be diminished, reduced or negatively affected in any way whatsoever.

ENTRY ONTO PREMISES. Landlord and Borrower grant to Lender the right to enter upon the Premises for the purpose of removing the Collateral from the Premises or conducting sales of the Collateral on the Premises, in accordance with the Loan and Related Documents; provided, however, that Lender shall give both the Landlord and the borrower at least five (5) business days' prior written notice thereof. If Lender enters onto the Premises and removes the Collateral, Lender agrees with Landlord not to remove any Collateral in such a way that the Premises are damaged, without either repairing any such damage or reimbursing Landlord for the cost of repair.

LEASE DEFAULTS. Both Borrower and Landlord agree and represent to Lender that, to the best of their knowledge, there is no breach or offset existing under the PPA. Landlord agrees not to terminate the PPA, despite any default by Borrower, without giving Lender written notice of the default and an opportunity to cure the default within a period of sixty (60) days from receipt of the notice. If the default is one that cannot reasonably be cured by Lender (such as insolvency, bankruptcy, or other judicial proceedings against Borrower), then Landlord will not terminate the Easement & PPA so long as Landlord receives all sums due under the PPA for the period during which Lender is in possession of the Premises in connection with its

removal of Collateral from the Premises or conducting sales of the Collateral on the Premises.

MISCELLANEOUS PROVISIONS. This Agreement shall extend to and bind respective heirs, personal representatives, successors and assigns of the parties to this Agreement. The covenants of Borrower and Landlord respecting subordination of the claim or claims of Landlord in favor of Lender shall extend to, include, and be enforceable by any transferee or endorsee to whom Lender may transfer any claim or claims to which this Agreement shall apply. Lender need not accept this Agreement in writing or otherwise to make it effective. This Agreement shall be governed by and construed in accordance with the laws of the State of California. If Landlord is other than an individual, any agent or other person executing this Agreement on behalf of Landlord represents and warrants to Lender that he or she has full power and authority to execute this Agreement on Landlord's behalf. Lender shall not be deemed to have waived any rights under this Agreement unless such waiver is in writing and signed by Lender. Without notice to Landlord and without affecting the validity of this Landlord's Agreement, Lender may do or not do anything it deems appropriate or necessary with respect to the Loan, any obligors on the Loan, or any Collateral for the Loan; including without limitation extending, renewing, rearranging, or accelerating any of the Loan indebtedness.

AMENDMENTS. This Agreement, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

NO WAIVER BY LENDER. Lender shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of this Agreement shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by Lender, nor any course of dealing between Lender and Landlord, shall constitute a waiver of any of Lender's rights or of any Landlord's obligations as to any future transactions. Whenever the consent of Lender is required under this Agreement, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of the Lender.

SEVERABILITY. If a court of competent jurisdiction finds any provision of this Agreement to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or

unenforceable as to any circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Agreement. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Agreement shall not affect the legality, validity or enforceability of any other provision of this Agreement.

TERMINATION. This Agreement shall automatically terminate without further documentation required when all sums due under the Loan and Related Documents have been paid in full.

ADDITIONAL PROVISION. Lender and Landlord agree that if Borrower defaults under the Note or other loan documents, Lender will provide written notice specifying the event of default to Landlord and allow Landlord up to 30 days after Landlord's receipt of the notice to cure such default, in which case the default shall be waived by Lender. However, Landlord shall have no obligation to cure such default.

DEFINITIONS. The following capitalized words and terms shall have the following meanings when used in this Agreement. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Agreement shall have the meanings attributed to such terms in the Uniform Commercial Code:

Agreement. The word "Agreement" means this Landlord's Agreement, as this Landlord's Agreement may be amended or modified from time to time, together with all exhibits and schedules attached to this Landlord's Agreement from time to time.

Borrower. The "Borrower" means (insert Nobell project management company), a California limited liability company and includes all co- signers and co-makers signing any promissory note or other instrument evidencing the Loan and all their successors and assigns.

Collateral. The word "Collateral" means all of Borrower's right, title and interest to all the Collateral as described in the Collateral Description section of this Agreement.

Landlord. The word "Landlord" means Walnut Creek Mutual No. 58 and is used for convenience purposes only. Landlord's interest in the Premises may be that of a fee owner, lessor, sublessor or lienholder, or that of any other holder of an interest in the Premises which may be, or may become, prior to the interest

of Lender.

Lender. The word “Lender” means Community Valley Bank, its successors and assigns.

Loan. The word “Loan” means any and all loans and financial accommodations from Lender to Borrower whether now or hereafter existing, and however evidenced.

Premises. The word “Premises” means the real property located in XXXX County, State of XXXX, commonly known as XXXX.

Related Documents. The words “Related Documents” means all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Loan.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

BORROWER, AND LANDLORD ACKNOWLEDGE HAVING READ  
ALL THE PROVISIONS OF THIS LANDLORD'S AGREEMENT, AND  
BORROWER AND LANDLORD AGREE TO ITS TERMS. THIS  
AGREEMENT IS DATED XXXX.

BORROWER:

(insert Nobell project company name), LLC

BY: NOBELL Energy  
Solutions, LLC, a  
California limited  
company Manager of  
(insert Nobell project  
company name), LLC

By: \_\_\_\_\_  
Frederick W. Noble  
Jr.,  
Manager

LANDLORD:

LENDER:

---

XXXX,  
a XXXX company

Community Valley Bank

By:\_\_\_\_\_

By:\_\_\_\_\_

Name:\_\_\_\_\_

Name:\_\_\_\_\_

Title:\_\_\_\_\_

Title:\_\_\_\_\_

---




Certificate Of Completion

Envelope Id: 9A21EE5FD0ED4E9A935722F34B8FD9CA	Status: Completed
Subject: Complete with DocuSign: Aptos Library, Solar PPA Site Lease Agreement, FINAL.pdf	
Source Envelope:	
Document Pages: 20	Signatures: 1
Certificate Pages: 4	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelope Stamping: Enabled	Damon Adlao
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	701 Ocean Street
	Santa Cruz, CA 95060
	Damon.Adlao@santacruzcounty.us
	IP Address: 63.194.190.100

Record Tracking

Status: Original	Holder: Damon Adlao	Location: DocuSign
3/21/2023 4:32:44 PM	Damon.Adlao@santacruzcounty.us	
Security Appliance Status: Connected	Pool: FedRamp	
Storage Appliance Status: Connected	Pool: County of Santa Cruz	Location: DocuSign

Signer Events	Signature	Timestamp
Frederick W Noble Jr fritz@nobellenergy.com Security Level: Email, Account Authentication (None)	<div>DocuSigned by:  56BFEB170FDE4FC...</div> Signature Adoption: Pre-selected Style Using IP Address: 216.64.144.6	Sent: 3/21/2023 4:42:45 PM Viewed: 3/21/2023 4:45:25 PM Signed: 3/21/2023 4:47:29 PM Freeform Signing

Electronic Record and Signature Disclosure:  
Accepted: 3/21/2023 4:45:25 PM  
ID: 148f2b8a-afbc-433a-9a2e-4a10298a819d

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	3/21/2023 4:42:45 PM
Certified Delivered	Security Checked	3/21/2023 4:45:25 PM
Signing Complete	Security Checked	3/21/2023 4:47:29 PM
Completed	Security Checked	3/21/2023 4:47:29 PM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		



## **ELECTRONIC RECORD AND SIGNATURE DISCLOSURE**

From time to time, County of Santa Cruz (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

### **Getting paper copies**

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

### **Withdrawing your consent**

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

### **Consequences of changing your mind**

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

### **All notices and disclosures will be sent to you electronically**

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

### **How to contact County of Santa Cruz:**

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: [nada.algharib@santacruzcounty.us](mailto:nada.algharib@santacruzcounty.us)

### **To advise County of Santa Cruz of your new email address**

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at [nada.algharib@santacruzcounty.us](mailto:nada.algharib@santacruzcounty.us) and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

### **To request paper copies from County of Santa Cruz**

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to [nada.algharib@santacruzcounty.us](mailto:nada.algharib@santacruzcounty.us) and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

### **To withdraw your consent with County of Santa Cruz**

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to [nada.algharib@santacruzcounty.us](mailto:nada.algharib@santacruzcounty.us) and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

### **Required hardware and software**

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

### **Acknowledging your access and consent to receive and sign documents electronically**

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

By selecting the check-box next to 'I agree to use electronic records and signatures', you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify County of Santa Cruz as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by County of Santa Cruz during the course of your relationship with County of Santa Cruz.

Certificate Of Completion

Envelope Id: 12D80E21E5E54C20A1D86C6AE8032EEA

Status: Completed

Subject: Aptos Library Solar PPA Site Lease Agreement (14082) BOS 3/28/2023

Source Envelope:

Document Pages: 24

Signatures: 3

Certificate Pages: 5

Initials: 0

AutoNav: Enabled

Stamps: 1

Envelope Stamping: Enabled

Envelope Originator:

Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Blanca Martinez

701 Ocean Street

Santa Cruz, CA 95060

Blanca.Martinez@santacruzcounty.us

IP Address: 108.64.244.228

Record Tracking

Status: Original

Holder: Blanca Martinez

Location: DocuSign

3/21/2023 5:30:25 PM

Blanca.Martinez@santacruzcounty.us

Security Appliance Status: Connected

Pool: FedRamp

Storage Appliance Status: Connected

Pool: County of Santa Cruz

Location: DocuSign

Signer Events

Justin Graham

Justin.Graham@santacruzcounty.us

Reviewed as to form / Assistant County Counsel

County of Santa Cruz

Security Level: Email, Account Authentication (None)

Signature

DocuSigned by:

Justin Graham

40E85ACDEDAB42D...

Timestamp

Sent: 3/21/2023 5:34:02 PM

Viewed: 3/22/2023 12:12:42 PM

Signed: 3/22/2023 12:13:02 PM

Signature Adoption: Pre-selected Style

Using IP Address: 63.194.190.100

Electronic Record and Signature Disclosure:

Accepted: 3/1/2022 10:15:00 AM

ID: dd5bcf3a-9e05-49ae-af0f-0166e942a77f

Enrique Sahagun

Enrique.Sahagun@santacruzcounty.us

Risk Manager

County of Santa Cruz

Security Level: Email, Account Authentication (None)

Signature

DocuSigned by:

Enrique Sahagun

F88BB4ED1F11445...

Timestamp

Sent: 3/22/2023 12:13:04 PM

Resent: 3/22/2023 12:41:10 PM

Viewed: 3/22/2023 12:44:19 PM

Signed: 3/22/2023 12:45:04 PM

Signature Adoption: Pre-selected Style

Using IP Address: 63.194.190.100

Electronic Record and Signature Disclosure:

Accepted: 2/28/2022 5:38:23 PM

ID: 53dded50-e6e0-41af-93b9-11ee12d5835c

Blanca Martinez

blanca.martinez@santacruzcounty.us

Security Level: Email, Account Authentication (None)

Completed

Using IP Address: 108.64.244.228

Sent: 3/22/2023 12:45:06 PM

Viewed: 3/29/2023 3:19:43 PM

Signed: 3/29/2023 3:23:40 PM

Freeform Signing

Electronic Record and Signature Disclosure:

Accepted: 11/18/2022 8:22:16 AM

ID: 1a3d1a0c-fc88-45db-b467-4ea0f8c788ee

Matt Machado

Matt.Machado@santacruzcounty.us

Director of Community Development & Infrastructure

County of Santa Cruz

Security Level: Email, Account Authentication (None)

Signature

DocuSigned by:

Matt Machado

50EBAC84454C48C...

