

AVA COMMUNITY ENERGY – CITY OF SAN LEANDRO
POWER PURCHASE & SERVICE AGREEMENT
(CRITICAL MUNICIPAL FACILITIES)

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 DEFINITIONS.....	1
Section 1.1 Contract Definitions	1
ARTICLE 2 SCOPE OF TRANSACTION; PROJECT SITE ADDENDA.....	1
Section 2.1 Scope of Transaction	1
Section 2.2 Delivery of Project Energy	2
Section 2.3 Project Site Addenda	2
ARTICLE 3 TERM AND TERMINATION	2
Section 3.1 Effective Date; Term	2
Section 3.2 Early Termination of Projects	2
ARTICLE 4 PROJECT DEVELOPMENT; MILESTONES	3
Section 4.1 Generally	3
Section 4.2 Development Progress Reports	4
Section 4.3 Project Design Approval	4
Section 4.4 Construction Start.....	4
Section 4.5 Obligation to Interconnect.....	4
Section 4.6 Commercial Operation.	5
ARTICLE 5 INVOICING AND PAYMENT.....	6
Section 5.1 Billing and Payment Terms	6
Section 5.2 Monthly Invoices	7
Section 5.3 Payment Terms	8
Section 5.4 Payment Adjustments; Billing Errors.....	8
Section 5.5 Billing Disputes	8
Section 5.6 Pass Through	8
Section 5.7 Books and Records.....	9
Section 5.8 Taxes.....	9
ARTICLE 6 PROJECT SITE ACCESS; PROPERTY OWNERSHIP	10
Section 6.1 Access Rights	10
Section 6.2 Ownership of Projects	12
Section 6.3 Covenants and Obligations Regarding Liens	12
ARTICLE 7 PROJECT SITE MAINTENANCE.....	13
Section 7.1 General Covenants.....	13
Section 7.2 Transmission and Distribution Maintenance Information.....	13
Section 7.3 Use of Equipment	13
Section 7.4 Insulation	13
Section 7.5 Maintenance of Project Site.....	14
Section 7.6 No Alteration of Project Site	14

Section 7.7	Project Repair and Maintenance.....	14
Section 7.8	City-Requested Outages	15
Section 7.9	Use and Payment of Contractors and Subcontractors	15
Section 7.10	Prevailing Wages; Hiring Requirements.....	15
Section 7.11	Notice of Hazardous Substances	16
ARTICLE 8 PERFORMANCE GUARANTEES; WARRANTIES		16
Section 8.1	Guaranteed Energy Production.....	16
Section 8.2	Guaranteed Storage Availability.	17
Section 8.3	Ava Performance Warranties	17
Section 8.4	NO OTHER WARRANTY	18
ARTICLE 9 RECS AND INCENTIVES; OPTIMIZATION SAVINGS		18
Section 9.1	Renewable Energy Credits	18
Section 9.2	Delivery of RECs	18
Section 9.3	Optimization Savings	19
Section 9.4	Grid Services	19
ARTICLE 10 FORCE MAJEURE; BUDGETARY NON-APPROPRIATION EVENT		19
Section 10.1	Force Majeure Event	19
Section 10.2	Termination Due To Force Majeure.....	20
Section 10.3	Budgetary Non-Appropriation Event	20
Section 10.4	Exercise of City Permitting Authority.....	20
Section 10.5	No-Fault Termination.....	21
ARTICLE 11 RELOCATION AND REMOVAL UPON TERMINATION		21
Section 11.1	Relocation Requests	21
Section 11.2	Removal Services	21
Section 11.3	Abandonment	22
Section 11.4	Ava Removal Security.....	22
ARTICLE 12 MEASUREMENT		22
Section 12.1	Meter.....	22
ARTICLE 13 DEFAULTS, REMEDIES, AND DAMAGES.....		23
Section 13.1	Ava Project Defaults.....	23
Section 13.2	City’s Remedies for Ava Project Default.....	23
Section 13.3	Ava Portfolio Defaults.....	23
Section 13.4	City’s Remedies for Ava Portfolio Default.....	24
Section 13.5	City Project Default.....	24
Section 13.6	Ava’s Remedies for City Project Default.....	24
Section 13.7	City Portfolio Default.....	25
Section 13.8	Ava’s Remedies for City Portfolio Default.....	25
ARTICLE 14 REPRESENTATIONS, WARRANTIES, AND COVENANTS		25

Section 14.1	Ava Representations and Warranties.....	25
Section 14.2	City’s Representations and Warranties	26
Section 14.3	General Covenants.....	26
Section 14.4	Covenants of Ava	27
ARTICLE 15 INSURANCE.....		27
Section 15.1	Ava’s Insurance	27
Section 15.2	City’s Insurance.....	27
ARTICLE 16 INDEMNIFICATION AND LIMITATIONS OF LIABILITY		28
Section 16.1	Indemnity by the Parties	28
Section 16.2	Notice and Participation in Third Party Claims	28
Section 16.3	Environmental Indemnification.....	29
Section 16.4	Limitations on Liability.....	29
ARTICLE 17 CHANGE IN LAW; COMPLIANCE EXPENDITURE CAP		30
Section 17.1	Changes in Law	30
Section 17.2	Compliance Expenditure Cap.....	30
ARTICLE 18 ASSIGNMENT AND FINANCING		30
Section 18.1	Assignment	30
Section 18.2	Financing and Collateral Assignment	31
Section 18.3	Termination Requires Consent	31
ARTICLE 19 CONFIDENTIALITY.....		31
Section 19.1	Confidential Information	31
Section 19.2	Permitted Disclosures	32
Section 19.3	Miscellaneous	32
Section 19.4	Goodwill and Publicity.....	33
ARTICLE 20 GENERAL PROVISIONS		33
Section 20.1	Interpretation	33
Section 20.2	Choice of Law; Venue.....	33
Section 20.3	Dispute Resolution	33
Section 20.4	Notices	34
Section 20.5	Survival.....	34
Section 20.6	Compliance with All Laws	35
Section 20.7	Good Faith & Fair Dealing.....	35
Section 20.8	Cooperation	35
Section 20.9	Construction	35
Section 20.10	Non-Discrimination.....	35
Section 20.11	Non-Exclusive Contract	35
Section 20.12	Further Assurances	36
Section 20.13	Waivers.....	36
Section 20.14	Non-Dedication of Projects	36

Section 20.15 Service Contract	36
Section 20.16 No Agency, Lease, Joint Venture or Partnership	36
Section 20.17 Account Manager	37
Section 20.18 Entire Agreement, Modification, Severability	37
Section 20.19 Forward Contract.....	37
Section 20.20 No Third-Party Beneficiaries	37
Section 20.21 Disentanglement	37
Section 20.22 Accountability	37
Section 20.23 Cooperation with Review	38
Section 20.24 Authority.....	38
Section 20.25 Counterparts	38

Table of Schedules and Exhibits

<u>Schedule I</u>	Defined Terms
<u>Exhibit I</u>	Expected Annual Contract Quantity
<u>Exhibit II</u>	Form of Project Site Addendum
<u>Exhibit III</u>	City-Specific Terms
<u>Exhibit IV</u>	Insurance Requirements
<u>Exhibit V</u>	Notices
<u>Exhibit VI</u>	Ava Termination Payment Schedule
<u>Exhibit VII</u>	City Termination Payment Schedule

RENEWABLE ENERGY & STORAGE POWER PURCHASE AGREEMENT

This Renewable Energy & Storage Power Purchase Agreement (this “**Agreement**”) is entered into as of _____, 2024 (the “**Effective Date**”) between City of San Leandro, (“**City**”) and Ava Community Energy, a California joint powers authority (“**Ava**”). City and Ava are sometimes referred to herein individually as a “**Party**” and jointly as the “**Parties**”.

RECITALS

WHEREAS, City wishes to engage Ava, whether directly or indirectly through one or more subcontractors, to develop, construct, operate, and maintain multiple photovoltaic solar Projects (each, a “**Generating Project**”, and collectively, the “**Generating Projects**”) and battery energy storage Projects (each, a “**Storage Project**”, and collectively, the “**Storage Projects**”) on a portfolio of Project Sites owned by City, as more particularly described in one or more addenda to be attached hereto and incorporated herein (each, a “**Project Site Addendum**” or “**PSA**”);

WHEREAS, Ava desires to sell, and City desires to purchase, the Product on the terms and conditions set forth in this Agreement;

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, and for other good and valuable consideration, the sufficiency and adequacy of which are hereby acknowledged, the Parties agree to the following:

ARTICLE 1 DEFINITIONS

Section 1.1 *Contract Definitions*. All capitalized terms used in this Agreement shall have the meanings ascribed to them in **Schedule I** to this Agreement.

ARTICLE 2 SCOPE OF TRANSACTION; PROJECT SITE ADDENDA

Section 2.1 *Scope of Transaction*. This Agreement governs the relationship between City and Ava, as detailed under this **Section 2.1**. At Ava’s discretion, any obligation of Ava under this Agreement may be performed by Ava’s affiliates, agents, representatives, contractors, and/or subcontractors acting on Ava’s behalf; provided, that Ava shall remain solely responsible for any work performed thereby. City and Ava acknowledge and agree that Ava has entered into that certain Power Purchase & Service Agreement, dated as of [____], 2024 with Developer (the “**Developer Agreement**”) pursuant to which Ava has engaged Developer to develop, construct, own, operate, and maintain the Projects hereunder on substantially similar terms to those contained herein. Ava shall serve as the intermediary under this Agreement and the Developer Agreement, whereby the City shall be the buyer and recipient of the Product, and the Developer shall perform all obligations set forth in the Developer Agreement. Subject to the terms and conditions of this Agreement and each PSA, during the Term, Ava shall supply and deliver to City all of the Product it receives from the Developer that was produced by or associated with each Project, and City shall purchase all such Product at the Contract Price.

Section 2.2 ***Delivery of Project Energy.*** Subject to the provisions of this Agreement, with respect to each Generating Project, for the duration of the applicable Delivery Period, Ava shall supply and deliver the Product to the City at the Delivery Point, and City shall accept delivery of the Product at the Delivery Point in accordance with the terms of this Agreement. Ava shall be responsible for paying or satisfying when due any costs or charges imposed in connection with the delivery of Project Energy to the Delivery Point. Title to and risk of loss related to the Project Energy shall pass and transfer from Ava to City at the Delivery Point. City has no obligation to purchase from Ava any Project Energy that is not or cannot be delivered to the Delivery Point as a result of a Planned Outage, Forced Outage or a Force Majeure Event.