Timestamp

Sent: 3/29/2023 3:23:42 PM

Viewed: 3/30/2023 9:35:50 AM

Signed: 3/30/2023 9:37:02 AM


Signature Adoption: Pre-selected Style

Using IP Address: 63.194.190.100

Electronic Record and Signature Disclosure:

Accepted: 3/1/2022 8:22:46 AM

ID: 82550d6a-8dcd-4ff4-b394-1d902bcd64c7

Signer Events	Signature	Timestamp
CBD eSignature CBD.eSignature@santacruzcounty.us County of Santa Cruz Security Level: Email, Account Authentication (None)	  Using IP Address: 63.194.190.100	Sent: 3/30/2023 9:37:03 AM Viewed: 3/30/2023 9:45:50 AM Signed: 3/30/2023 9:45:59 AM Freeform Signing

**Electronic Record and Signature Disclosure:**  
Accepted: 3/1/2022 5:29:04 PM  
ID: c4e5a2a3-4d71-4795-ac63-16aaad036e28

In Person Signer Events	Signature	Timestamp
<b>Editor Delivery Events</b>	<b>Status</b>	<b>Timestamp</b>
<b>Agent Delivery Events</b>	<b>Status</b>	<b>Timestamp</b>
<b>Intermediary Delivery Events</b>	<b>Status</b>	<b>Timestamp</b>
<b>Certified Delivery Events</b>	<b>Status</b>	<b>Timestamp</b>
<b>Carbon Copy Events</b>	<b>Status</b>	<b>Timestamp</b>
Damon Adlao Damon.Adlao@santacruzcounty.us Project Manager, County of Santa Cruz County of Santa Cruz Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Accepted: 3/1/2022 12:07:59 PM ID: 7e9d164e-1692-4cdf-ade0-0140e3617888	<div>COPIED</div>	Sent: 3/30/2023 9:46:01 AM

Witness Events	Signature	Timestamp
<b>Notary Events</b>	<b>Signature</b>	<b>Timestamp</b>
<b>Envelope Summary Events</b>	<b>Status</b>	<b>Timestamps</b>
Envelope Sent	Hashed/Encrypted	3/21/2023 5:34:02 PM
Certified Delivered	Security Checked	3/30/2023 9:45:50 AM
Signing Complete	Security Checked	3/30/2023 9:45:59 AM
Completed	Security Checked	3/30/2023 9:46:01 AM
<b>Payment Events</b>	<b>Status</b>	<b>Timestamps</b>
<b>Electronic Record and Signature Disclosure</b>		

## **ELECTRONIC RECORD AND SIGNATURE DISCLOSURE**

From time to time, County of Santa Cruz (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

### **Getting paper copies**

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

### **Withdrawing your consent**

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

### **Consequences of changing your mind**

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

### **All notices and disclosures will be sent to you electronically**

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

### **How to contact County of Santa Cruz:**

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: [nada.algharib@santacruzcounty.us](mailto:nada.algharib@santacruzcounty.us)

### **To advise County of Santa Cruz of your new email address**

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at [nada.algharib@santacruzcounty.us](mailto:nada.algharib@santacruzcounty.us) and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

### **To request paper copies from County of Santa Cruz**

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to [nada.algharib@santacruzcounty.us](mailto:nada.algharib@santacruzcounty.us) and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

### **To withdraw your consent with County of Santa Cruz**

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to [nada.algharib@santacruzcounty.us](mailto:nada.algharib@santacruzcounty.us) and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

### **Required hardware and software**

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

### **Acknowledging your access and consent to receive and sign documents electronically**

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

By selecting the check-box next to 'I agree to use electronic records and signatures', you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify County of Santa Cruz as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by County of Santa Cruz during the course of your relationship with County of Santa Cruz.



DS



## **SOLAR POWER PURCHASE AGREEMENT**

This Solar Power Purchase Agreement (“PPA”) is made and entered into as of \_\_\_\_\_, 2023 (“Effective Date”), by and between Nobell Energy Solutions, LLC, a California limited liability company (“Power Provider”) and \_\_\_\_\_, a \_\_\_\_\_ (“Host Customer”). Each of Power Provider and Host Customer shall be referred to herein as a “Party” and collectively, as the “Parties”.

### **RECITALS**

**WHEREAS**, Host Customer owns and operates Aptos Library located on the real property identified by the municipal address of 7695 Soquel Drive, Aptos, California 95003 (“Property”); and

**WHEREAS**, Host Customer desires to have installed a 74 kW DC roof mounted solar photovoltaic power generation system in accordance with the specifications set forth in this PPA (“System”) on the Property in order to reduce its energy costs as well as its dependence on fossil fuel resources and to promote the generation of electricity from solar energy; and

**WHEREAS**, Host Customer and Power Provider have agreed to enter into a lease, which is attached hereto as Exhibit “A” (“Site Lease”) for that portion of the Property where the System will be located (the “Site”); and

**WHEREAS**, Power Provider has developed an ownership and financing structure as set forth in this PPA under which the Power Provider will design, install, own, operate, and maintain the System at no cost to Host Customer so long as Host Customer agrees to buy all the electricity generated from the System in accordance with the terms and conditions set forth in this PPA; and

**WHEREAS**, as part of this PPA and in consideration of the Site Lease, Power Provider and Host Customer intend that Power Provider will retain and be the beneficiary of all environmental credits (green tags), carbon credits, pollution credits, and all the other financial incentives and tax benefits generated by the development, operation, and ownership of the System.

**NOW, THEREFORE**, in consideration of the terms and conditions hereinafter set forth, and intending to be legally bound hereby, the Parties hereby covenant and agree as follows:

### **AGREEMENT**

#### **1. POWER PROVIDER’S DUTIES**

1.1 Construction of System. Power Provider shall have access to the Site to install, construct, test, service, maintain, and repair the System in accordance with the specifications and description set forth in Exhibit “B” attached hereto and incorporated herein. The Power Provider must obtain the Host Customer’s written approval of the System’s designs, plans and specifications prior to submitting such design, plans and specifications to the applicable governmental authorities for plan check, if applicable, and approval. Power Provider may hire licensed, independent contractors to design, build, and install the System. Such independent contractors may use subcontractors for any part or all of the services contracted by Power Provider. Notwithstanding the foregoing, Power Provider will remain solely responsible to Host Customer for all work performed by such independent contractors and

subcontractors. Power Provider and its contractors and subcontractors shall install the System in good and workmanlike manner. Power Provider will maintain and repair the System in a good and operable condition at all times hereunder which shall include cleaning the system consistent with Prudent Industry Practice (defined in Section 7.1 hereinbelow). Subject to the provisions of Section 8 and Section 12, if the System is damaged or destroyed for any reason, including theft, vandalism or other casualty, Power Provider shall be responsible to repair or replace the same as soon as reasonably practicable thereafter.

1.2 Removal of System. Upon the expiration of the Term, Power Provider shall remove all of the System from Host Customer's Property at Power Provider's sole expense; however, at Host Customer's sole discretion, and with greater than 1 year notice prior to expiration of the Term, Host Customer may notify Power Provider of its intent to Purchase the system per Exhibit D at the expiration of the term for a purchase price of \$1. In the event that this PPA is terminated pursuant to Section 7.2 or 7.3, Power Provider shall remove all of the System from Host Customer's Property at Power Provider's sole expense.

1.3 Compliance with Laws. The System shall conform with all Applicable Laws (as defined in Paragraph 2.4.5 hereinbelow), regulations and orders, including, without limitation, obtaining all permits or approvals required by any governmental entity. At no expense to Host Customer, Host Customer shall cooperate to promptly assist Power Provider in obtaining any and all permits or approvals required by any Governmental Authority.

1.4 Delivery of Electricity from Solar Panels to Host Customer. Power Provider shall provide all wiring from the System to the point at which the System connects to the Host Customer's existing building electrical system ("Connection Point") as identified in Exhibit "B" attached hereto and incorporated herein. Custody, control and ownership of electricity shall transfer from the Power Provider to the Host Customer at the Connection Point.

1.5 Interruptions in Delivery of Electricity. Power Provider may interrupt, reduce or discontinue the delivery of electricity for purposes of inspection, maintenance, repair, replacement, construction, installation, removal or alteration of the equipment used for the production or delivery of electricity. No such interruption shall last more than twenty-four (24) hours except for extraordinary or unanticipated repairs without the prior consent of Host Customer, which consent will not be unreasonably withheld, conditioned or delayed. Power Provider shall use reasonable efforts to give written notice to Host Customer of any expected interruption of delivery of electricity at least five (5) business days prior to the date of any interruption and shall use its reasonable efforts to inform Host Customer of the expected length of any interruption and to schedule such interruption to minimize disruption to Host Customer. Power Provider reserves the right to curtail the delivery of electricity if so directed by authorized governmental authorities, electric utilities or as necessitated by an emergency or immediate risk to the health and safety of persons or destruction of property. Power Provider shall use reasonable care to ensure the operation of the System and supply of electricity. However, the Parties explicitly acknowledge and understand that the System is comprised of intermittent generation facilities, and will not provide Host Customer with an uninterrupted supply of electricity at all times.

1.6 Repairs and Other System Disruptions. Given the duration of the term of this PPA, the Parties agree and expect that the Host Customer shall undertake repairs of its property, but not the System, during the term of this PPA. As such, the Parties agree that during the term of this PPA, Host Customer shall be afforded a total of twenty (20) working days ("Repair Time") during which Host

Customer may repair the Property and during which the System shall be removed and/or rendered non-operational as safety may so require in order for Host Customer to effectuate the repair. Such Repair Time shall not include Power Provider's time incurred to partially or completely disassemble and/or move the System as may be required by Host Customer to make repairs. Power Provider shall charge Host Customer for its costs incurred to disassemble or move the System for repairs/replacement work undertaken by Host Customer during the Repair Time. Host Customer shall not be obligated to make any payment to Power Provider during the Repair Time. In the event that Host Customer requires more time beyond the Repair Time ("Disruption Period"), Host Customer shall (i) pay Provider for all work required by Provider to disassemble or move the System; (ii) continue to make all Monthly Payments; and (iii) reimburse Provider for any other lost revenue during the Disruption Period, including any lost revenue associated with any reduced sales of Environmental Financial Attributes and any reduced Renewable Energy Credits. For the purpose of calculating lost revenue for such Disruption Period, electricity shall be deemed to have been produced at the average rate over the preceding twelve (12) months (or, if the disruption occurs within the first twelve (12) months of operation, the average over such period of operation).

1.7 Cost to Restore Service Following Interruption. Power Provider shall bear all costs associated with restoring service following any interruption of electricity as part of Power Provider's operation of the System; provided, however, that, if interruptions of electricity are caused directly by the actions or inactions of Host Customer, including but not limited to, Host Customer's additional repairs contemplated in the above-defined Disruption Period, then Host Customer agrees to bear the costs associated with the restoration of the delivery of electricity.