Section 2.3 ***Project Site Addenda.*** On the Effective Date, the Parties shall populate and attach hereto a PSA substantially in the form attached hereto as **Exhibit II** for each Project Site hereunder, and each PSA shall become part of and is hereby incorporated into this Agreement. The terms of each such PSA shall, in addition to the terms of this Agreement, govern the obligations of each Party with respect to the Projects thereunder. Any reference to this Agreement shall be a reference to this Agreement together with all duly executed PSAs. In the event of a conflict or inconsistency between the provisions of this Agreement and any PSA, the provisions of the PSA shall control. Each PSA may be amended at any time upon mutual agreement of the Parties confirmed in writing. The Parties agree that any PSA amended in accordance with the foregoing sentence shall supersede any prior PSA to the extent provided in such amendment and shall be effective from the date stated in the amended PSA.

ARTICLE 3 TERM AND TERMINATION

Section 3.1 ***Effective Date; Term.*** This Agreement is effective as of the Effective Date, and shall end upon the expiration of all Project Terms for each Project contemplated hereunder (“**Term**”). With respect to each Project, the Product supply period (“**Delivery Period**”) commences on the Commercial Operation Date of the Project and ends on the twenty-fifth (25th) anniversary of such Commercial Operation Date (the “**Initial Term**”), unless terminated earlier pursuant to the provisions of this Agreement. Thereafter, the term of this Agreement may be extended as it applies to such Project, upon mutual written consent of the Parties, for successive five (5)-year periods (each such period, a “**Renewal Term**”, and together with the Initial Term, the “**Project Term**”), up to a maximum Project Term of fifty (50) years. Between ninety (90) and one hundred eighty (180) days prior to the end of the Initial Term or any Renewal Term, City shall provide written notice to Ava as to its desire to continue for any subsequent Renewal Term, upon which the Parties shall negotiate in good faith for sixty (60) days the revised terms, if any, applicable to such Renewal Term. After such 60-day period, if the Parties have not mutually agreed upon the terms and conditions applicable to such Renewal Term, then the applicable Project Term will expire at the end of the then-current Initial Term or Renewal Term, as applicable.

Section 3.2 *Early Termination of Projects*

(a) **Early Termination Events.** With respect to each Project, prior to Construction Start, the applicable Party specified below shall have the right to withdraw the affected Project from this Agreement upon the occurrence of any of the following events, so long

as the terminating Party provides reasonably sufficient evidence to the other Party demonstrating the occurrence of such event (each, an “**Early Termination Event**”):

(i) Either Party may withdraw an affected Project under this Section 3.2(a) if (1) the EPC Contractor encounters extraordinary subsurface conditions that were not reasonably anticipated by either Party as of the Effective Date, such as bedrock or water pipes, which have a material adverse impact on the development costs associated with such Project, and such costs cannot be adequately mitigated or eliminated by Developer using commercially reasonable efforts; (2) Developer discovers historical or cultural artifacts on the Project Site and as a result, Developer is unable to perform its obligations under the Developer Agreement in compliance with Applicable Law; or (3) Developer discovers Adverse Environmental Conditions on the Project Site and the terminating Party provides an opinion from an independent third-party consultant that such Adverse Environmental Conditions cannot be adequately mitigated or eliminated by Developer using commercially reasonable efforts.

(ii) Only Ava may withdraw an affected Project under this Section 3.2(a) if (1) the Local Electric Utility denies Developer’s application for interconnection or easements necessary to enable the delivery of Project Energy to the Delivery Point, or the Project Site is otherwise disqualified due to acts or omissions of City, despite Developer’s use of commercially reasonable efforts; (2) the AHJ rejects Developer’s application for a Governmental Approval on non-administrative or prejudicial grounds, despite Developer’s exercise of commercially reasonable efforts; (3) Developer discovers or has reasonable grounds to believe that title to the Project Site is unclear, defective or encumbered by adverse claims, restrictions or Liens, and can provide evidence supporting documentation or evidence of such belief; or (4) any portion of the Project Site is damaged by fire, earthquake, flood or other casualty in a manner that has a material adverse effect on the installation or operation of the Project at the Project Site and such damage cannot be readily remedied.

(b) Procedures. Upon any such withdrawal of a Project due to an Early Termination Event, (1) the applicable PSA shall be deemed withdrawn from this Agreement, (2) neither Party shall have any liability to the other Party with respect to the withdrawn Project other than those that survive this Agreement, and (3) Ava shall have the right to (i) deliver to City a Relocation Request in accordance with Section 11.1, and/or (ii) adjust the Renewable Rate in accordance with Section 5.1(b). In the case of a claim by City that a Project meets the qualification for an Early Termination Event, Ava may in good faith challenge such a claim in its reasonable judgment. Any disagreement between the Parties regarding the applicability of an Early Termination Event asserted by City shall be subject to the dispute resolution provisions of Section 20.3.

ARTICLE 4

PROJECT DEVELOPMENT; MILESTONES

Section 4.1 **Generally**. Ava shall (directly or indirectly through Developer) develop, design, engineer, construct, install, and commission each Project in a timely fashion and in accordance with the terms of this Agreement, Prudent Operating Practice, and Applicable Law.

Section 4.2 ***Development Progress Reports.*** With respect to each Project, starting on the Effective Date until all Projects hereunder have achieved COD, Ava shall provide quarterly progress reports (a “**Progress Report**”) to City which describe Ava’s progress in achieving Construction Start and COD for each Project therein. Ava shall also provide City with any reasonably requested documentation (subject to confidentiality restrictions) directly related to the achievement of Construction Start or COD for any Project within twenty (20) Business Days of receipt of such request from City.

Section 4.3 ***Project Design Approval.*** With respect to each Project, no later than seventy-five (75) days prior to the Estimated Construction Start Date, Ava shall deliver to City (i) a design & construction schedule, (ii) all drawings, plans, and specifications for the construction of the Project, and (iii) production estimation reports from Helioscope (or any comparable entity) (the “**Design Plan**”), which shall be subject to approval by City in its reasonable discretion. Within thirty (30) days following the date on which the Design Plan is received by City, City shall provide written notice to Ava either (i) accepting the Design Plan, or (ii) rejecting the Design Plan, along with its commercially reasonable explanation for doing so, including, but not limited to, (x) any operational issues at the applicable Project Site, or (y) substantial revisions to the original draft design plan upon which indicative pricing was based. If City rejects the Design Plan under clause (ii) above, within thirty (30) days of receipt of City’s rejection, Ava (directly or indirectly through Developer) shall modify the Design Plan to address City’s objections (such modified plan, the “**Modified Design Plan**”) and submit such Modified Design Plan to City for approval in its reasonable discretion. Within fifteen (15) days following the date on which the Modified Design Plan is received by City, City shall provide written notice to Ava indicating its acceptance or rejection of the Modified Design Plan. If City accepts the Modified Design Plan, such Modified Design Plan shall be deemed the applicable Design Plan for such Project. If City rejects the Modified Design Plan, the Parties shall resolve their differences in accordance with the dispute resolution procedures set forth in Section 20.3.

Section 4.4 ***Construction Start.***

(a) **Construction Start.** With respect to each Project, “**Construction Start**” shall be deemed to have occurred once Ava and/or Developer has (i) engaged all major contractors and ordered all major equipment and supplies as, in each case, can reasonably be considered necessary so that physical construction of such Project may begin and proceed to completion without foreseeable interruption of material duration, (ii) delivered to City a Design Plan which has been approved by City in its reasonable discretion in accordance with Section 4.3, and (iii) executed an EPC Contract and issued thereunder a notice to proceed that authorizes the applicable contractor to mobilize the Project Site and begin physical construction of the Project at the Project Site. The date of Construction Start will be evidenced by and subject to Ava’s delivery to City of written notice indicating the occurrence of Construction Start, and the date stated in such notice shall be the “**Construction Start Date**”.

Section 4.5 ***Obligation to Interconnect.*** Ava shall, directly or indirectly through Developer, at its own cost and expense, negotiate and enter into an Interconnection Agreement and such other agreements with the Local Electric Utility as needed to enable the transmission of Project Energy to the Delivery Points. City shall not be responsible for any costs under the Interconnection Agreement or any other agreements between Ava or Developer and the Local

Electric Utility, including but not limited to the costs of any upgrades to the Transmission System associated with the interconnection of the Project. In no event shall City be required to maintain the interconnection Projects including metering Projects or for the cost and expense associated therewith.

Section 4.6 *Commercial Operation.*

(a) Commercial Operation Deadline. With respect to each Project, Ava shall cause the Commercial Operation Date to occur no later than ninety (90) days after the Construction Start Date (“**Commercial Operation Deadline**”).

(b) Force Majeure Delay. If Ava’s timely achievement of the Commercial Operation Date is impacted by a Force Majeure Event (“**Force Majeure Delay**”), Ava shall be entitled to extend the Commercial Operation Deadline on a day-for-day basis for no more than one-hundred twenty (120) days (“**FM Delay Cure Period**”) so long as Ava provides to City written notice of a Force Majeure Event in accordance with the requirements set forth in Section 10.1 on or before the Commercial Operation Deadline. For the avoidance of doubt, no COD Delay Damages shall be owed during such FM Delay Cure Period.

(c) COD Delay Notice; COD Delay Cure Period. Ava shall provide City with advanced notice of any delay in achieving COD by the Commercial Operation Deadline (“**COD Delay Notice**”) at least forty (40) days in advance of the Commercial Operation Deadline (or, if Ava’s anticipation of such delay does not arise until after such advanced window, then as soon as reasonably practicable following such anticipation arising). If the Project has not achieved COD by the Commercial Operation Deadline (subject to any FM Delay Cure Period thereto), then Ava may avoid an Ava Event of Default for the duration of the COD Delay Cure Period by passing through to the City the COD Delay Damages received from Developer pursuant to Section 5.6. Prior to the expiration of the COD Delay Cure Period, as long as Ava has provided the COD Delay Notice to City and passed through all COD Delay Damages received from Developer in accordance with this Section 4.6(c), Ava’s failure to achieve COD by the Commercial Operation Deadline shall not be deemed an Ava Event of Default. Upon either (A) Ava’s failure to timely pass through the COD Delay Damages, or (B) Ava’s failure to achieve COD prior to the expiration of the COD Delay Cure Period, in each case for any reason other than a Force Majeure Delay or City’s fault or negligence, Ava shall be deemed a Defaulting Party pursuant to Section 13.1(a) and City shall have the right to declare an Ava Event of Default and terminate the applicable Project.