1.8 Ownership of System, Renewable Energy Credits and Environmental Financial Attributes. Ownership of the System shall vest in Power Provider for all purposes including depreciation and credits for federal and state tax purposes. Host Customer and Power Provider agree that the System shall at all times be personal property severable from the Property and shall not become a fixture. The Power Provider shall own all "Renewable Energy Credits" and all "Environmental Financial Attributes" relating to the System or the electricity generated by the System. "Renewable Energy Credits" shall mean those certificates (including Tradable Renewable Certificates), green-e tags, pollution credits, carbon offset credits, or other transferable indicia used to control pollution by providing economic incentives for achieving reductions in the emissions of pollutants, or indicating generation of a particular quantity of energy from a renewable energy source by a renewable energy facility attributed to the electricity during the Term created under a renewable energy, emission reduction, or other reporting program adopted by a Governmental Authority (as defined in Paragraph 2.4.5 hereinbelow), or for which a registry and a market exists (including but not limited to, as of the Effective Date are certificates issued by Green-e in accordance with the Green-e Renewable Electric Certification Program, National Standard Version 1.3 administered by the Center of Resource Solutions) or for which a market may exist at a future time. "Environmental Financial Attributes" shall mean all of the following financial rebates and incentives that is in effect as of the Effective Date or may come into effect in the future, excluding, however, any Renewable Energy Credits: (i) performance-based incentives under the California Solar Initiative, incentive tax credits or other tax benefits, and accelerated depreciation (collectively, "allowances"), howsoever named or referred to, with respect to any and all fuel, emissions, air quality, or other environmental characteristics, resulting from the use of solar generation or the avoidance of the emission of any gas, chemical or other substance into the air, soil or water attributable to the sale of Energy generated by the System; and (ii) all reporting rights with respect to such allowances.

1.9 Reporting of Ownership. Host Customer shall not report to any person that any Environmental Financial Attributes or the Renewable Energy Credits relating to the electricity generated by the System and/or the System belong to any person other than Power Provider. At the Power Provider's request, Host Customer shall execute all such documents and instruments reasonably necessary or desirable to effect or evidence Power Provider's right, title and interest in and to the Environmental Financial Attributes or Renewable Energy Credits, as the case may be, relating to the System or the electricity generated therefrom. If the standards used to qualify the Environmental Financial Attributes or Renewable Energy Credits to which such Party is entitled under this PPA are changed or modified, the Host Customer shall, at the Power Provider's request and at no cost to Host Customer, use reasonable efforts to cause the Environmental Financial Attributes or Renewable Energy Credits to comply with new standards as changed or modified.

1.10 Conditions to Power Provider's Obligations. Subject to the terms and conditions of this PPA, each of the following conditions precedent is required prior to Power Provider's obligations to: (a) commence construction and installation of the System; and (b) commence the delivery of electricity to Host Customer:

1.10.1 Necessary Governmental Approvals. Power Provider shall have received and retained where necessary, all applicable and material federal, state and local approvals, permits, licenses and authorizations necessary: (a) for the construction and installation of the System, prior to the commencement of construction and installation of the System; and (b) for the generation and sale of electricity to the Host Customer under this PPA, prior to the commencement of delivery of electricity to Host Customer.

1.10.2 Additional Consents and Approvals. Power Provider shall have obtained from all Parties any necessary easements, leases/leasebacks, licenses, consents and approvals and other rights Power Provider reasonably deems necessary or desirable for the construction and installation of the System, the production and delivery of electricity to the Connection Point, and the operation and maintenance of the System under this PPA.

1.10.3 Ownership of Approvals. All such permits and approvals in this Section 1.10 shall be owned and controlled by Power Provider. To the extent that any such permits or approvals must be obtained and/or owned by Host Customer, then Host Customer agrees that it will grant all material decision-making rights with respect to such permits and approvals to Power Provider, provided, however, that there is no cost or expense to Host Customer.

1.10.4 Diligence. Power Provider shall have had the opportunity to complete proper due diligence relating to Host Customer, including but not limited to legal, accounting, environmental and technical reviews. Such diligence shall also include visits by Power Provider to Host Customer's Property, meetings between Power Provider's management and Host Customer's management, and other measures deemed necessary by Power Provider.

1.10.5 No Material Changes. Power Provider determines that Host Customer's electricity requirements have remained consistent since the Effective Date of this PPA, and Host Customer shall not have experienced any other material changes, including changes in its load profile.

## 2. **HOST CUSTOMER'S DUTIES**

2.1 No Obstruction of System. Host Customer shall not install or permit to be installed on the Property (or any other property owned or controlled by Host Customer) any physical obstruction (such as, but not limited to, trees) to the operation of the System that reduces the electrical energy generated by the System.

2.2 Liens. Host Customer shall not directly or indirectly cause, create, incur, assume or suffer to exist any mortgage, pledge, lien (including mechanics', laborers' or materialmen's liens), charge, security interest, encumbrance or claim of any nature ("Liens") on or with respect to all or a part of the System or any of Power Provider's interest therein. If Host Customer breaches its obligations under this Section, it shall immediately notify Power Provider in writing, shall promptly cause such Lien to be discharged and released of record without cost to Power Provider, and shall defend and indemnify Power Provider against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing such Lien. Power Provider shall not directly or indirectly cause, create, incur, assume or suffer to exist any Liens on or with respect to the Site, the Property or Host Customer's interest therein. If Power Provider breaches its obligations under this Section, it shall immediately notify Host Customer in writing, shall promptly cause such Lien to be discharged and released of record without cost to Host Customer, and shall defend and indemnify Host Customer against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing such Lien.

2.3 Access of Property. Power Provider will have the right to access the Site and the Property in accordance with the terms of the Site Lease, for the purposes of installing, constructing, servicing and testing the System, and any other activities related to or arising from the installation, maintenance and operation of the System.

#### 2.4 Electricity Purchases.

2.4.1 Purchase and Sale of Electricity. In accordance with the terms and conditions herein, commencing on the Service Commencement Date (as defined in Paragraph 7.1 hereinbelow) and continuing throughout the remainder of the Term (as defined in Paragraph 7.1 hereinbelow), Power Provider shall deliver to the Host Customer at the Connection Point, and Host Customer shall accept delivery from Power Provider at the Connection Point, all of the electrical output generated by the System. The amount of electrical power delivered to the Connection Point from the System ("System Output") shall be in whole kWh and determined in accordance with the provisions of Section 4 hereinbelow.

2.4.2 Payments. Power Provider will invoice Host Customer each month in the manner set forth in Exhibit "C". Host Customer shall pay the full Monthly Payment or any amounts owed pursuant to Section 9.1 within twenty-one (21) days of the invoice date from Power Provider for the prior month ("Due Date"). Host Customer shall, at Host Customer's option, (a) cause a check to be drawn in the undisputed amount due made payable to the Power Provider, or (b) pay such amount via wire transfer to Power Provider's bank account. Unless otherwise directed by Power Provider, all payments must be made payable to: Nobell Energy Solutions, 2045 E. Tahquitz Canyon Way, Palm Springs California 92262.

2.4.3 Late Fees. If any part of a payment is not made by Host Customer within twenty-one (21) calendar days following the Due Date, Host Customer agrees to pay Power Provider interest of

twelve (12) percent per annum on the amount past due ("Late Fee") until the payment has been made in full. Host Customer agrees to pay Power Provider any Late Fees not later than one (1) month following the original Due Date. The calculation of Late Fees that remain unpaid as set forth in this section shall not constitute any waiver of Host Customer's obligation to pay such amounts when due, or Power Provider's right to collect, any payment by Host Customer under any such invoice, as well as Power Provider's right to exercise its rights with respect to Host Customer's Default.

2.4.4 Changes in Applicable Law. In the event that any fee or charge (other than a tax as described in Section 9.1) is imposed on the delivery of electrical energy by Power Provider to Host Customer as a result in a change in Applicable Law, then Host Customer agrees to negotiate with Power Provider an equitable adjustment in the Solar Energy Price (as defined in Exhibit "C") such that the new rate compensates Power Provider for the increased cost of such fee or charge, which adjustment shall remain in effect over the remaining years of the Term of this PPA or until the fee or charge that caused the increase in costs is altered, repealed, or made inapplicable to the System. Power Provider will not be entitled to any adjustment in the Solar Energy Price as a result of a change in Applicable Law which alters the value or applicability of the Renewable Energy Credits and Environmental Financial Attributes and accepts all risk associated with same. As used in this PPA, "Applicable Law" shall mean, with respect to Governmental Authority (defined as any federal, state, regional, county, town, city, or municipal government, whether domestic or foreign, or any department, agency, bureau, or other administrative, regulatory or judicial body of any such government), any constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding, injunction, registration, license, franchise, permit, authorization, guideline, governmental approval, consent or requirement of such Governmental Authority, enforceable at law or in equity, along with the interpretation and administration thereof by any Governmental Authority.

### 3. **REPRESENTATIONS.**

3.1 Host Customer Representations. Host Customer hereby represents to Power Provider that:

3.1.1 Due Authorization. Host Customer is duly authorized and empowered to enter into this PPA and Host Customer shall deliver to Power Provider certified copies of all ordinances, resolutions and other documents evidencing such authorization and empowerment to enter into this PPA;

3.1.2 No Conflict. This PPA is enforceable according to its terms and does not conflict with or violate the terms of any other material agreements to which Host Customer is a party, including, if applicable, any Host Customer licenses with respect to the Property;

3.1.3 Host Customer Data. Host Customer has furnished, or caused others to furnish, to Power Provider accurate and complete data concerning energy usage for and other information pertaining to the Property, requested by Power Provider as follows:

(a) Utility and any other energy Power Provider records for the 12-month period preceding the Effective Date;

(b) Any energy or environmental audits relating to all or any part of the Property;

(c) Any service or maintenance agreement(s) regarding the building electrical system (“BES”) for the Property, or any part thereof; and

(d) Building structural plans/building system electrical designs as needed.

3.1.4 Accuracy of Information. The information provided pursuant to this PPA as of the Effective Date is to the best of Host Customer’s actual knowledge true and accurate in all material respects;

3.1.5 Ability to Perform. Host Customer has no knowledge of any facts or circumstances that, but for the passage of time, would materially, adversely affect either Party’s ability to perform its respective obligations hereunder and, if Host Customer is a governmental entity or instrumentality thereof, as set forth in the Recitals to this PPA, the Host Customer has complied with all laws and regulations relative to procurement of the electricity; and

3.1.6 Control over Property. Host Customer has the authority to enter into the Site Lease attached hereto to lease or sublease the Property to Power Provider.

(a) In the event that any or all of the Property is or becomes subject during the Term of this PPA to a lease, or to a security interest, lien or mortgage, such agreement shall not conflict with Power Provider’s rights as provided hereunder whereby the System is the personal property of Power Provider severable from the Property and not a fixture.

(b) Host Customer shall, at no cost to Host Customer, grant to Power Provider requested licenses, consents and approvals necessary for the production and delivery of electricity to the Connection Point, and the operation and maintenance of the System under this PPA. For the avoidance of doubt, the System will have a right to exist on the Host Customer’s roof, alongside or inside the Host Customer’s building as wiring inside of conduit, and inside the Host Customer’s electrical room.