(i) Acknowledgement of Liquidated Damages. Each Party agrees that (1) the damages that City would incur due to Ava’s delay in achieving COD by the Commercial Operation Deadline would be difficult or impossible to predict with certainty, and (2) the prorated COD Delay Damages passed through pursuant to Section 5.6 are an appropriate approximation of such damages.

(d) COD Confirmation; Commissioning Tests. With respect to each Project, Ava shall (A) take all actions and obtain all approvals necessary to meet the obligations of this Agreement, to develop the Project, and to deliver the Product to City pursuant to the terms of this Agreement, and (B) use commercially reasonable efforts to cause Developer to comply with all applicable CAISO and Local Electric Utility requirements for pre-operational testing. No later than

three (3) Business Days prior to conducting a pre-operational test in connection with Commercial Operation of the Project (a “**Commissioning Test**”), Ava shall notify City of the date on which it intends to retain a Licensed Professional Engineer to conduct such Commissioning Tests. City shall have the right to be present during any such Commissioning Test, and to receive copies of an Installed Capacity Certificate issued by the Licensed Professional Engineer thereafter. Ava may change the date for such Commissioning Tests upon three (3) days’ advanced written notice of the Commissioning Test. On or promptly following the Commercial Operation Date (but in no event later than ten (10) Business Days thereafter), Ava shall provide notice to City confirming the occurrence of the Commercial Operation Date.

ARTICLE 5 INVOICING AND PAYMENT

Section 5.1 *Billing and Payment Terms.*

(a) Calculation of Monthly Payment. On a monthly basis during the Delivery Period, City shall pay Ava a Monthly Payment for all Product delivered hereunder, which shall be calculated in accordance with the following:

(i) With respect to each Project, the “**PV Payment**” shall be determined as follows: (A) if such Project is a Tranche A Project, multiply (i) all PV Energy delivered to City at the Delivery Point during the applicable Contract Month, by (ii) \$0.2988/kWh (the “**Tranche A PPA Rate**”); or (B) if such Project is a Tranche B Project, multiply (i) all PV Energy delivered to City at the Delivery Point during the applicable Contract Month, by (ii) \$0.4199/kWh (the “**Tranche B PPA Rate**”). The “**Storage Payment**” shall be calculated by multiplying (i) \$10.25/kW/month (the “**Storage Rate**”) by (ii) the Storage Inverter Power for such Project. Notwithstanding the foregoing, the Parties acknowledge and agree that (1) the Renewable Rates and the Storage Rate set forth in this Section 5.1(a)(i) shall be subject to an annual escalation of two and one-half percent (2.50%) (the “**Annual Escalator**”), and (2) other than with respect to such Annual Escalator, such Renewable Rates are to remain fixed for the duration of the Term, except as otherwise set forth in Section 5.1(b) and 5.1(c).

(ii) The sum of the PV Payment and the Storage Payment shall constitute the “**Project Monthly Payment**”, and the sum of all Project Monthly Payments for all Projects hereunder shall constitute the “**Monthly Payment**”.

(b) Adjustments to Renewable Rate. With respect to both the Tranche A PPA Rate and the Tranche B PPA Rate, in the event that any Project is terminated or withdrawn from this Agreement due to an Early Termination Event or a City Event of Default, then Ava may revise the applicable Renewable Rate, the amount of which shall be at its sole discretion so long as such revised Renewable Rate provides the City Portfolio with estimated Optimization Savings that result in cost neutrality. Upon Ava’s delivery of written notice to City of such revised Renewable Rate in accordance with the foregoing, such revised Renewable Rate shall take effect under this Agreement, and neither Party shall have any liability to the other with respect to the withdrawn Project(s) other than those that survive this Agreement. Any adjustment to the Renewable Rate(s) made in accordance with this Section 5.1(b) shall be reflected in an amendment executed by both Parties in accordance with Section 20.18.

(c) Adjustments to Tranche B PPA Rate. Prior to Construction Start, with respect to the Tranche B PPA Rate only, upon Ava's delivery to City of a reasonably documented design change for any Tranche B Project, Ava may increase the Tranche B PPA Rate, the amount of which shall be at its sole discretion so long as such revised Tranche B PPA Rate provides the City Portfolio with estimated Optimization Savings that result in cost neutrality; provided, however, in the event that the revised Tranche B PPA Rate would cause estimated Optimization Savings to no longer be cost neutral, the Parties may, upon mutual agreement, terminate or withdraw one or more Tranche B Projects from the City Portfolio in order to achieve estimated Optimization Savings that result in cost neutrality over the Portfolio Delivery Period at such increased Tranche B PPA Rate, upon which such revised Tranche B PPA Rate shall take effect under this Agreement, and neither Party shall have any liability to the other with respect to the withdrawn Project(s) other than those that survive this Agreement. Any adjustment to the Tranche B PPA Rate made in accordance with this Section 5.1(c) shall be reflected in an amendment executed by both Parties in accordance with Section 20.18.

(d) City Pricing Incentives.

(i) *One-Time Storage Incentive.* Within sixty (60) days of the date on which the final Tranche B Project achieves COD, Ava shall deliver to City a one-time incentive payment (the "**Storage Incentive Payment**"), which shall be calculated by multiplying (i) the cumulative Storage Contract Capacity of all Tranche B Projects in the City Portfolio, by (ii) four hundred dollars (\$400)/kWh. Such Storage Incentive Payment shall be delivered from Ava to City via cash, check, or ACH payment.

(ii) *Monthly Bill Credit.* On a monthly basis during the first five (5) years of the Initial Term, Ava shall credit the City in the form of a monthly bill credit to City's monthly invoice, which shall be calculated by multiplying (i) the City's Storage Contract Capacity, by (ii) two dollars (\$2)/kWh (the product of (i) and (ii), the "**Monthly Bill Credit**"), provided, however, that no Monthly Bill Credit shall be applied during any Contract Month during which any of the following has occurred and is ongoing for the duration of such Contract Month: (a) City Project Default, (b) City Portfolio Default; (c) Forced Outage; and/or (d) Force Majeure Event (each, a "**Bill Credit Disqualifying Event**"). If a Bill Credit Disqualifying Event only applies to particular Projects and not the entire City Portfolio, the Monthly Bill Credit shall be adjusted on a pro rata basis based on the Storage Contract Capacity of the affected Projects. The Monthly Bill Credit shall be delivered from Ava to City in the form of a bill credit on a monthly invoice issued hereunder which reduces the Monthly Payment owed by the City.

(iii) *Elimination of City Pricing Incentives.* Notwithstanding the foregoing in this Section 5.1(d), at any time after the Effective Date, Ava may, at its discretion, eliminate or reduce the Storage Incentive Payment and/or the Monthly Bill Credit if it reasonably determines that such elimination or reduction will result in greater estimated Optimization Savings to City; provided, upon City's reasonable request, Ava shall deliver to City documentation and calculations supporting its determination hereunder.

Section 5.2 *Monthly Invoices.* Ava shall invoice City on a monthly basis, the delivery of which shall be no later than forty-five (45) days following the end of the applicable monthly billing period. Failure to send such invoice within ninety (90) days following the end of the

applicable monthly billing period shall relieve the City of any liability for payment of the Product for such month. Such monthly invoices shall provide the following information (collectively, the “**Invoice Information**”): (i) the records of data from the Meter indicating all PV Energy and Discharging Energy, as applicable; (ii) the Monthly Payment owed; (iii) the Monthly Bill Credit, if applicable; and (iv) any Optimization Savings accrued during the month, if any; provided, that if Ava has not received the Invoice Information from Developer within forty-five (45) days of the previous month’s end, Ava may deliver an invoice to City based on historical trends, the amount owed under any such invoice shall be adjusted upon Ava’s receipt of the Invoice Information from Developer.

Section 5.3 **Payment Terms.** Subject to Section 5.5, all amounts due under this Agreement are due and payable net thirty (30) days following receipt of an invoice. If such due date falls on a weekend or legal holiday, such due date shall be the next Business Day. Payments made after the due date shall be considered late and will bear interest on the unpaid balance. Any undisputed portion of the invoice amount not paid within such thirty (30)-day period shall accrue interest at the lesser of (x) an annual rate of five percent (5%) or (y) the maximum amount permitted under Applicable Law (the “**Interest Rate**”). All payments shall be made in U.S. dollars.

Section 5.4 **Payment Adjustments; Billing Errors.** Payment adjustments shall be made if City or Ava discovers there have been good faith inaccuracies in invoicing that are not otherwise disputed under Section 5.5 or an adjustment to an amount previously invoiced or paid is required due to a correction of data. If the required adjustment is in favor of City, City’s next Monthly Payment shall be credited in an amount equal to the adjustment. If the required adjustment is in favor of Ava, Ava shall add the adjustment to City’s next monthly invoice. Adjustments in favor of either Party shall bear interest at the Interest Rate, until settled in full, accruing from the date on which the adjusted amount should have been due.

Section 5.5 **Billing Disputes.** A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice rendered under this Agreement or adjust any invoice for any computational error within twelve (12) months of the date of such invoice, or adjustment to such invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within five (5) Business Days of such resolution along with interest accrued at the Interest Rate from and including the original due date to but excluding the date paid. Any dispute with respect to an invoice is waived if the other Party is not notified in accordance with this Section 5.5 within twelve (12) months after the invoice is rendered or subsequently adjusted, except to the extent any misinformation was from a third party not affiliated with any Party (other than Developer) and such third party corrects its information after the 12-month period. If an invoice is not rendered within twelve (12) months after the close of the month during which performance occurred, the right to payment for such performance is waived.

Section 5.6 **Pass Through Damages.** To the extent that Ava receives any COD Delay Damages, Guaranteed Energy Damages, or Ava Termination Payments from the Developer pursuant to the terms of the Developer Agreement, Ava shall pass through such amounts

(collectively, the “**Pass-Through Damages**”) to the City in full, less any reasonably incurred costs by Ava to (i) remedy the underlying default under the Developer Agreement, (ii) perform any Removal Services at the applicable Project Site, or (iii) collect such amounts from the Developer, including attorneys’ fees (such costs, the “**Ava Pass-Through Costs**”). Upon Ava’s delivery to the City of the applicable Pass-Through Damages, Ava’s obligation to the City with respect to such incurred COD Delay Damages, Guaranteed Energy Damages or Ava Termination Payment (as applicable) under this Agreement shall be deemed satisfied in full and any corresponding default hereunder shall be deemed remedied, regardless of the amount of Ava Pass-Through Costs; provided, however, that in no event shall the Ava Pass-Through Costs exceed the amount of Pass-Through Damages. Such Pass-Through Damages shall be passed through from Ava to the City within ninety (90) days of receipt from the Developer in the form of a bill credit on a monthly invoice issued hereunder which reduces the Monthly Payment owed by the City.

Section 5.7 ***Books and Records.***

(a) **Maintenance of Records.** The Parties shall maintain any and all documents and records that demonstrate performance under this Agreement and any lease or license relating to the Projects, and all ledgers, books of account, invoices, vouchers, cancelled checks, and other documents evidencing or relating to charges for services, or expenditures and disbursements charged to the other Party for a minimum period of two (2) years, or for any longer period required by Applicable Law, from the date of final payment to Ava pursuant to this Agreement. Unless otherwise required by law or directed otherwise by Ava in writing, an electronic copy of any record shall be deemed an original.

(b) **Inspection.** Any documents required to be maintained pursuant to this Agreement shall be made available upon reasonable notice for inspection or audit at no cost to the requesting Party, at any time during regular business hours, upon written request by a designated representative of the requesting Party. The non-requesting Party shall provide copies of such documents to the requesting Party for inspection at a time and place that is convenient to the requesting Party.

Section 5.8 ***Taxes.*** Each Party shall be responsible for its respective portion of the taxes hereunder; provided, however, that nothing shall obligate or cause either Party to pay or be liable to pay any taxes for which it is exempt under Applicable Law.

(a) **City’s Taxes.** City is responsible for (1) payment of or reimbursement of Ava for all taxes assessed on the generation, sale, delivery or consumption of Energy sold under this Agreement and capacity provided by the Project or the interconnection of the Project to the utility’s electricity distribution system, and (2) real property taxes for the property where the Project is located. If City is required by law or regulation to remit or pay taxes that are Ava’s responsibility hereunder, then within ninety (90) days following written notice from City of the taxes paid and applicable amounts, Ava shall reimburse City for the amount of any such paid taxes. Nothing herein shall obligate or cause City to pay or be liable to pay any taxes for which it is exempt under Applicable Law.

(b) Ava's Taxes. Ava is responsible for payment of or reimbursement of City for (1) income taxes or similar taxes imposed on Ava's revenues due to the sale of electricity or capacity under this Agreement, and (2) personal property taxes imposed on the Project, if any.

ARTICLE 6 PROJECT SITE ACCESS; PROPERTY OWNERSHIP

Section 6.1 *Access Rights*.

(a) Non-Exclusive License. With respect to each Project Site, City hereby grants, subject to the terms of this Section 6.1, to Ava and to Ava's affiliates, employees, and contractors (the "**Licensees**"), a non-exclusive, irrevocable, sub-licensable license running with the Project Site (the "**Non-Exclusive License**") for access to, on, over, under, and across the Project Site from the Effective Date until the date that is one-hundred eighty (180) days after the earlier of (x) termination of the applicable PSA, or (y) the expiration of the applicable Project Term (the "**License Term**"), for the purposes of performing all of Ava's obligations and enforcing all of Ava's rights set forth in this Agreement and otherwise as required by the Licensees in order to effectuate the purposes of this Agreement (including, without limitation, subject to approval by the City in its reasonable discretion as to the specific location, the right to use additional space within the building as reasonably necessary for the installation, interconnection, operation, and maintenance of the Project Equipment, and any other necessary equipment and appurtenances running between the Project and the Delivery Point).

(b) Notification of Access. The Licensees shall provide proper notice to City and comply with City's site safety and security requirements, as set forth in Attachment A of the applicable PSA, when on the Project Site during the License Term. The Licensees shall provide reasonable advanced notice prior to entry which shall be, at minimum, no less than fourteen (14) days, to City or his or her designee of Licensee's intent to exercise the access rights set forth in this Section 6.1; provided, however, in the event of a Forced Outage, Force Majeure Event or other emergency, or if access is required in connection with a City-Requested Outage pursuant to Section 7.8, the Licensees shall provide as much reasonable advanced notice as is practicable under the circumstances prior to such entry. City will not charge rent for such right to access the Project Site. City may delay or deny access to Licensees for good cause by providing written notice of such delay or denial no more than ten (10) days after City receives notice of any Licensee's intent to exercise access rights; provided, however, if City delays or denies access to Licensees for any reason during the applicable Delivery Period, and such delay or denial has a material adverse effect on Ava's ability to satisfy the Guaranteed Energy Production and/or the Guaranteed Storage Availability, a City-Requested Outage shall be deemed to have occurred for the duration of such delay or denial.

(c) Maintenance of License. During the License Term, City shall preserve and protect the Licensees' rights under the Non-Exclusive License and Licensees' access to the Project Site and shall not interfere or permit any third parties under City's control to interfere with such rights or access. Notwithstanding anything to the contrary contained herein, Ava shall have the right to assign or sublicense the Non-Exclusive License to Developer and its agents, employees, and contractors, or to any Financing Party. The Financing Parties are intended third party beneficiaries of City's agreements in the Non-Exclusive License. Upon any rejection or earlier

termination of the Agreement pursuant to any process undertaken with respect to Ava under the United States Bankruptcy Code, at the request of any Financing Party made within ninety (90) days of such termination or rejection, City shall execute a new grant of Non-Exclusive License(s) in favor of the Financing Parties (or their designees) on substantially the same terms as this Non-Exclusive License and in a manner consistent with the City-Specific Terms included as Exhibit III. City will not take any action inconsistent with the foregoing.

(d) Rights of Licensees. With respect to each Project, the rights granted to the Licensees pursuant to the Non-Exclusive License for the duration of the License Term shall include the following, without limitation:

(i) To use City's water already available and accessible to the Project Site solely for cleaning the Projects in a manner that is not wasteful, including an automatic shut-off nozzle (it being understood and agreed that the Licensees' right to such water is non-exclusive in that City and other third parties may also access such water);

(ii) To connect and use the electrical systems and internet located upon the Project Site during the installation and construction of the Project, provided however, that internet access shall be granted under commercially reasonable conditions set forth by and subject to the approval of the applicable authority for the City, which approval shall not be unreasonably withheld;

(iii) After consultation with and written consent from City on the preferred method, timing, and specific vegetation to be impacted and upon issuance of any permit as required under Applicable Law to remove, trim, prune, top or otherwise control the growth of any tree, shrub, plant or other vegetation; and

(iv) After consultation with and written consent from City on the preferred method, timing, and specific objects to be impacted and upon issuance of any permit as required by Applicable Law, remove any object on the Project Site that obstructs, interferes with or impairs the Project or its operations.

(v) In addition to the foregoing, City shall grant the Licensees a non-exclusive temporary license over, across, and upon portions of the real property owned by City that lie outside of the Project Site for the limited purposes set forth in subclauses (i)-(iv).

(e) Memorandum of License. City agrees that Ava, upon request to and approval from City, may record a memorandum of the Non-Exclusive License and Ava's rights under this Agreement, and any amendments, assignments or sublicenses thereto, in each instance in form and substance mutually acceptable to each Party in its reasonable discretion. With respect to each Project, the Parties shall finalize a form of memorandum of license prior to the applicable Commercial Operation Date that can be recorded by Ava in the public land records in the county in which the Project Site is located. Upon termination of this Agreement or any PSA hereunder, with respect to the affected Projects, the Parties shall execute and cause to be recorded a memorandum providing record notice of such termination.

(f) Ground-Mounted Generating Projects. The Parties acknowledge and agree that as of the Effective Date, no Generating Project hereunder is contemplated to be ground-

mounted; provided, however, if, during the Term, as a result of a reasonably documented design change for any Tranche B Generating Project, such Project is redesigned by Ava to be ground-mounted and located within a secured, fenced area on the Project Site, City hereby grants to the Licensees an exclusive, sub-licensable license running with the Project Site (the “**Exclusive License**”, and together with the Non-Exclusive License, the “**Licenses**”) for purposes of the installation, operation, use, and maintenance of the Project on such exclusively licensed area of the Project Site during the License Term.

Section 6.2 *Ownership of Projects.*

(a) Ownership of Projects; Personal Property. Throughout the Term, Developer shall be the legal and beneficial owner of each Project, and each Project will remain the personal property of Developer and will not attach to or be deemed part of, or fixture to, the applicable Project Site or any Improvement on which such Project is installed. Each of Ava and City agree that Developer is the tax owner of each Project and all tax filings and reports shall be filed in a manner consistent with this Agreement. Each Project will at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code. Notwithstanding the foregoing, in the event that Ava purchases one or more Projects from Developer pursuant to the terms of the Developer Agreement, all references to “Developer” in this Section 6.2 shall be deemed to refer instead to “Ava.”

(b) Notice to City Lienholders. The City shall use commercially reasonable efforts to place all parties having a Lien on the applicable Project Sites or any Improvement on which a Project is installed on notice of the ownership of such Project and the legal status or classification of such Project as personal property. If any mortgage or fixture filing against any Project Site could reasonably be construed as prospectively attaching any Project as a fixture on such Project Site, the City shall provide a disclaimer or release from such lienholder.

(c) Fixture Disclaimer. With respect to each Project Site, if the City is the fee owner of such Project Site, City consents to the filing of a disclaimer of any Project thereon as a fixture of the Project Site in the office where records are customarily filed in the jurisdiction where the Project Site is located. If the City is not the fee owner, the City shall obtain such consent from the applicable fee owner. For the avoidance of doubt, in either circumstance Ava shall have the right to file such disclaimer.

Section 6.3 *Covenants and Obligations Regarding Liens.* The City shall not directly or indirectly cause, create, incur, assume or suffer to exist any mortgage, pledge, step order, lien (including mechanics, labor or materialmen’s lien), charge, security interest, encumbrance or claim (each, a “**Lien**”) on or with respect to the Projects or any portion thereof to any Person other than a Financing Party. Ava shall not directly or indirectly cause, create, incur, assume or suffer to exist any Lien on or with respect to any equipment or property of City, other than those Liens that Ava is permitted by Applicable Law to place on the City’s interest in a Project Site due the City’s non-payment of amounts due under this Agreement. If either Party breaches its obligations under this Section 6.3, such breaching Party shall (i) promptly notify the other in writing, (ii) cause any Lien within fifteen (15) days of breaching Party having received written notice thereof to be discharged and released of record without cost to the other Party, and (iii) indemnify the non-breaching Party

against all claims, losses, costs, damages, and expenses, including reasonable attorneys' fees, incurred in discharging and releasing such Lien.