3.1.7 Hazardous Materials or Contamination. Host Customer, after due diligence, has no knowledge of any hazardous or toxic substances, materials or waste, including, without limitation, medical waste and asbestos (“Hazardous Materials”) or environmental contamination on or under the Site or the designated construction lay down areas. Power Provider may encounter Hazardous Materials when installing, servicing or maintaining the System. Power Provider shall not be responsible for any work relating to (i) the existence, use, transportation or treatment of Hazardous Materials, or (ii) the storage, handling, use, transportation, treatment, or the disposal, discharge, leakage, detection, removal, or containment of Hazardous Materials. In the event Power Provider encounters any Hazardous Material at the Property, Power Provider shall immediately cease any work in progress and immediately inform Host Customer of the nature and location of said Hazardous Materials. It shall then be Host Customer’s responsibility to eliminate or contain such Hazardous Materials in a commercially reasonable manner in compliance with law to allow Power Provider to continue or finalize any work in progress. Host Customer shall defend, indemnify and hold harmless the Power Provider and its agents, officers, directors and employees from and against any and all claims, damages, losses, costs and expenses incurred in connection with or arising out of, or relating to, the performance of the work in the area affected by the Hazardous Material.

3.2 Power Provider Representations. Power Provider hereby represents to Host Customer that:

3.2.1 Due Authorization. Power Provider is duly authorized and empowered to enter into this PPA;

3.2.2 No Conflict. This PPA is enforceable according to its terms and does not conflict with or violate the terms of any other material agreements to which it is a party;

3.2.3 Accuracy of Information. The information provided pursuant to this PPA as of the Effective Date is true and accurate in all material respects;

3.2.4 Due Diligence. Power Provider is experienced in the installation of commercial solar photovoltaic energy generation systems, has carefully reviewed all of the Host Customer data as described in Section 3.1.3, and has made its own determination as to the adequacy of the structural integrity and electrical systems located on the Property and their suitability for the System. Subject to Host Customer's representations and warranties made in this PPA or the Site Lease and Power Provider's termination rights set forth in Section 7.3, Power Provider accepts the Property in its current condition "AS-IS" and the responsibility for any repairs or upgrades to the Property that are necessary to support the System that are not identified on Exhibit "B"; and

3.2.5 Ability to Perform. Power Provider has no knowledge of any facts or circumstances that, but for the passage of time, would materially adversely affect either Party's ability to perform its respective obligations hereunder.

#### 4. **METERING.**

4.1 Metering Equipment. The Parties acknowledge and agree that Power Provider shall, or shall cause a third party to, provide, install, own, operate and maintain a meter on the Property with real time digital access that is accessible by Power Provider and Host Customer, and Power Provider shall, or shall cause a third party to, exercise reasonable care in the installation, operation, and maintenance of the meter so as to assure to the maximum extent reasonably practical an accurate determination of such quantities. The location of the meter shall be approved by Host Customer prior to its installation and shall be used for the purpose of measuring the System Output.

4.2 Meter Reading. Readings of the meter shall be conclusive as to the amount of electricity generated by the System; provided that if the meter is out of service, is discovered to be inaccurate pursuant to Section 4.3, or registers inaccurately, measurement of electricity generated by the System shall be determined by estimating by reference to quantities measured during periods of similar conditions when the meter was registering accurately. Power Provider shall use the data taken from the meter readings on a monthly basis to calculate a Monthly Payment under this PPA if it elects to not invoice Host Customer on a "Level Pay Plan" as set forth in Exhibit "C".

4.3 Testing and Correction. The following steps shall be taken to resolve any disputes regarding the accuracy of the meter:

4.3.1 If either Party disputes the accuracy or condition of the meter, such Party shall so advise the other Party in writing.



4.3.2 Power Provider shall, within fifteen (15) business days after receiving such notice from Host Customer or issuing such notice to Host Customer, advise Host Customer in writing as to Power Provider's position concerning the accuracy of such meter and Power Provider's reasons for taking such position.

4.3.3 If the Parties are unable to resolve the dispute through reasonable negotiations, then Power Provider may cause a neutral, unrelated third party having considerable experience testing such meters and acceptable to Host Customer (whose consent shall not be unreasonably be withheld) to test the meter.

4.3.4 If the meter is found to be inaccurate by not more than 2%, any previous recordings of the meter shall be deemed accurate, and the Party disputing the accuracy or condition of the meter shall bear the cost of inspection and testing of the meter.

4.3.5 If the meter is found to be inaccurate by more than 2% or if such meter is for any reason out of service or fails to register, then (a) Power Provider shall promptly cause any meter found to be inaccurate to be adjusted to correct, to the extent practicable, such inaccuracy, (b) Power Provider will pay the cost of inspection and testing of the meter; and (c) the Parties shall estimate the correct amounts of electricity delivered, based on usage during the previous calendar year, for no more than the preceding six (6) months and Power Provider shall either invoice or credit Host Customer for the correct amounts of electricity delivered.

## 5. **ENVIRONMENTAL COMPLIANCE.**

Power Provider shall comply with any and all applicable environmental laws relating to the installation and operation of the System and Host Customer shall comply with any and all applicable environmental laws relating to the Property (excluding the System installed thereon). The forgoing shall include, but shall not be limited to, the California Environmental Quality Act. If required to do so by an applicable governmental authority, each Party shall retain the services of qualified consultants to provide all required research and documentation required to meet its compliance obligations set forth in this Section 5. Host Customer shall be responsible for the costs of the initial study which may be required to install the System. Either Party, following the completion of such initial study, may terminate this PPA by written notice to the other Party should environmental compliance measures or unforeseen site conditions render the construction of the System economically disadvantageous for the terminating Party or the time required to implement any environmental compliance measures or remediation exceed the Party's reasonable expectations. If Host Customer does not obtain all required environmental approvals by within six (6) months from the Effective Date, either Party may terminate this PPA by written notice to the other Party. Nothing set forth herein shall be interpreted to require either Party to undertake environmental remediation at the Property if mandated by law, regulation or as a condition of regulatory approval prior to the construction of the System.

## 6. **SYSTEM.**

6.1 Location. Host Customer and Power Provider agree that the System shall be situated on Host Customer's Property at the locations specified in Exhibit "B", attached hereto. Host Customer warrants that this PPA is enforceable according to its terms and does not conflict with or violate the terms of any other material agreements to which Host Customer is a party, including, if applicable, any

Host Customer leases, licenses or other agreements with respect to the Property. Host Customer also acknowledges and agrees that it is not the owner of the System and does not have title to the System. If any person other than Power Provider attempts to claim ownership of the System by asserting any claim against Host Customer or through Host Customer, Host Customer agrees to protect and defend, at Host Customer's expense, Power Provider's title to the System. Host Customer acknowledges that this Agreement may be financed through a sale-leaseback transaction, in which case, the rights and obligations of a third party, other than Power Provider, shall be assumed via an assignment and assumption agreement to which Host Customer shall be a party and under which such agreement the third party shall assume the duties and obligations under this PPA as provided for in the agreement.

6.2 Ownership. During the Term of this PPA, ownership of (i) the System constructed by Power Provider upon the Property, (ii) all alterations, additions or betterments thereto shall vest in Power Provider for all purposes including depreciation for federal and state tax purposes. Host Customer and Power Provider agree that the System shall at all times be personal property severable from the Property and shall not become a fixture. Power Provider, or Power Provider's permitted assigns, shall at all times retain title to and be the legal and beneficial owner of all System, including the right to any tax credits available under federal or state law, and all System shall remain the property of Power Provider or Power Provider's assigns. Power Provider shall be entitled to, and is hereby authorized to, file one or more precautionary UCC Financing Statements or fixture filings, as applicable, in such jurisdictions as it deems appropriate with respect to the System in order to protect its rights in the System. The Parties intend that neither Host Customer nor any party related to Host Customer shall acquire the right to operate the System or be deemed to operate the System for purposes of Section 7701(e)(4)(A)(i) of the Internal Revenue Code of 1986, as amended, and the terms of this PPA shall be construed consistent with the intention of the Parties.

6.3 Reduce Other Electric Purchases. The electricity generated by the System will reduce Host Customer's purchase of electricity from other sources, including the Host Customer's local utility. However, the System is not intended to eliminate entirely Host Customer's electricity needs from other sources, and therefore, Host Customer shall have a contractual arrangement in place at all times during the Term of this PPA with its local electric utility or with another provider of retail electricity. Host Customer shall be responsible for maintaining and fulfilling all contractual obligations with respect to its utility service provider, including with respect to such interconnection service, power supply service, net-metering arrangements and delivery service, and, where applicable, meet all requirements imposed by the local utility. Depending on the Host Customer's demand load profile, the electricity generated by the System may or may not eliminate applicable demand charges, including but not limited to, non-coincident demand charges, or any other component of the utility rate charged by the local utility which otherwise remains applicable to the Host Customer notwithstanding the Host Customer's purchase of electricity generated by the System.

6.4 Net-Metering. In the event that Host Customer's load is less than the total output being delivered by Power Provider to the Connection Point at any given time, the Parties acknowledge and agree that such electricity shall have been delivered to Host Customer at the Connection Point in accordance with Section 1.4 and shall flow through the BES to the interconnection point between the BES and the local utility. The Parties further acknowledge and agree that in such instance, the treatment of such electricity shall be determined by arrangements between Host Customer and its local utility (which arrangements are typically referred to as "net-metering"), which shall have no impact whatsoever upon the terms and conditions of this PPA. Host Customer acknowledges that the amount of electrical

power subject to net-metering is dependent on many factors, including, but not limited to, the Host Customer's operating hours, changes to the amount of electrical power used by Host Customer, conservation measures, and weather conditions.

6.5 Alteration of Power Provider Equipment. Host Customer shall not cause or voluntarily permit any modification or alteration to any part of Power Provider's equipment located on the Property, including without limitation the System, valves, conduits, piping or other materials or tools, except in the event of an emergency. In an emergency, to the extent that Host Customer is aware of a threat of injury to persons or damage to property and is capable and qualified to act without substantial cost or risk to the health or safety of any person, Host Customer shall take reasonable steps to prevent or minimize the harm and shall so inform Power Provider as soon as practicable (orally or in writing). In the event that Power Provider is capable of generating and delivering electricity to Host Customer, but as a result of Host Customer's willful misconduct, errors or omissions, Host Customer does not accept delivery of such electricity or is unable to accept delivery of such electricity, Host Customer shall pay Power Provider the estimated amount of electricity that would have been delivered but for Host Customer's actions.

6.6 Host Customer Maintenance of its Property. Host Customer shall use care to ensure that its Property and all equipment thereon does not disrupt or interfere with the operation of the System. Host Customer shall maintain, repair and replace such parts of the Property in good condition and repair. Power Provider shall use care to ensure that the System and all related equipment does not disrupt or interfere with the operation of the Property. Power Provider shall maintain, repair and replace such parts of the System to comply with applicable law and shall secure and enforce all System warranties.

## 7. **TERM.**

7.1 The term of this PPA ("Term") shall commence on the Effective Date set forth above and shall expire on that date which is the earlier of (a) twenty (20) years from the Service Commencement Date (as defined below) or (b) December 31, 2043, unless the PPA is terminated earlier as set forth herein. Power Provider shall provide no less than three (3) business days written notice prior to the Service Commencement Date to Host Customer that the System is ready for operation and has successfully completed all performance testing in accordance with Prudent Industry Practice (as defined below) and that service under this PPA will begin on the date certain indicated in the notice (the "Service Commencement Date"). The delivery of energy from the System as part of the commissioning and testing process shall not constitute the commencement of service. At any time prior to the end of the Term, the Parties may meet and negotiate the terms and conditions on which this PPA may be extended in their respective sole and absolute discretion. For purposes of this paragraph, "Prudent Industry Practice" shall mean the practices, methods and acts engaged in or approved by a significant portion of the solar energy industry that, at a particular time, in the exercise of reasonable judgment in light of the facts known or that reasonably should have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with law, regulation, reliability, safety, environmental protection, economy and expedition.

Upon the expiration of the Term, Power Provider shall remove all of the System from Host Customer's Property at Power Provider's sole expense; however, at Host Customer's sole discretion, and with greater than 1 year notice prior to expiration of the Term, Host Customer may notify Power Provider of its intent to Purchase the system per Exhibit D at the expiration of the term for a purchase price of \$1. In the event

that this PPA is terminated pursuant to Section 7.2 or 7.3, Power Provider shall remove all of the System from Host Customer's Property at Power Provider's sole expense.

7.2 Upon the termination of this Agreement by Host Customer, Power Provider will promptly dismantle, pack and remove the System from the Property and repair any damage caused by such removal. If Power Provider fails to undertake such action within thirty (30) days written notice of termination from Host Customer, then Host Customer may arrange to have the System removed at Power Provider's sole cost and expense.

7.3 Notwithstanding any other term in this PPA to the contrary, Power Provider shall have the right to terminate without liability this PPA at any time during the Term in the event Power Provider reasonably determines that (a) the cost to upgrade or improve any structural component of the improvements on the Property exceeds \$50,000.00 or (b) the cost to comply with a governmental order relative to the ownership or operation of the System exceeds \$100,000. Such termination will be deemed effective the date given in Power Provider's termination notice to Host Customer; provided, however, that Power Provider's specified date of termination shall be no later than sixty (60) days following the date Power Provider's termination notice is actually received by Host Customer.

## 8. **INSURANCE**

8.1 General Liability Coverage. From the Effective Date until termination or expiration of the Term, Power Provider and its contractors and subcontractors and Host Customer each agree to maintain or cause to be maintained General Liability insurance against claims for bodily injury, loss of life or property damage occurring on the Property (including within the buildings thereon); and on the portion of the street and the sidewalks adjacent thereto with bodily injury, loss of life and property damage coverage in an amount of not less than One Million Dollars (\$1,000,000.00) per occurrence. Such insurance may be in the form of blanket liability coverage applicable to the Property and to other property owned or occupied by Host Customer or Power Provider, as applicable. The other Party shall be named under the applicable policy as Additional Insureds.

8.2 Automobile Coverage. Power Provider and its contractors and subcontractors, as applicable, shall carry a business automobile policy with a combined single limit of not less than One Million Dollars (\$1,000,000). Coverage for automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 0001 (ed. 6/92) covering automobile liability, Code 1 (any auto). The automobile liability program may utilize deductibles, but not a self-insured retention, subject to written approval by the Host Customer.

8.3 Workers Compensation Coverage. Power Provider, its contractors and subcontractors as applicable, shall carry Workers' Compensation insurance during the full term or duration of the PPA, to insure statutory liability for injury to its employees in the State of California. The policy should have limits as follows: Bodily injury by accident, \$1,000,000 each accident, and each employee a \$1,000,000 policy limit.

8.4 Property Damage. Power Provider will carry all-risk coverage for property damage in an amount equivalent to the full replacement value of the System. Host Customer will carry all-risk coverage for property damage in an amount equivalent to the full replacement value of any improvements located on the Site, excluding the System.

8.5 All Policies. All insurance, including Workers Compensation coverage, shall include an insurer's Waiver of Subrogation in favor of the other Party and will be in a form and with insurance companies acceptable to the other Party. All insurance shall be primary and any other insurance, deductible, or self-insurance maintained by the indemnified parties shall not contribute with this primary insurance. The workers' compensation and employer's liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by the other Party.

8.6 Evidence Required. Insurance certificates for all coverages required by the PPA shall be provided by each Party to the other Party within twenty (20) business days after the Effective Date, prior to the construction of the System and during the term of this Agreement as requested in writing by the other Party. All insurance policies shall contain a provision that such policies shall not be canceled or terminated without thirty (30) days prior notice from the insurance company to the other Party.

## 9. **TAXES**

9.1 Sale of Energy. In the event that any state or local taxes are assessed against the generation, sale, delivery or consumption of energy, Host Customer shall either pay or reimburse Power Provider for all such amounts due, including any taxes assessed thereon, as set forth in Section 2.4.2, except any federal or state income taxes imposed on Power Provider based on such sales.

9.2 Real Estate or Property Taxes. Power Provider will pay and hold harmless Host Customer from ad valorem and related property tax, if any, assessed on (i) the System; (iii) Power Provider's ownership, installation or use of the System; or (iii) any other aspect of this PPA.

9.3 Other Taxes. Power Provider will pay and hold harmless Host Customer from any federal, state or local taxes imposed upon Host Customer arising from this PPA, other than as set forth in Section 9.1 above, including but not limited to Power Provider's manufacture, installation and acquisition of the System.

9.4 Revenue and Tax Code Notice. This PPA may result in the creation of a possessory interest. (Rev. & Tax. Code § 107.6) If such a possessory interest is vested in Power Provider, Power Provider may be subjected to the payment of personal property taxes levied on such interest. Power Provider shall be responsible for the payment of, and shall pay before becoming delinquent, all taxes, assessments, fees, or other charges assessed or levied upon Power Provider. Power Provider further agrees to prevent such taxes, assessments, fees, or other charges from giving rise to any lien against the Property or any improvement located on or within the Property. Nothing herein contained shall be deemed to prevent or prohibit Power Provider from contesting the validity or amount of any such tax, assessment, or fee in the manner authorized by law. Power Provider shall be responsible for payment of any personal property taxes, possessory interest taxes, permit fees, business license fees and any and all fees and charges of any nature levied against the System and the operations of Power Provider at any time. If bills for taxes on the System thereon are received by the Host Customer, Host Customer shall immediately remit such bills to Power Provider. Any fee or charge resulting from any possessory interest created hereby and/or the use and operation of the System on the Property shall be the responsibility of the Power Provider. In the event of any sale of the Property, Power Provider shall not be responsible for any taxes levied as a result of such sale.

## 10. **DEFAULT**

10.1 Events of Defaults. Any one or more of the following events shall constitute an event of default (“Event of Default”): (a) Host Customer fails to pay an invoice within sixty (60) days of the date of the invoice; (b) Host Customer materially interferes with or damages the System; (c) Either Party fails to observe or perform any other material term or condition in this PPA; (d) Either Party (i) voluntary or involuntarily files or has filed a petition in bankruptcy or a petition or answer seeking a reorganization, arrangement, composition, readjustment, liquidation, dissolution, or other relief of the same or different kind under any provisions of the bankruptcy laws that is not dismissed within sixty (60) days of the initial filing, (ii) makes an assignment for the benefit of creditors, (iii) has a receiver appointed with respect to the business property or assets of such Party on the Property, or (iv) otherwise is unable to pay its debts as they become due; (e) Either Party misrepresents a material fact contained in this PPA as of the Effective Date; and (f) Either Party violates or fails to enforce any applicable law, regulation or ordinance related to the use or occupancy of the Property.

10.2 Right to Cure. Either Party shall, after notice, promptly and diligently commence curing a Default and shall have thirty (30) days after notice is given to complete the cure of said Default; provided, however, that if the nature of the defaulting Party’s failure is such that more than thirty (30) days are reasonably required for its cure, then such Party shall not be in Default if the defaulting Party begins such cure within the thirty (30) day period described in the preceding sentence, provides notice to the non-defaulting Party of the extended time required for performance, within such thirty (30) day period, and, thereafter, diligently prosecutes such cure to completion.

10.3 Notice of Default. A Party shall not be considered to be in default under this PPA unless (i) the non-defaulting Party has given written notice specifying the default; and (ii) the defaulting Party has failed to cure the default in accordance with provisions of Section 10.2.

### 10.4 Remedies.

10.4.1 If the defaulting Party has failed to cure as set forth herein, the non-defaulting Party shall have right to terminate this PPA by giving written notice to the defaulting Party on a date specified in such notice.

10.4.2 If a termination occurs as a result of Host Customer’s default, then Host Customer shall pay Power Provider an “Early Termination Payment,” equal to the sum of: (i) the costs of dismantling, packing, removing and transporting the System, minus the value received for the System net any marketing and resale costs if Power Provider is able to sell the System to a third party (ii) the present value of any Environmental Financial Incentives (including any applicable tax credits) that would have accrued to Power Provider if the early termination of this PPA did not occur, and (iii) any and all direct and reasonable fees, costs or charges actually incurred by Power Provider to recapture any applicable tax credit or grant in lieu thereof as a result of the termination of this PPA. The present value discount shall be equal to the prevailing prime rate of interest as published in The Wall Street Journal on the day preceding the date of termination of this PPA. Upon Host Customer’s default, Power Provider is entitled to remove the System without further obligation to Host Customer.

10.4.3 If a termination occurs as a result of Power Provider’s default, then Power Provider will promptly dismantle, pack and remove the System from the Property and repair any damage caused

by such removal. If Power Provider fails to undertake such action within thirty (30) days written notice of termination from Host Customer, then Host Customer may arrange to have the System removed at Power Provider's sole cost and expense. Host Customer will have no obligation to store or sell the System and may dispose of it in any manner that Host Customer deems expedient. Any proceeds received by Host Customer from the disposition of the System may be applied to any damages due and payable to Host Customer for the breach of this PPA by Power Provider.

10.4.4 Termination of the PPA pursuant to this Section shall not be deemed to limit the non-defaulting Party's right to pursue any other remedy given under this PPA or now or hereafter existing at law or in equity or otherwise.

11. **FORCE MAJEURE.** Neither Power Provider nor Host Customer shall be considered to be in default in the performance of its obligations under this PPA (excluding Host Customer's obligations to make payment for electricity generated and delivered to Host Customer), to the extent that performance of any such obligation, is prevented or delayed by a force majeure event, including, but not limited to by way of example, acts of God, adverse weather conditions and other acts of nature, subsurface conditions, supply shortages, and/or riot or civil unrest provided that written notice of such event is provided to the other Party.

## 12. **LIABILITY; INDEMNIFICATION**

12.1 Mutual Limitation of Liability. Unless explicitly provided in this PPA, neither Party hereto nor any of their respective partners, officers, directors, agents, subcontractors, vendors or employees shall be liable to the other Party hereunder for any consequential or indirect loss or damage arising out of this PPA, whether such loss or damage arise in contract, tort (including negligence), strict liability, warranty, statute or otherwise, including loss of revenues, loss of profit, cost of capital, loss of goodwill, or any other special or incidental damages. Notwithstanding the foregoing, this Section 12.1 shall not limit the damages available to a Party to the extent that it is covered by any insurance coverage with respect to claims of personal injury, wrongful death or property damage.