ARTICLE 7 PROJECT SITE MAINTENANCE

Section 7.1 **General Covenants.** Each Party covenants to and for the benefit of the other Party that throughout the Term:

(a) Each Party shall maintain (or obtain from time to time, as required) all Governmental Approvals necessary for it to legally perform its obligations under this Agreement.

(b) Each Party shall undertake its obligations under this Agreement in compliance with (i) all Applicable Law (including, but not limited to, those related to workplace safety, employment discrimination, prevailing wage, non-discrimination and non-preference, and conflicts of interest); (ii) Prudent Operating Practices; (iii) all applicable operating policies, criteria, rules, guidelines, tariffs, and protocols of the CAISO and the Local Electric Utility; and (iv) all applicable requirements of the CPUC, CARB, FERC, NERC, and WECC (including WECC Scheduling Practices).

Section 7.2 **Transmission and Distribution Maintenance Information.** If either Party receives information through CAISO or from the Local Electric Utility regarding maintenance that will have a material adverse effect on the Generating Project or which may result in a Forced Outage, it will provide the information promptly to the other Party.

Section 7.3 **Use of Equipment.** Ava shall cause Developer to maintain and use its equipment in a safe and workmanlike manner at all times. Ava shall cause Developer to prevent or avoid conducting or permitting activities on, in or about the Project Site or the Improvements that have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the Project, Project Site or Improvements. Ava shall indemnify City for any loss or damage to the Project, Project Site or Improvements to the extent caused by or arising out of (i) Developer's breach of its obligations under this Section 7.3 or (ii) the acts or omissions of Developer or its employees, agents, invitees or separate contractors following Developer's failure to cure those actions contemplated under (i) or (ii) within sixty (60) Business Days' receipt of City's notice, which shall be provided no later than ten (10) Business Days from City becoming aware of such breach, act or omission.

Section 7.4 **Insolation.** City acknowledges that unobstructed access to sunlight ("**Insolation**") is essential to Ava's performance of its obligations and a material term of this Agreement. City shall not cause or permit any interference with the Generating Project's Insolation and to the extent within its reasonable control shall ensure that vegetation on the Project Site adjacent to the Generating Project is regularly pruned or otherwise maintained to prevent interference with the Generating Project's Insolation. City shall provide necessary approvals or acknowledgements to enable the delivery of a shade report from SunEye (or a comparable entity) within the five (5) Business Days prior to the Commercial Operation Date. If the Insolation of the Project is materially reduced during the Term due to new obstructions or vegetation, the Expected Annual Contract Quantity shall be reduced in proportion to the decrease in Insolation. If City

discovers any activity or condition that could diminish the Insolation of the Generating Project, City shall immediately notify Ava and cooperate with Ava in preserving and restoring the Generating Project's Insolation levels as they existed on the Effective Date and as allowed by state and local law and within the reasonable control of the City.

Section 7.5 Maintenance of Project Site. City shall, at its sole cost and expense, maintain the Project Sites, Project Site and Improvements in good condition and repair. City, to the extent within its reasonable control, (i) shall ensure that the Project Site remain interconnected to the local utility grid at all times and (ii) shall not permit cessation of electric service to the Project from the local utility. City is fully responsible for and shall properly maintain in full working order and good repair, the electrical infrastructure on the City's side of the Delivery Point, including all of City's equipment that utilizes the Project's outputs. City shall cooperate with Ava and Developer to comply with any technical standard of the utility providing electrical power to the City.

Section 7.6 No Alteration of Project Site. Not less than thirty (30) days prior to making any alterations or repairs to the Project Site (except for emergency repairs) or any Improvement that may have an Adverse Effect on the operation and maintenance of the Project, City shall inform Ava in writing and, thereafter, shall use commercially reasonable efforts to conduct such repairs, alterations or Improvements in compliance with any reasonable request made by Ava within ten (10) days after having received such written request to mitigate such Adverse Effect. If any repair, alteration or Improvement results in a permanent and material adverse economic impact on the Project, City may request relocation of the Project under Article 11 hereof. To the extent that temporary disconnection or removal of the Project is necessary to perform such alterations or repairs, Ava shall use commercially reasonable efforts to cause Developer to perform such work, and any re-connection or re-installation of the Project, at City's cost. Ava shall use commercially reasonable efforts to cause Developer to make any alterations and repairs in a good and workmanlike manner, in compliance with all Applicable Law. For purposes of this Section 7.6, "**Adverse Effect**" means any set of circumstances or facts which impairs or limits the performance of the Project, including, but not limited to, any event, circumstance or fact that could (i) reduce the solar production of the Generating Project, (ii) adversely impact the performance of the Storage Project, (iii) violate the underlying Project Equipment's safety and operating standards, or (iv) void any warranty of the Project or the underlying Project Equipment.

Section 7.7 Project Repair and Maintenance. Ava shall, directly or indirectly through Developer, cause the Projects to be operated and maintained in accordance with Prudent Operating Practices. Ava may cause Developer to suspend delivery of electricity from the Project to the Delivery Point for the purpose of maintaining and repairing the Project; provided that Ava shall cause Developer to use commercially reasonable efforts to (i) minimize any interruption in service to the City and (ii) limit any such suspension of service to weekend or off-peak hours. Scheduled and unscheduled maintenance and repairs shall be undertaken at Ava's sole cost and expense, except that City shall reimburse Ava for the reasonable cost of any repairs or maintenance resulting from damage caused by City, its agents, employees or contractors. Ava will provide to City written schedules for scheduled maintenance for the Project (each a "**Planned Outage**") for each Contract Year no later than thirty (30) days prior to the first day of the applicable Contract Year. City may provide comments no later than ten (10) days after receiving any such schedule, and Ava will in good faith take into account any such comments. Ava will deliver to City the final updated

schedule of Planned Outages no later than ten (10) days after receiving City's comments. Ava shall be permitted to reduce deliveries of Product during any period of such Planned Outages; provided however, such Planned Outages shall not exceed one hundred twenty (120) hours in any calendar year, plus such additional hours as are reasonably necessary for Ava to comply with maintenance as required by Applicable Law. Notwithstanding the foregoing, Ava shall be permitted to reduce deliveries of Product during a (i) Forced Outage or (ii) a Force Majeure Event, as the result of either of which, Ava shall provide City written notice of such event, including the anticipated duration (if known). Except to the extent expressly provided under this Agreement, City shall have no obligations or liability with respect to the maintenance or repair of Project Equipment.

Section 7.8 ***City-Requested Outages***. Upon City's written request, Ava shall cause Developer to take the Project off-line for a total of five (5) days during each Contract Year (each event a "**City-Requested Outage**" and the five-day period the "**Outage Allowance**"). The Outage Allowance includes all City-Requested Outage hours undertaken by Developer for maintenance or repairs for which City is responsible pursuant to Section 7.7 or requested by City under this Section 7.8 (other than due to the fault or negligence of Ava). City's request shall be delivered at least five (5) days in advance. City is not obligated to accept or pay for electricity from the Project for City-Requested Outages up to the annual Outage Allowance. If City's aggregate hours for City-Requested Outages exceed the Outage Allowance in a given Contract Year, other than a Force Majeure Event, Ava shall cause Developer to reasonably estimate the amount of electricity, based on the daily average derived from consumption of Project Energy from the consecutive three weeks immediately preceding the latest City-Requested Outage, that would have been delivered to City during such excess City-Requested Outages, and City shall pay Ava for such amount in accordance with this Agreement.

Section 7.9 ***Use and Payment of Contractors and Subcontractors***. Ava may use properly licensed and qualified contractors and subcontractors to perform its obligations under this Agreement. Ava shall ensure that all contractors and subcontractors are sufficiently qualified and experienced equal to the standard observed by a competent practitioner of the profession in which the consultant or subcontractor is engaged. However, Ava shall be responsible for the quality of the work performed by its contractors and subcontractors. Ava shall pay when due all valid charges from all contractors, subcontractors, and suppliers supplying goods or services to Ava under this Agreement.

Section 7.10 ***Prevailing Wages; Hiring Requirements***.

(a) Prevailing Wage. In accordance with the terms of the Developer Agreement, Ava shall use reasonable efforts to ensure that all contractors, subcontractors, and employees hired or contracted by which will perform construction work or otherwise provide services on any Project Site related to the construction of any Project (such work or services, the "**On-Site Services**", and each such contractor or subcontractor, an "**On-Site Contractor**") are paid wages at rates not less than those prevailing for workers performing similar work in the locality as provided by applicable California law, if any. Nothing in the Developer Agreement shall require Developer or its subcontractors or contractors to comply with, or assume liability created by inapplicable provisions of any California labor laws.

(b) Hiring Requirements. In accordance with the terms of the Developer Agreement, Ava shall use commercially reasonable efforts to cause Developer and/or each On-Site Contractor to (i) hire individuals who reside in either Alameda County or San Joaquin County for the performance of the majority of total hours spent performing On-Site Services, and (ii) utilize union labor in the performance in On-Site Services.

Section 7.11 *Notice of Hazardous Substances*. If any product being offered, delivered or supplied to the City or at the Project Site in connection with this Agreement is listed in the Hazardous Substances list of the Regulations of the Director of Industrial Relations with the California Occupational Safety and Health Standards Board, or if the product presents a physical or health hazard as defined in the California Code of Regulations, General Industry Safety Order, Section 5194 (T8CCR), Hazard Communication, the Ava shall cause Developer to include a Material Safety Data Sheet (“MSDS”) with delivery or shipment to the Project Site. Each MSDS shall include the contract/purchase order number and identify the “Ship To Address.” Ava shall cause Developer to ensure all shipments and containers comply with the labeling requirements of Title 49, Code of Federal Regulations by identifying the Hazardous Substance, name and address of the manufacturer, and the appropriate hazard warning regarding potential physical safety and health hazards.

ARTICLE 8 PERFORMANCE GUARANTEES; WARRANTIES

Section 8.1 *Guaranteed Energy Production*.

(a) Guaranteed Energy Production. Starting on the second (2nd) Contract Year, during each Performance Measurement Period, Ava shall be required to deliver to City no less than eighty-five percent (85%) of the Expected Annual Contract Quantity set forth on **Exhibit I** (the “**Guaranteed Energy Production**”). For purposes of determining whether Ava has achieved the Guaranteed Energy Production, Ava shall be deemed to have delivered to City the “**Adjusted Energy Production**”, which shall consist of (1) all Project Energy (measured in kWh) actually delivered by Ava to City during the applicable Contract Year, and (2) any energy in the amount it could have delivered to City but was prevented from delivering to City by reason of (i) the occurrence of a Force Majeure Event (so long as such Force Majeure Event was properly declared in accordance with Section 10.1), (ii) Planned Outage, and/or (iii) Forced Outage (“**Lost Output**”). For each Contract Year, Ava shall be deemed to have achieved the Guaranteed Energy Production if the Adjusted Energy Production is greater than or equal to eighty-five percent (85%) of the Expected Annual Contract Quantity. If Ava fails to achieve the Guaranteed Energy Production amount in any Contract Year, Ava shall pay City damages calculated in accordance with Section 8.1(b). For purposes of this Section 8.1, “**Performance Measurement Period**” means each rolling three (3) Contract Year period starting on the second (2nd) Contract Year (i.e., Contract Years 2, 3, and 4 shall comprise the first such period, Contract Years 5, 6, 7 and shall constitute the second such period, etc.) during the Portfolio Delivery Period.

(b) Guaranteed Energy Damages. On or before the fifteen (15th) day of the first monthly billing period of the following Performance Measurement Period, City shall invoice Ava for all Guaranteed Energy Damages accrued, if any, during the preceding Performance Measurement Period, in accordance with the following:

(i) In any Performance Measurement Period, in the event that Ava fails to achieve the Guaranteed Energy Production, Ava shall pay City the Guaranteed Energy Damages accrued during such Performance Measurement Period; provided, however, that Ava shall have no obligation to pay Guaranteed Energy Damages in excess of seventy-five percent (75%) of the applicable PV Payments accrued during such Performance Measurement Period (the “**Guaranteed Energy Damages Cap**”).

Section 8.2 *Guaranteed Storage Availability.*

(a) Guaranteed Storage Availability. Starting on the second (2nd) Contract Year, during each Contract Month, Ava shall be required to maintain a Monthly Storage Availability greater than or equal to ninety percent (90%) (the “**Guaranteed Storage Availability**”). For purposes of determining the Monthly Storage Availability, a Storage Project shall be deemed to be available during the occurrence of any of the following events (each, an “**Excused Storage Event**”): (i) Force Majeure Event, (ii) Planned Outage, (iii) City-Requested Outage (to the extent such outages do not exceed the Outage Allowance for the applicable Contract Year), or (iv) Forced Outage. In each Contract Month, the “**Monthly Storage Availability**” shall be calculated for each Storage Project as a percentage based on the quotient of (A) (i) the total number of hours in the Contract Month, minus (ii) the total number of hours in such Contract Month during which the Storage Project was unavailable other than as a result of Excused Storage Event; divided by (B) the total number of hours in the Contract Month. Ava shall be deemed to have achieved the Guaranteed Storage Availability in a particular Contract Month if the Monthly Storage Availability is greater than or equal to 90%.

(b) Guaranteed Storage Damages. In any Contract Month, if Ava fails to achieve the Guaranteed Storage Availability, the following terms shall apply:

(i) If the Monthly Storage Availability for any Storage Project is less than 90% but greater than seventy percent (70%), Ava shall owe City liquidated damages (“**Guaranteed Storage Damages**”) in an amount equal to the product of (A) the applicable Storage Payment for such Contract Month; multiplied by (B) (i) 90% minus the Monthly Storage Availability, multiplied by (ii) two (2). Such Guaranteed Storage Damages shall be passed through from Ava to the City in the form of a bill credit on a monthly invoice issued hereunder which reduces the Monthly Payment owed by the City.

(ii) If the Monthly Storage Availability for any Storage Project is less than seventy percent (70%), the applicable Storage Payment owed by City for such Contract Month shall be reduced to zero dollars (\$0).

Section 8.3 *Ava Performance Warranties.*

(a) Roof Damage Warranty. Ava warrants that no damage will be inflicted on the roof of any Improvement on which any Project (“**Project Roof**”) is installed as a result of the installation or maintenance of such Project (“**Roof Damage Warranty**”). With respect to each Project, Ava shall provide such Roof Damage Warranty starting on the applicable Construction Start date and ending on the date that is the later of (x) ten (10) years after Ava’s most recent performance of installation or maintenance activities on such Project Roof or (y) the expiration of

any then-effective installer warranty on the applicable Project Roof. In the event that Ava or Developer damages any Project Roof during the term of the Roof Damage Warranty, Ava shall promptly repair and remedy such damage to the reasonable satisfaction of City.

(b) Workmanship Warranty. Ava warrants that each Project will be fit for its intended purpose and free from defects in design, materials, and workmanship for a period of [three (3) years]¹, starting on the Commercial Operation Date. If the Project (or any component or portion thereof) fails to conform to the foregoing warranty, Ava shall, at its own expense, remedy such defect in a timely manner.

(c) Project Equipment Warranty. With respect to each Project, Ava warrants that on the applicable Commercial Operation Date, all Project Equipment will be (1) new, (2) Error-Free, (3) provided by a Tier 1 Supplier, and (4) with respect to each Storage Project only, (i) benefits from a manufacturer's warranty (including an energy retention warranty), and (ii) includes all of the components, functionality, and other material features that affect performance and the user experience of a standard, high-quality storage project.

Section 8.4 ***NO OTHER WARRANTY***. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, AVA MAKES NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, AND EXPLICITLY DISCLAIMS ANY WARRANTY OR GUARANTEE IMPLIED BY LAW, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT AND IMPLIED WARRANTIES OF CUSTOM OR USAGE.

ARTICLE 9 RECS AND INCENTIVES; OPTIMIZATION SAVINGS

Section 9.1 ***Renewable Energy Credits***. Upon purchasing the Product pursuant to this Agreement, City is entitled to the benefit of and will retain all ownership interests in the RECs associated with such Product. Ava is entitled to the benefit of and will retain all ownership in the Incentives. Ava shall cooperate with City in obtaining, securing, and transferring any and all RECs to the City. City is not obligated to incur any out-of-pocket costs or expenses in connection with such actions unless reimbursed by Ava. Ava shall not make any filings or statements inconsistent with City's ownership interests in the RECs. If any RECs are delivered directly to Ava, Ava shall promptly pay or deliver such items to City. For the avoidance of doubt, so long as Ava cooperates in City obtaining all ownership interests in the RECs, Ava shall have the unrestricted right to obtain and utilize all other Incentives, Ancillary Services, and Capacity Attributes associated with the Product hereunder.

Section 9.2 ***Delivery of RECs***. Ava shall take, or cause to be taken, all actions and execute all documents or instruments necessary to ensure that all WREGIS Certificates associated

¹ **NTD**: Developer will not agree to a workmanship warranty of 15 years but offered a warranty of 3 years. Ava believes this is acceptable because Developer is providing a production guarantee on the PV and an availability guarantee on the BESS that lasts the duration of the Delivery Period for each Project. Further, it is unusual for Developers to offer workmanship warranties in the PPA context, so we view this as a win.

with all RECs corresponding to all Project Energy are issued, tracked, and transferred in a timely manner to the City for the City's sole benefit. Ava shall transfer the RECs to the City. Ava shall comply with all Applicable Law, including the WREGIS Operating Rules, regarding the certification and transfer of such WREGIS Certificates to the City and the City shall be given sole title to all such WREGIS Certifications. In addition, with respect to each Project, prior to COD, Ava shall register the Project, or cause the Project to be registered, with WREGIS, and establish an account with WREGIS ("**Ava WREGIS Account**"), which Ava shall maintain until the end of the applicable Delivery Period. Ava shall transfer the WREGIS Certificates using Forward Certificate Transfers (as described in the WREGIS Operating Rules) from the Ava WREGIS Account to the WREGIS account(s) of the City or the account(s) of a designee that the City identifies by notice to Ava ("**City WREGIS Account**"). Notwithstanding the foregoing, in the event that the City does not have a City WREGIS Account, Ava shall deliver all RECs hereunder via Attestation Form.

Section 9.3 **Optimization Savings.** Ava shall provide Optimization Savings with the Product. "**Optimization Savings**" means the savings realized on City's utility bill(s) directly attributable to the use of the Project and shall include, but not be limited to, savings that are realized from demand charge management, energy arbitrage, load shaping, and coincident peak, installed capacity tag mitigation, or any front of the meter savings, which shall be reflected in the form of a credit reduction to the applicable Monthly Payment on monthly invoices issued by Ava hereunder. For the avoidance of doubt, any City savings resulting from a rate or tariff switch, Monthly Bill Credit, Storage Incentive Payment or other upfront Ava incentives enabled by the presence and/or operation of the Project shall be considered Optimization Savings. Ava shall provide Optimization Savings in a commercially reasonable manner, but Ava shall have discretion over the manner in which Optimization Savings are provided, including which services comprising constituent parts of Optimization Savings to provide at any particular time, to accrue Total System Benefit. Ava shall have no obligation and makes no guarantees as to the amount of Optimization Savings that will be provided to the City hereunder.

Section 9.4 **Grid Services.** Ava and City acknowledge that the Storage Projects are capable of generating revenue through demand response, capacity, and/or wholesale energy (collectively, the "**Grid Services**", and each a "**Grid Service**"). Grid Services may be provided through, to, or in connection with the CAISO, the Local Electric Utility, or an aggregator. Ava may enroll the Storage Project in Grid Services if (i) Ava provides advance written notice to the City and (ii) Ava determines, in its reasonable discretion, that such enrollment will not reduce the realized Optimization Savings or impair the Storage Project's twenty percent (20%) battery back-up reserve. If Ava enrolls the Storage Project in Grid Services, Ava shall receive any value resulting from the Grid Services provided, including revenues, environmental benefits, and grid reliability and resiliency.