12.2 Mutual Indemnification. To the fullest extent permitted by law, each Party (the "Indemnifying Party") shall defend, indemnify and hold harmless the other Party and its officers, employees, contractors and agents ("Indemnitees") from and against any and all claims, demands, suits, liabilities, causes of action, losses, expenses, damages, fines, penalties, court costs and reasonable attorneys' fees (collectively, "Claims") that arise or result from, or are occasioned by or in connection with: (a) the Indemnifying Party's breach of this PPA and/or the Site Lease; (b) any negligent, reckless or intentionally wrongful act or omission to act by the Indemnifying Party; and (c) violations of laws by the Indemnifying Party. Notwithstanding the foregoing, it is the intent of the Parties that where negligence is determined to have been joint or contributory, principles of comparative negligence will be followed, and each Party shall bear the proportionate cost of any loss damage, expense or liability attributable to that Party's negligence. This indemnification, defense and hold harmless obligation shall not be limited by insurance coverages and shall survive the termination or expiration of this PPA and the Site Lease.

12.3 Individual Indemnification. Power Provider shall further be the Indemnifying Party and Host Customer shall be the Indemnitee with respect to any Claims by third parties that arise as a result of the operation of the System by Power Provider, its employees, contractors and agents. Host Customer

shall further be the Indemnifying Party and Power Provider shall be the Indemnitee with respect to any Claims by third parties that arise as a result of the operation of the Site and the Property (excluding the System) by Host Customer, its employees, contractors and agents.

12.4 Third Party Claims. In connection with third party claims, an Indemnitee shall promptly give written notice (a "Claim Notice") to the Indemnifying Party of the commencement, or threat of commencement, of any claim or proceeding if such Indemnitee believes that indemnification with respect thereto may be sought by the Indemnifying Party under this Agreement. The Indemnifying Party shall be entitled to assume the defense of the claim or proceeding provided in the Claim Notice, with counsel reasonably satisfactory to the Indemnitee, at the Indemnifying Party's sole expense and without diminution of the Indemnifying Party's indemnity obligations under this agreement, upon delivery to the Indemnitee of written notice (an "Election Notice") of the Indemnifying Party's election to assume such defense within ten (10) days of delivery to the Indemnifying Party of the related Claim Notice. After proper delivery of an Election Notice, the Indemnifying Party will not be liable to the Indemnitee under this Agreement for any fees or cost of counsel subsequently incurred by the Indemnitee with respect to the claim or proceeding referred to in the Election Notice, provided that the Indemnitee shall have the right to employ separate counsel with regard to any such claim or proceeding at the Indemnitee's expense. If the Indemnifying party assumes the defense of a claim or proceeding under this section 12.4, the Indemnifying Party agrees not to enter into any waiver, release or settlement of such claim or proceeding without the prior written consent of the Indemnitee, unless such waiver, release or settlement includes an unconditional release of the Indemnitee from all liability arising out of such claim or proceeding.

### 13. **ASSIGNMENT**

13.1 Assignment; Binding Effect. The Parties shall not, without the prior written consent of the other, which consent will not be unreasonably withheld or delayed, assign, pledge or transfer all or any part of, or any right or obligation under, this PPA, whether voluntarily or by operation of law, and any such assignment or transfer without such consent will be null and void. Notwithstanding the foregoing, Host Customer shall have the right to transfer this PPA in connection with the sale of the Property, provided that Power Provider is provided ten (10) days written notice of such transfer and upon the assumption of any and all rights and obligations in this PPA and the Site Lease by the purchaser of the Property. Host Customer shall be released from its obligations hereunder upon such transfer. For the purposes of this Section 13.1, (a) changes in control of Power Provider shall not be deemed an assignment of this PPA; and (b) Power Provider shall be entitled to assign its rights and interests in this PPA for collateral purposes in connection with any equity or debt financing of Power Provider or Power Provider's Affiliates, provided, however, that notwithstanding any such assignment, Power Provider will remain responsible for the performance of all obligations under this Agreement. Each Party agrees to execute such reasonable consents to assignment and other documents, and to provide such information, as is requested by the other Party and reasonably required in connection with any permitted assignment pursuant to this Section.

13.2 Cooperation with Financing. Host Customer acknowledges that Power Provider will be financing the acquisition of the System and Host Customer agrees that it shall cooperate with Power Provider and its financing parties in connection with such financing of the System. Such cooperation shall include (a) the furnishing of such Host Customer information reasonably requested by Power Provider's lender, (b) the giving of such usual and customary estoppel certificates, (c) instruments in



commercially reasonable form that provide Power Provider's lender the right to secure and gain access to the System, (d) accommodating reasonable requests by the financing party for clarifications regarding the rights and duties of the Parties under this PPA; provided, however, in no event will Host Customer be obligated to materially change any rights or benefits, or materially increase any burdens, liabilities or obligations of Host Customer under this PPA (except for providing notices and additional cure periods to the financing parties with respect to Events of Defaults with respect to Power Provider as a financing party may reasonably request).

13.3 Transfer and Assignment Notice. In the event Power Provider desires to assign or transfer all or any portion of the PPA, Power Provider shall deliver to the Host Customer thirty (30) days advance written notice of its intention ("Transfer Notice"), which written notice shall set forth:

13.3.1 Power Provider's bona fide intention to transfer the PPA, or portion thereof; and

13.3.2 The name and address of the proposed purchaser or transferee ("Proposed Transferee") and its qualifications and experience operating similar projects to the System; and

13.3.3 Reasonably detailed information about the financial and business status and controlling persons of Transferee

#### 14. **MISCELLANEOUS.**

##### 14.1 Dispute Resolution and Arbitration.

14.1.1 Notice of Dispute/Negotiated Resolution. In the event that there is any controversy, claim or dispute between the Parties hereto arising out of or related to this PPA, or the breach hereof, that has not been resolved by informal discussions and negotiations, either Party may, by written notice to the other, invoke the formal dispute resolution procedures set forth herein. The written notice invoking these procedures shall set forth in reasonable detail the nature, background and circumstances of the controversy claim or dispute. During the twenty (20) business day periods following said written notice, the Parties shall meet, confer and negotiate in good faith to resolve the dispute. Either Party may, during said twenty (20) business day periods, request the utilization of the services of a professional mediator, and the other Party or parties to this dispute shall cooperate with such request and equally share the reasonable costs of such mediator.

14.1.2 Arbitration. Any dispute arising under this PPA, including, without limitation, all disputes relating in any manner to the performance or enforcement of this PPA shall be resolved by binding arbitration in the County of Riverside, California, pursuant to the rules of Judicial Arbitration and Mediation Services ("JAMS"), as amended or as augmented in this Agreement (the "Rules"). Arbitration shall be initiated as provided by the Rules, although the written notice to the other party initiating arbitration shall also include a description of the claim(s) asserted and the facts upon which the claim(s) are based. Arbitration shall be final and binding upon the Parties and shall be the exclusive remedy for all claims subject hereto, including any award of attorney's fees and costs. Either party may bring an action in court to compel arbitration under this Agreement and to enforce an arbitration award. All disputes shall be decided by a single arbitrator. The arbitrator shall be selected by mutual agreement of the Parties within thirty (30) days of the effective date of the notice initiating the arbitration. If the Parties cannot agree on an arbitrator, then the complaining party shall notify JAMS and request selection of an arbitrator in accordance with the Rules. The arbitrator shall have only such authority to award

equitable relief, damages, costs, and fees as a court would have for the particular claim(s) asserted. In no event shall the arbitrator award punitive damages of any kind. The Parties acknowledge that one of the purposes of utilizing arbitration is to avoid lengthy and expensive discovery and allow for prompt resolution of the dispute. The arbitrator shall have the power to limit or deny a request for documents or a deposition if the arbitrator determines that the request exceeds those matters which are directly relevant to the claims in controversy. The document demand and response shall conform to Code of Civil Procedure section 1282.6. The deposition notice shall conform to Code of Civil Procedure section 1283. The Parties may make a motion for protective order or motion to compel before the arbitrator with regard to the discovery, as provided in Code of Civil Procedure. Notwithstanding the election by the Parties to arbitrate their disputes, nothing contained herein shall prevent a party from filing an action in a court of competent jurisdiction to seek any form of equitable remedy or relief.

#### 14.2 Confidentiality.

##### 14.2.1 Intentionally left blank.

14.2.2 Power Provider agrees to keep confidential all documents, utility bills, architectural and mechanical plans, and any other information provided by Host Customer during the Term of this PPA and thereafter.

14.2.3 Notwithstanding anything to the contrary set forth herein or in any other agreement to which the Parties are parties or by which they are bound, the obligations of confidentiality contained herein and therein, as they relate to the transaction, shall not apply to the U.S. federal tax structure or U.S. federal tax treatment of the transaction, and each Party (and any employee, representative, or agent of any Party hereto) may disclose to any and all persons, without limitation of any kind, the U.S. federal tax structure and U.S. federal tax treatment of the transaction. The preceding sentence is intended to cause the transaction not to be treated as having been offered under conditions of confidentiality for purposes of Section 1.6011-4(b)(3) (or any successor provision) of the Treasury Regulations promulgated under Section 6011 of the Code and shall be construed in a manner consistent with such purpose. In addition, each Party acknowledges that it has no proprietary or exclusive rights to the tax structure of the transaction or any tax matter or tax idea related to the transaction.

14.3 Notices and Changes of Address. All notices to be given by either Party to the other shall be in writing and must be either delivered in person or sent via express overnight delivery service addressed as follows:

#### If to Power Provider:

Nobell Energy Solutions, LLC  
2045 East Tahquitz Canyon Way  
Palm Springs, CA 92262  
Attn: Manager  
(760) 837-7400  
[fritz@nobellenergy.com](mailto:fritz@nobellenergy.com) (E-mail)

#### If to Host Customer:

or such other addresses as either Party may hereinafter designate by notice to the other. Notices are deemed delivered or given and become effective upon mailing if mailed as aforesaid and upon actual receipt if otherwise delivered. Either Party may provide a copy of a notice by electronic mail, but such delivery shall not be deemed effective unless the original copy is delivered in person or sent via express mail delivery service.

14.4 Applicable Law and Jurisdiction. This Agreement is made and shall be interpreted and enforced in accordance with the laws of the State of California. Jurisdiction and venue shall be Santa Cruz County, California.

14.5 Attorneys' Fees. If any action shall be instituted between Host Customer and Power Provider in connection with this PPA, each party shall bear its own attorney's fees and costs.

14.6 No Amendment. This Agreement may not be amended, modified or terminated except by a writing signed by the Parties hereto.

14.7 Energy Audit. Any energy audit that may be authored by Power Provider and/or its consultant(s), including any summaries, excerpts, and abstracts thereof (collectively, the "Energy Audit"), are used to show operational and consumption data and calculations and projections regarding savings, but do not reflect the savings guaranteed by Power Provider; in the event of any conflict or contradiction between the Energy Audit and the provisions of this PPA, the provisions of this PPA shall govern.

14.8 Further Documents. The Parties shall timely execute and deliver all documents and perform all further acts that may be reasonably necessary to effectuate the provisions of this PPA.