ARTICLE 10

FORCE MAJEURE; BUDGETARY NON-APPROPRIATION EVENT

Section 10.1 **Force Majeure Event.** If either Party reasonably is unable to timely perform any of its obligations (other than payment obligations) under this Agreement in whole or in part due to a Force Majeure Event and without the fault or negligence of the Party relying thereon as justification for such delay, that Party will be excused from performing such obligations for the

duration of the time that such Party remains affected by the Force Majeure Event; provided, that such Party uses commercially reasonable efforts to mitigate the impact of the Force Majeure Event and resumes performance of its affected obligations as soon as reasonably practical. The Party affected by the Force Majeure Event shall notify the other Party as soon as reasonably practical after the affected Party becomes aware that it is or will be affected by a Force Majeure Event. If the Force Majeure Event occurs during the Term and impacts the ability of the Project to deliver electricity to the Delivery Point or to provide capacity, as applicable, the Term will be extended day-for-day for each day delivery is suspended due to the Force Majeure Event.

Section 10.2 Termination Due To Force Majeure. With respect to each Project, after the Commercial Operation Date, either Party shall have the right, but not the obligation, to either (a) terminate the applicable Project or (b) relocate the applicable Project in accordance with Section 11.1, in each case, after the occurrence of the following (each, a “**Force Majeure Failure**”): (1) due to a Force Majeure Event, Ava is unable to meet its obligations under this Agreement for a period greater than ninety (90) consecutive days; or (2) the Project is (i) destroyed by a Force Majeure Event and Ava is unable to cause Developer to rebuild the Project within one (1) year, or (ii) is rendered permanently inoperable by a Force Majeure Event. For the avoidance of doubt, Force Majeure Delays occurring prior to the Commercial Operation Date shall be subject to the requirements in Section 4.6(b).

Section 10.3 Budgetary Non-Appropriation Event. Notwithstanding anything to the contrary, due to the constitutional limitations levied on City, it may be unable to appropriate funds for the procurement of any utility services for a particular fiscal year (a “**Budgetary Non-Appropriation Event**”). If a Budgetary Non-Appropriation Event occurs with respect to City during the Delivery Period of any Project hereunder, then City shall notify Ava of the starting date of such Budgetary Non-Appropriation Event (the “**Non-Appropriation Start Date**”) within thirty (30) days of its receipt of the invoice for the first month affected by such Budgetary Non-Appropriation Event. During a Budgetary Non-Appropriation Event, if City does not otherwise have other funds available to make payments otherwise due under this Agreement, City is not obligated to accept delivery of or pay for any Product delivered under this Agreement for the period starting on the Non-Appropriation Start Date until such Budgetary Non-Appropriation Event has terminated (such period, the “**Non-Appropriation Period**”), which shall be confirmed by City in a writing timely delivered to Ava after the City has properly appropriated funds for payment hereunder. For the avoidance of doubt, during the Non-Appropriation Period, Ava shall have no obligation to deliver any Product hereunder. City agrees that it shall use its best efforts to seek appropriation for utility services during the term of this Agreement. If a Budgetary Non-Appropriation Event continues for more than one hundred eighty (180) days, Ava (but not City) may, at its sole discretion, terminate this Agreement.

Section 10.4 Exercise of City Permitting Authority. After Construction Start, if City lawfully, fairly, and neutrally applies its authority to deny, suspend, revoke or terminate a certificate, permit, franchise, approval, authorization or power under Applicable Law (its “**Permitting Authority**”), and such lawful exercise of the City’s Permitting Authority causes Ava or Developer to be unable to lawfully conduct operations on the Project Site (a “**Lawful Permitting Denial Event**”), then except where such exercise of Permitting Authority constitutes a City Project Default under Section 13.5(a) or 13.5(b), Ava may, at its sole discretion, terminate the Affected Projects in accordance with Section 10.5 below.

Section 10.5 *No-Fault Termination*. After Construction Start, if either Party terminates one or more Projects (the “**Affected Projects**”) due to a Force Majeure Failure in accordance with Section 10.2, a Budgetary Non-Appropriation Event in accordance with Section 10.3, or a Lawful Permitting Denial Event in accordance with Section 10.4, then upon any such termination (1) neither Party shall have any liability to the other Party with respect to such Affected Projects other than those that survive this Agreement, and (2) Ava shall have the option to deliver a Relocation Request in accordance with Section 11.1. Notwithstanding the foregoing, the occurrence and continuation of a Force Majeure Event, Budgetary Non-Appropriation Event or Lawful Permitting Denial Event shall not, to the extent an Event of Default exists during the continuation of a Force Majeure Event or Non-Appropriation Period, as applicable, limit either Party’s ability to declare an Event of Default pursuant to Article 13 and receive a Termination Payment, to the extent applicable.

ARTICLE 11 RELOCATION AND REMOVAL UPON TERMINATION

Section 11.1 *Relocation Requests*. With respect to each Project, at any time during the Project Term, either Party shall have the right to propose in writing the relocation of the applicable Project to a new Project Site upon the occurrence of an EOD Relocation Event or No-Fault Relocation Event (a “**Relocation Request**”). If both Parties agree in their reasonable discretion that the Relocation Request is practically feasible and preserves the economic value of the agreement, the Parties shall seek to negotiate in good faith an agreement for the relocation of the Project, which relocated site shall be subject to the approval of Ava in its reasonable discretion and subject to the negotiation of a mutually acceptable license. Upon successful relocation of the Project due to an EOD Relocation Event, any Event of Default associated with the original Project Site shall be deemed to have been cured, if applicable, and the Non-Defaulting Party shall have no right to declare an Event of Default associated therewith. The costs associated with any relocation performed due to an EOD Relocation Event shall be borne entirely by the Defaulting Party, whereas the costs and expenses associated with any relocation performed due to a No-Fault Relocation Event shall be split evenly between the Parties; provided, if an relocation occurs during the Delivery Period, City shall be required to continue to make monthly PV Payments for the period of time between decommissioning of the Project at the original Project Site and the Commercial Operation Date of the Project at the new Project Site based upon a pro rata calculation of the Expected Annual Contract Quantity for such period. If the Parties are unable to reach agreement on relocation of the Project within one hundred twenty (120) days after the date of receipt of City’s proposal, then such Relocation Request shall be deemed withdrawn and the applicable Project may be terminated in accordance with this Agreement. For purposes of this Section 11.1, an “**EOD Relocation Event**” shall be deemed to have occurred (a) with respect to either Party, if an Event of Default occurs, and such Event of Default could reasonably be cured by moving the Project to another Project Site; or (b) the City terminates or withdraws the applicable Project from this Agreement for any reason other than an Ava Event of Default. A “**No-Fault Relocation Event**” shall be deemed to have occurred if (i) any Early Termination Event occurs, or (ii) a Force Majeure Failure occurs.

Section 11.2 *Removal Services*. Upon the expiration or earlier termination of this Agreement or any PSA hereunder, Ava shall, directly or indirectly through Developer, at Ava’s sole expense (unless expressly provided otherwise in this Agreement), within ninety (90) days

after the applicable termination or expiration (the “**Removal Deadline**”), perform the following actions to remove the Project from the Project Site (the “**Removal Services**”): (i) remove all tangible property comprising the Project, personal property of Ava and/or Developer, and all other related equipment, (ii) ensure that the Project Site be returned to substantially its original condition (excluding ordinary wear and tear) including by (x) removing the Project’s mounting pads or other support structures and (y) repairing and restoring the roof and the roof membrane, subject to Section 8.3(a). City shall ensure that Ava and/or Developer is given sufficient access, space, and cooperation as reasonably necessary to facilitate the Removal Services. This provision shall survive the expiration or termination of this Agreement and any PSA hereunder.

Section 11.3 **Abandonment**. If Ava fails to commence the Removal Services by the applicable Removal Deadline, any property not removed from the Project Site shall be deemed abandoned by Ava and/or Developer, and shall become the property of City and City may, at its option, remove the Project and/or Project Equipment from the Project Site and relocate to a warehouse or otherwise dispose of such property or retain ownership thereof indefinitely, as it determines in its sole discretion. If the City performs any Removal Services after the Removal Deadline in accordance with this Section 11.3, Ava shall reimburse City for the cost of such Removal Services (the “**Removal Costs**”) within thirty (30) days of receipt of an invoice thereof. City shall have no liability to Ava or Developer for any property deemed abandoned per this Section 11.3. This provision shall survive the expiration or termination of this Agreement and any PSA hereunder.

Section 11.4 **Ava Removal Security**. If a Credit Downgrade Event occurs with respect to Ava at any time during the Term, within forty five (45) days of such Credit Downgrade Event, Ava shall post or deliver to City a security deposit of \$50/kW of Contract Capacity (“**Ava Removal Security**”) in the form of a Letter of Credit or cash. If (i) Ava fails to commence the Removal Services by the applicable Removal Deadline, and (ii) fails to reimburse City for the cost of Removal Services within thirty (30) days of receipt in accordance with Section 11.3, then, to the extent such Ava Removal Security is available in accordance with this Section 11.4, City may draw on any outstanding Letter of Credit and retain any cash then held by City to satisfy any amounts owed by Ava with respect to the Removal Costs only; provided, that City shall be obligated to return any surplus proceeds in excess of the Removal Costs after Ava’s obligations under Section 11.3 have been satisfied. Ava shall maintain the Ava Removal Security until (a) the Removal Services have been completed and (b) the Removal Costs have been paid or reimbursed by the responsible Party in full pursuant to the terms of this Agreement. Following the occurrence of both (a) and (b), City shall promptly return to Ava the Ava Removal Security, less any amounts drawn thereon in accordance with this Section 11.4.

ARTICLE 12 MEASUREMENT

Section 12.1 **Meter**. Each Project’s electricity output during the Term shall be measured by the applicable City’s meter, which shall be a revenue grade meter that meets ANSI-C12.20 standards for accuracy (the “**Meter**”). The Meter shall be installed, commissioned, and operated by Developer throughout the applicable Project Term at Developer’s sole cost and expense. Throughout the Term, Developer shall provide reasonable access to the Meter and measurement data associated therewith to Ava and the City.

ARTICLE 13 DEFAULTS, REMEDIES, AND DAMAGES

Section 13.1 *Ava Project Defaults*. With respect to the affected Project only, Ava shall be deemed a Defaulting Party upon the occurrence of any of the following events (each, an “**Ava Project Default**”):

(a) The Project fails to achieve the Commercial Operation Date by the Commercial Operation Deadline (subject to any FM Delay Cure Period or COD Delay Cure Period thereto);

(b) A Forced Outage lasting longer than two hundred seventy (270) days occurs with respect to such Project; provided, however, that this Section 13.1(b) shall not apply to a Forced Outage caused solely by a Force Majeure Event; or

(c) Due to acts or omissions of Ava, a mechanics’ Lien is filed against the Project, and such Lien has not been discharged, bonded or contested by Ava in good faith by proper legal proceedings within twenty (20) days of receipt of notice thereof.