14.9 Severability. If any part of this PPA is deemed to be unlawful, invalid, void or otherwise unenforceable, the rights and obligations of the Parties shall be reduced only to the extent required to remove the invalidity or unenforceability.

14.10 Counterparts. This Agreement may be executed in several counterparts, each of which when executed shall be deemed to be an original, but all together shall constitute but one and the same Agreement.

14.11 Neutral Interpretation. The Parties acknowledge that this is a negotiated Agreement and, in the event of any dispute over its meaning or application, this PPA shall be interpreted fairly and reasonably and neither more strongly for, nor more strongly against, either Party. Any headings or captions contained in this PPA are for reference purposes only and are in no way to be construed to interpret, define or limit the scope, extent or intent of this PPA or any provision hereof.

14.12 No Waiver. The failure of a Party to enforce any term of this PPA or a Party's waiver of the nonperformance of a term by the other Party shall not be construed as a general waiver or amendment of that term, but the term shall remain in effect and enforceable in the future. This Agreement can be amended only by written agreement of the Parties.

14.13 Survival. Any provisions necessary to give effect to the intent of the Parties hereunder after the termination of this PPA shall survive the termination of this PPA, including without limitation Section 22.1.

14.14 Intentionally left blank.

14.15 Forward Contract. Without limiting the applicability of any other provision of the U.S. Bankruptcy Code as amended (the “Bankruptcy Code”), the Parties acknowledge and agree that (i) this PPA constitutes a “forward contract” as defined in Section 101 (25) of the Bankruptcy Code, (ii) the Parties are forward contract merchants, (iii) that the rights of the Parties under the termination provisions of this PPA will constitute contractual rights to liquidate transactions hereunder, (iv) that any payment related thereto will constitute a “settlement payment” as defined in Section 101 (51A) of the Bankruptcy Code, and (v) that the Parties are entitled to the rights under, and protections afforded by, Sections 362, 546, 556, and 560 of the Bankruptcy Code.

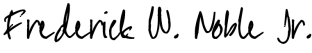


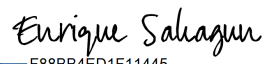
14.16 Service Contract. The Parties acknowledge and agree that, for accounting or tax purposes, this PPA is not and shall not be construed as a lease and, pursuant to Section 7701(e)(3) of the Code, this PPA is and shall be deemed to be a service contract with respect to the sale to the Power Provider of electric energy produced at an alternative energy facility.

14.17 Complete Agreement. This PPA, together with any documents expressly incorporated herein by reference, shall constitute the entire Agreement between both Parties regarding the subject matter hereof and supersedes all prior agreements, understandings, representations, and statements, whether oral or written. There are no agreements, understandings, or covenants between the Parties of any kind, expressed or implied, oral or otherwise pertaining to the rights and obligations set forth herein that have not been set forth in this PPA.

14.18 Conflicts. In the event of any conflict between this PPA and the Site Lease, the terms of this PPA will prevail.

[Signatures follow on the next page]

**IN WITNESS WHEREOF**, the duly authorized representatives of the Parties have each executed this PPA as of the Effective Date.

<b>Nobell Energy Solutions, LLC (“Contractor”)</b>	<b>COUNTY OF SANTA CRUZ (“County”)</b>
<p>[Signature of person signing for Contractor]</p> <p>DocuSigned by:    56BFEB170FDE4FC... 3/21/2023</p>	<p>Matt Machado</p> <p>Deputy CAO, Director of Community Development and Infrastructure</p> <p>DocuSigned by:    50EBAC64454C48C... 3/30/2023</p>
<p>Frederick W. Noble Jr. Date</p>	<p>Matt Machado Date</p>
<p>Address: 2045 East Tahquitz Canyon Way Palm Springs, CA 92262</p> <p>Telephone: (760) 837-7400</p> <p>Email: <a href="mailto:fritz@nobellenergy.com">fritz@nobellenergy.com</a></p>	<p>Approved as to Form:</p> <p>DocuSigned by:    40E85ACDEDAB42D... 3/17/2023</p> <p>Office of County Counsel 3/14/23 (AMS 14082) Date</p>
<p><b>DISTRIBUTION:</b> Community Development and Infrastructure Contractor</p>	<p>Approved as to Insurance:</p> <p>DocuSigned by:    F88BB4ED1F11445... 3/21/2023</p> <p>Risk Management Date</p>

**EXHIBIT A**  
**SITE LEASE**

[Follows on the next page]

**EXHIBIT B**

**SYSTEM DESCRIPTION**

(As-built design to be provided at Service Commencement Date)

[to be inserted]

**EXHIBIT C**  
**SOLAR ENERGY PRICE AND MONTHLY PAYMENT**

Solar Energy Price shall mean \$0.24 / kWh for the period commencing on the Service Commencement Date and expiring twelve (12) months thereafter. Commencing on the second anniversary of the Service Commencement Date, the Solar Energy Price shall increase three percent (3.00%) annually over the prior year's Solar Energy Price. The Monthly Payment will be determined by multiplying the amount of electricity delivered by Power Provider from the System in kWh for a given calendar month by then applicable Solar Energy Price.

During any "Operating Year" (i.e., the period of time commencing on the Service Commencement Date or any anniversary thereof and continuing for twelve (12) consecutive months thereafter), Power Provider may, at its election, invoice Host Customer under a "level pay" plan for the System Output Component of the Monthly Payment ("Level Pay Plan"). Under such a plan, Power Provider will make a good faith estimate of the System Output for any given Operating Year ("Power Provider's Estimated System Output"), multiply such System Output estimate by the Solar Energy Price in effect during such Operating Year and divide that result by twelve. The resulting amount shall be deemed the levelized amount for each monthly invoice delivered during the applicable Operating Year. At the conclusion of an Operating Year in which a Level Pay Plan was created, Power Provider will provide a settlement statement that provides the actual System Output for the applicable Operating Year, Power Provider's Estimated System Output, the amounts invoiced and paid during the Operating Year, and the credit or additional charge to be applied to the next monthly statement for the System Output Component of the Monthly Payment.



## EXHIBIT D

### PURCHASE OPTION

At any time commencing after the ten (10) year anniversary of the Effective Date, Host Customer shall have the option to purchase the System from Power Provider after which time ownership of the System shall vest in Host Customer in perpetuity, or until Host Customer should elect to sell the System. Thereafter, the System shall become a fixture of the Property and Host Customer shall assume all operational, maintenance and other ownership responsibilities for the System, and shall derive all benefits attendant with ownership of the same, including, but not limited to, the rights to all energy produced by and stored within the System for Host Customer to use in any way it sees fit, and rights to any and all Environmental Financial Attributes, to the extent such benefits may still be available to Host Customer under all Applicable Laws. Host Customer's purchase of the system shall be for an amount equal to the greater of Two Hundred and Two Thousand One Hundred and Four Dollars (\$202,104) or the fair market value of the System reasonably determined by Power Provider; and Host Customer shall pay Power Provider in cash equivalent for such purchase. In order to exercise its option to purchase the System, Host Customer must provide Power Provider written notice of its intention to purchase, and the parties shall then take all appropriate actions to effectuate such transfer of title as expediently as practicable, and shall also cooperate with one another to accomplish the same. The System shall be free from all liens or other monetary encumbrances upon transfer of title of the System to Host Customer and shall be transferred on an as-is, where-is basis. Once Host Customer acquires title to the System, this PPA shall automatically terminate and be of no further force or effect.

If the Power Provider's fair market value determination is disputed by Host Customer, within thirty (30) days of receipt of Host Customer's notice of dispute of Power Provider's fair market value determination, the Parties shall each retain the services of a professional appraiser to value the System. Each Party shall bear the costs for their respective appraiser. The two appraisers selected by the Parties shall mutually select a third appraiser, whose services shall equally be paid for by the Parties. Within 120 days of Host Customer's dispute notice, the three appraisers shall evaluate and present their determinations for the price of the system that would be negotiated in an arm's-length, free market transaction, for cash, between an informed, willing seller and an informed, willing buyer, neither of whom is under compulsion to complete the transaction. The appraiser's valuation that diverges the greatest from each of the other two appraisers' valuations shall be disregarded, and the arithmetic mean of the remaining two appraisers' valuations shall be deemed to be the Fair Market Value of the System(s).

## EXHIBIT "D" INSURANCE REQUIREMENTS

### INSURANCE REQUIREMENTS

Without limiting Lessee's indemnification obligations to County under this Lease, Lessee shall provide and maintain for the duration of this Lease insurance against claims for injuries to persons or damages to property which may arise from or in connection with the Lessee's operation and use of the Leased Premises. The cost of such insurance shall be borne by the Lessee.

#### 1. Minimum Scope of Insurance

Coverage shall be at least as broad as:

- A. Commercial General Liability, Occurrence form, Insurance Services Office Form CG0001.
- B. Automobile Liability covering all owned, non-owned and hired auto, Insurance Services Office form CA0001.
- C. Workers Compensation, as required by State of California and Employer's Liability Insurance.
- D. Personal property insurance against all risk or special form perils, including Replacement Cost coverage, without deduction for depreciation, for Lessee's merchandise, fixtures owned by Lessee, any items identified in this Lease as improvements to the Premises constructed and owned by Lessee, and the personal property of Lessee, its agents and employees.

#### 2. Minimum Limits of Insurance

Lessee shall maintain limits no less than:

- A. Commercial General Liability including Premises, Operations, Products and Completed Operations, Contractual Liability and Independent Contractors: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. The General Aggregate limit shall be \$2,000,000 and shall be a Per Location Aggregate. Fire Damage Limit (Any One Fire) \$300,000 and Medical Expense Limit (Any One Person) \$5,000.
- B. Automobile Liability: \$1,000,000 each accident for bodily injury and property damage. Coverage will include contractual liability.
- C. Employers Liability: \$1,000,000 each accident for bodily injury or disease. Coverage shall include a waiver of subrogation endorsement in favor of County of Santa Cruz.

D. Personal Property: Full replacement cost with no coinsurance penalty provision.

3. Deductibles and Self-Insured Retentions

Any liability deductible or self-insured retention must be declared to and approved by the County's Risk Manager. The property insurance deductible shall not exceed \$5,000 per occurrence and shall be borne by Lessee.

4. Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain the following provisions:

A. Additional Insured Endorsement

Any general liability policy provided by Lessee shall contain an additional insured endorsement applying coverage to the County of Santa Cruz, the members of the Board of Supervisors of the County and the officers, agents, employees and volunteers of the County, individually and collectively.

B. Primary Insurance Endorsement

For any claims related to this Lease, the Lessee's insurance coverage shall be primary insurance as respects the County, the members of the Board of Supervisors of the County and the officers, agents, employees and volunteers of the County, individually and collectively. Any insurance or self-insurance maintained by the County, the members of the Board of Supervisors of the County, its officers, officials, employees, or volunteers shall be excess of the Lessee's insurance and shall not contribute with it.

C. Notice of Cancellation

Each required insurance policy shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the County at the address shown in section of Lease entitled "Notices".

GENERAL PROVISIONS

5. Qualifying Insurers

All required policies of insurance shall be issued by companies which have been approved to do business in the State of California by the State Department of Insurance, and which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII according to the current Best's Key Rating guide, or a company of equal financial stability that is approved in writing by County's Risk Manager.

6. Proof of Insurance

Lessee shall, as soon as practicable following the placement of insurance required hereunder, but in no event

later than the effective date of the Lease, deliver to County certified copies of the actual insurance policies specified herein, together with appropriate separate endorsements thereto, evidencing that Lessee has obtained such coverage for the period of the Lease. Thereafter, copies of renewal policies, and appropriate separate endorsements thereof, shall be delivered to County within thirty (30) days prior to the expiration of the term of any policy required herein.

7. Failure to Obtain or Maintain Insurance; County's Remedies

Lessee's failure to provide insurance specified or failure to furnish certificates of insurance, amendatory endorsements and certified copies of policies, or failure to make premium payments required by such insurance, shall constitute a material breach of the Lease, and County may, at its option, terminate the Lease for any such default by Lessee.

8. No Limitations of Obligations

The foregoing insurance requirements as to the types and limits of insurance coverage to be maintained by Lessee, and any approval of said insurance by the County are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by Lessee pursuant to the Lease, including, but not limited to, the provisions concerning indemnification.

9. Review of Coverage

County retains the right at any time to review the coverage, form and amount of insurance required herein and may require Lessee to obtain insurance reasonably sufficient in coverage, form and amount to provide adequate protection against the kind and extent of risk which exists at the time a change in insurance is required.

10. Self-Insurance

Lessee may, with the prior written consent of County's Risk Manager, fulfill some or all of the insurance requirements contained in this Lease under a plan of self-insurance. Lessee shall only be permitted to utilize such self-insurance if in the opinion of County's Risk Manager, Lessee's (i) net worth, and (ii) reserves for payment of claims of liability against Lessee, are sufficient to adequately compensate for the lack of other insurance coverage required by this Lease. Lessee's utilization of self-insurance shall not in any way limit liabilities assumed by Lessee under this Lease.

11. Lessees' Insurance

Lessee shall require any sub-Lessee, of all or any portion of the Premises to provide the insurance coverage described herein prior to occupancy of the Premises.

12. Waiver of Subrogation

Lessee and County waive all rights to recover against each other or against any other tenant or occupant of the building, or against the officers, directors, shareholders, partners, employees, agents or invitees of each other or of any other occupant or tenant of the building, from any Claims (as defined in the Article entitled "Indemnity") against either of them and from any damages to the fixtures, personal property, Lessee's

improvements, and alterations of either County or Lessee in or on the Premises and the Property, to the extent that the proceeds received from any insurance carried by either County or Lessee, other than proceeds from any program of self-insurance, covers any such Claim or damage. Included in any policy or policies of insurance provided by Lessee shall be a standard waiver of rights of subrogation against County by the insurance company issuing said policy or policies.

Certificate Of Completion

Envelope Id: E5E3EF384B484CF5904226FBDE94A5BD  
Subject: Complete with Docusign: Aptos Library Lease.pdf  
Source Envelope:  
Document Pages: 141  
Certificate Pages: 5  
AutoNav: Enabled  
Envelopeld Stamping: Enabled  
Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Status: Completed  
  
Envelope Originator:  
Luna Harter  
701 Ocean Street  
Santa Cruz, CA 95060  
Luna.Harter@santacruzcountyca.gov  
IP Address: 23.119.164.142

Record Tracking

Status: Original  
11/14/2024 2:31:26 PM  
Security Appliance Status: Connected  
Storage Appliance Status: Connected

Holder: Luna Harter  
Luna.Harter@santacruzcountyca.gov  
Pool: FedRamp  
Pool: County of Santa Cruz

Location: DocuSign  
  
Location: DocuSign

Signer Events

Kimberly Finley  
Kimberly.Finley@santacruzcountyca.gov  
Chief Real Property Agent  
County of Santa Cruz  
Security Level: Email, Account Authentication (None)

DocuSigned by:  
  
553123D22A0D4B5...  
  
Signature Adoption: Pre-selected Style  
Using IP Address: 63.194.190.100

Timestamp  
Sent: 11/14/2024 2:33:39 PM  
Viewed: 11/14/2024 3:03:59 PM  
Signed: 11/14/2024 3:04:07 PM

Electronic Record and Signature Disclosure:

Accepted: 3/2/2022 2:54:34 PM  
ID: 080b2d2f-36cf-4132-8ac6-41053a6f7e44

Gina Occhipinti Borasi  
Gina.Borasi@santacruzcountyca.gov  
Risk Manager  
County of Santa Cruz  
Security Level: Email, Account Authentication (None)


Signed by:  
  
E4EADC5BA53B4DB...  
  
Signature Adoption: Pre-selected Style  
Using IP Address: 63.194.190.100

Sent: 11/14/2024 3:04:09 PM  
Viewed: 11/14/2024 4:47:27 PM  
Signed: 11/14/2024 4:54:47 PM

Electronic Record and Signature Disclosure:

Accepted: 12/18/2023 9:38:58 AM  
ID: 5f1392e5-7eb7-47e8-b6a6-baa8d5c3b8c6

Justin Graham  
Justin.Graham@santacruzcountyca.gov  
Reviewed as to form / Assistant County Counsel  
County of Santa Cruz  
Security Level: Email, Account Authentication (None)

DocuSigned by:  
  
40E85ACDEDAB42D...  
  
Signature Adoption: Pre-selected Style  
Using IP Address: 63.194.190.100

Sent: 11/14/2024 4:54:50 PM  
Viewed: 11/14/2024 5:22:09 PM  
Signed: 11/14/2024 5:22:22 PM

Electronic Record and Signature Disclosure:

Accepted: 3/1/2022 10:15:00 AM  
ID: dd5bcf3a-9e05-49ae-af0f-0166e942a77f

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	11/14/2024 2:33:39 PM
Certified Delivered	Security Checked	11/14/2024 5:22:09 PM
Signing Complete	Security Checked	11/14/2024 5:22:22 PM
Completed	Security Checked	11/14/2024 5:22:22 PM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

## **ELECTRONIC RECORD AND SIGNATURE DISCLOSURE**

From time to time, County of Santa Cruz (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

### **Getting paper copies**

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

### **Withdrawing your consent**

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

### **Consequences of changing your mind**

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

### **All notices and disclosures will be sent to you electronically**



Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

### **How to contact County of Santa Cruz:**

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: [nada.algharib@santacruzcounty.us](mailto:nada.algharib@santacruzcounty.us)

### **To advise County of Santa Cruz of your new email address**

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at [nada.algharib@santacruzcounty.us](mailto:nada.algharib@santacruzcounty.us) and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

### **To request paper copies from County of Santa Cruz**

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to [nada.algharib@santacruzcounty.us](mailto:nada.algharib@santacruzcounty.us) and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

### **To withdraw your consent with County of Santa Cruz**

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to [nada.algharib@santacruzcounty.us](mailto:nada.algharib@santacruzcounty.us) and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

### **Required hardware and software**

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

### **Acknowledging your access and consent to receive and sign documents electronically**

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

By selecting the check-box next to 'I agree to use electronic records and signatures', you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify County of Santa Cruz as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by County of Santa Cruz during the course of your relationship with County of Santa Cruz.




Certificate Of Completion

Envelope Id: A309212D-6D6A-43AB-B2AD-0DFDFD2CF643	Status: Completed
Subject: Complete with Docusign: Aptos Library Lease	
Source Envelope:	
Document Pages: 146	Signatures: 1
Certificate Pages: 5	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Luna Harter
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	701 Ocean Street
	Santa Cruz, CA 95060
	Luna.Harter@santacruzcountyca.gov
	IP Address: 23.119.164.142

Record Tracking

Status: Original	Holder: Luna Harter	Location: DocuSign
12/12/2024 9:58:48 AM	Luna.Harter@santacruzcountyca.gov	
Security Appliance Status: Connected	Pool: FedRamp	
Storage Appliance Status: Connected	Pool: County of Santa Cruz	Location: DocuSign

Signer EventsSignatureTimestamp

Matt Machado	DocuSigned by:  50EBAC84454C48C...	Sent: 12/12/2024 10:05:59 AM
Matt.Machado@santacruzcountyca.gov		Viewed: 12/12/2024 10:19:40 AM
Director of Community Development & Infrastructure		Signed: 12/12/2024 10:20:02 AM
County of Santa Cruz		
Security Level: Email, Account Authentication (None)	Signature Adoption: Pre-selected Style	
	Using IP Address: 63.194.190.100	

Electronic Record and Signature Disclosure:  
Accepted: 3/1/2022 8:22:46 AM  
ID: 82550d6a-8dcd-4ff4-b394-1d902bcd64c7

In Person Signer EventsSignatureTimestamp

Editor Delivery EventsStatusTimestamp

Agent Delivery EventsStatusTimestamp

Intermediary Delivery EventsStatusTimestamp

Certified Delivery EventsStatusTimestamp

Carbon Copy EventsStatusTimestamp

Kimberly Finley	<div>COPIED</div>	Sent: 1/28/2025 3:21:25 PM
Kimberly.Finley@santacruzcountyca.gov		Viewed: 1/28/2025 3:22:47 PM
Chief Real Property Agent		
County of Santa Cruz		
Security Level: Email, Account Authentication (None)		

Electronic Record and Signature Disclosure:  
Accepted: 3/2/2022 2:54:34 PM  
ID: 080b2d2f-36cf-4132-8ac6-41053a6f7e44

Witness EventsSignatureTimestamp

Notary EventsSignatureTimestamp

Envelope Summary EventsStatusTimestamps

Envelope Sent	Hashed/Encrypted	12/12/2024 10:05:59 AM
---------------	------------------	------------------------

Envelope Summary Events	Status	Timestamps
Envelope Updated	Security Checked	1/28/2025 3:21:25 PM
Envelope Updated	Security Checked	1/28/2025 3:21:25 PM
Envelope Updated	Security Checked	1/28/2025 3:21:25 PM
Certified Delivered	Security Checked	12/12/2024 10:19:40 AM
Signing Complete	Security Checked	12/12/2024 10:20:02 AM
Completed	Security Checked	1/28/2025 3:21:25 PM

Payment Events	Status	Timestamps
----------------	--------	------------

Electronic Record and Signature Disclosure

## **ELECTRONIC RECORD AND SIGNATURE DISCLOSURE**

From time to time, County of Santa Cruz (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

### **Getting paper copies**

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

### **Withdrawing your consent**

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

### **Consequences of changing your mind**

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

### **All notices and disclosures will be sent to you electronically**

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

### **How to contact County of Santa Cruz:**

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: [nada.algharib@santacruzcounty.us](mailto:nada.algharib@santacruzcounty.us)

### **To advise County of Santa Cruz of your new email address**

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at [nada.algharib@santacruzcounty.us](mailto:nada.algharib@santacruzcounty.us) and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

### **To request paper copies from County of Santa Cruz**

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to [nada.algharib@santacruzcounty.us](mailto:nada.algharib@santacruzcounty.us) and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

### **To withdraw your consent with County of Santa Cruz**

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to [nada.algharib@santacruzcounty.us](mailto:nada.algharib@santacruzcounty.us) and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

### **Required hardware and software**

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

### **Acknowledging your access and consent to receive and sign documents electronically**

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

By selecting the check-box next to 'I agree to use electronic records and signatures', you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify County of Santa Cruz as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by County of Santa Cruz during the course of your relationship with County of Santa Cruz.