Section 13.2 *City’s Remedies for Ava Project Default*. If a Ava Project Default has occurred and is continuing, and following the expiration of any applicable cure period set forth therein, City may perform any and all of the following actions: (i) suspend performance under this Agreement with respect to such Project, (ii) accelerate all amounts owing between the Parties with respect to such Project, (iii) withhold a portion of any payments due to Ava under this Agreement in an amount attributable to such Project, and (iv) terminate the applicable PSA. Upon the termination of any PSA hereunder, Ava shall perform the Removal Services for such Project in accordance with Section 11.2 at Ava’s sole expense.

Section 13.3 *Ava Portfolio Defaults*. Ava shall be deemed a Defaulting Party under this Agreement upon the occurrence of any of the following events (each, a “**Ava Portfolio Default**”): Ava delivers to City, without City’s prior consent, energy or other product from a resource outside of the City Portfolio;

(a) a Bankruptcy Event shall have occurred with respect to Ava;

(b) Ava fails to pay City any undisputed amount owed under this Agreement within sixty (60) days after receipt of notice from City of such past due amount;

(c) The failure by Ava to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default under this Article 13) and such failure is not remedied within thirty (30) days after notice thereof (or such longer additional period, not to exceed an additional sixty (60) days, if Ava is unable to remedy such default within such initial thirty (30) day period despite exercising commercially reasonable efforts; provided, that the cure period under this Section 13.3(c) may be extended by an additional subsequent period not to exceed ninety (90) days in the event that such Ava Portfolio Default is caused by a default of Developer under the Developer Agreement and Developer’s Financing Party has stepped in to effectuate a cure after the expiration of the corresponding cure period set forth in the Developer Agreement); and

(d) Any representation or warranty made by Ava herein is false or misleading in any material respect when made or when deemed made or repeated, and such default is not remedied within thirty (30) days after notice thereof (or such longer additional period, not to exceed an additional sixty (60) days, if Ava is unable to remedy such default within such initial thirty (30) day period despite exercising commercially reasonable efforts; provided, that the cure period under this Section 13.3(c) may be extended by an additional subsequent period not to exceed ninety (90) days in the event that such Ava Portfolio Default is caused by a default of Developer under the Developer Agreement and Developer's Financing Party has stepped in to effectuate a cure after the expiration of the corresponding cure period set forth in the Developer Agreement).

Section 13.4 City's Remedies for Ava Portfolio Default. If a Ava Portfolio Default has occurred and is continuing, and the following the expiration of any applicable cure period set forth therein, City may perform any and all of the following actions: (i) suspend performance under this Agreement, (ii) accelerate all amounts owing between the Parties, (iii) withhold all payments due to Ava under this Agreement, (iv) terminate this Agreement upon providing written notice to Ava, and upon any such termination, demand payment from Ava of the Termination Payment (as such amount may be adjusted in accordance with Section 5.6), and (v) exercise any other right or remedy available at law or in equity, except to the extent such remedies are expressly limited under this Agreement; provided, that no termination may occur unless and until written notice has been delivered to any Financing Party for which City has received notice in accordance with Section 18.2. Upon the termination of this Agreement, Ava shall perform the Removal Services for the entire City Portfolio in accordance with Section 11.2 at Ava's sole expense.

Section 13.5 City Project Default. With respect to the affected Project only, City shall be deemed a Defaulting Party upon the occurrence of any of the following events (each, a "**City Project Default**"):

(a) Due to acts or omissions of the City, Ava indirectly loses its rights to use and enjoy the Project Site under the license, unless the Parties can agree to relocate the Project in accordance with Section 11.1, and except where such acts or omissions of the City constitute the lawful application of City's Permitting Authority pursuant to Section 10.4; and

(b) The occurrence of any act or omission by City that operates to suspend, revoke or terminate any certificate, permit, franchise, approval authorization or power necessary for Ava to lawfully conduct operations on the Project Site, except where such acts or omissions of the City (i) were initiated or caused by the City due to acts or omissions of Ava, Developer or any of their respective contractors, agents or employees, and (ii) constitute the lawful application of City's Permitting Authority pursuant to Section 10.4

Section 13.6 Ava's Remedies for City Project Default. If a City Project Default has occurred and is continuing, and following the expiration of any applicable cure period set forth therein, Ava may perform any and all of the following actions: (i) suspend performance under this Agreement with respect to such Project, (ii) accelerate all amounts owing between the Parties with respect to such Project, (iii) withhold a portion of any payments due to City under this Agreement in an amount attributable to such Project, and (iv) terminate the applicable PSA. Upon the termination of any PSA hereunder, Ava shall perform the Removal Services for such Project in accordance with Section 11.2 at City's sole expense.

Section 13.7 ***City Portfolio Default***. City shall be deemed a Defaulting Party under this Agreement upon the occurrence of any of the following events (each, a “**City Portfolio Default**”):

- (a) a Bankruptcy Event shall have occurred with respect to City;
- (b) City fails to pay Ava any undisputed amount owed under the Agreement within sixty (60) days after receipt of notice from Ava of such past due amount;
- (c) The failure by City to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default set forth in this Article 13), and such failure is not remedied within thirty (30) days after notice thereof (or such longer additional period, not to exceed an additional sixty (60) days, if City is unable to remedy such default within such initial thirty (30) day period despite exercising commercially reasonable efforts); or
- (d) Any representation or warranty made by City herein is false or misleading in any material respect when made or when deemed made or repeated, and such default is not remedied within thirty (30) days after notice thereof (or such longer additional period, not to exceed an additional sixty (60) days, if City is unable to remedy such default within such initial thirty (30) day period despite exercising commercially reasonable efforts).

Section 13.8 ***Ava’s Remedies for City Portfolio Default***. If a City Portfolio Default has occurred and is continuing, and following the expiration of any applicable cure period set forth therein, Ava may perform any and all of the following actions: (i) suspend performance under this Agreement, (ii) accelerate all amounts owing between the Parties, (iii) withhold all payments due to City under this Agreement, (iv) terminate this Agreement upon providing written notice to City, and upon any such termination, demand payment from City of the City Termination Payment, and (v) exercise any other right or remedy available at law or in equity, except to the extent such remedies are expressly limited under this Agreement. Upon receiving payment of the City Termination Payment, Ava shall perform the Removal Services in accordance with Section 11.2 at City’s sole expense.

ARTICLE 14 REPRESENTATIONS, WARRANTIES, AND COVENANTS

Section 14.1 ***Ava Representations and Warranties***. Ava represents and warrants to City the following:

- (a) Valid Existence. Ava is a joint powers authority and a validly existing community choice aggregator, duly organized, validly existing and in good standing under the laws of the State of California and the rules, regulations, and orders of the California Public Utilities Commission, and is qualified to conduct business in each jurisdiction of the Joint Powers Agreement members.
- (b) No Conflicts. The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfilment of and compliance by Ava with the

provisions of this Agreement will not conflict with or constitute a breach of a default under any Applicable Law present in effect having applicability to Ava, the documents of formation of Ava or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Ava is a party or by which any of its property is bound.

Section 14.2 ***City's Representations and Warranties.*** City represents and warrants to Ava the following:

(a) **Valid Existence.** The City is a municipal corporation, duly organized, validly existing, and in good standing under the laws of the State of California, and is qualified to conduct business in the City of San Leandro.

(b) **No Conflicts.** The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfilment of and compliance by the City with any provisions of this Agreement will not conflict with or constitute a breach of a default under any Applicable Law present in effect having applicability to the City, the documents of formation of the City, or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which the City is a party or by which any of its property is bound.

(c) **Licenses.** (i) City has achieved Site Control for the Project Site such that City has the full right, power, and authority to grant the Licenses in Article 6, and (ii) such grant of the Licenses does not violate any Law applicable to City or the Project Site and is not inconsistent with and will not result in a breach or default under any agreement by which City is bound or that affects the Project Site.

(d) **Other Agreements.** Neither the execution and delivery of this Agreement by City nor the performance by City of any of its obligations under this Agreement conflicts with or will result in a breach or default under any agreement or obligation to which City is a party or by which City is bound.

(e) **Accuracy of Information.** All information provided by City to Ava, as it pertains to (i) the Project Site, (ii) the Improvements on which the Project is to be installed, if applicable, (iii) City's planned use of the Project Site and any applicable Improvements, and (iv) City's estimated electricity requirements, if provided, is accurate in all material respects.

(f) **City Status.** City is not a public utility or a public utility holding company and is not subject to regulation as a public utility or a public utility holding company. City is a "local public entity" as defined in Section 900.4 of the Government Code of the State of California.

(g) **Limit on Use.** No portion of the electricity generated by the Project shall be used to heat a swimming pool.

Section 14.3 ***General Covenants.*** Each Party covenants to and for the benefit of the other Party that throughout the Term:

(a) Each Party shall maintain (or obtain from time to time, as required) all Governmental Approvals necessary for it to legally perform its obligations under this Agreement.

(b) Each Party shall undertake its obligations under this Agreement in compliance with (i) all Applicable Law (including, but not limited to, those related to workplace safety, employment discrimination, prevailing wage, non-discrimination and non-preference, and conflicts of interest), Prudent Operating Practices, (ii) all applicable operating policies, criteria, rules, guidelines, tariffs and protocols of the CAISO and the Local Electric Utility, and (iii) all applicable requirements of the CPUC, CARB, FERC, NERC, and WECC (including WECC Scheduling Practices).

Section 14.4 *Covenants of Ava*. Ava covenants to and for the benefit of City that throughout the Term:

(a) None of Ava, its employees, contractors or agents have been suspended, debarred, or excluded from, or ineligible from, receiving federal or state funds. Ava shall notify City if Ava is suspended, barred, excluded or determined to be ineligible for receiving state or federal funds at any time during the Term within thirty (30) days of Ava obtaining knowledge thereof.

(b) All personnel performing operation and maintenance services for the Projects shall be licensed and in good standing, and sufficiently qualified, experienced, and trained in accordance with Prudent Operating Practices.

(c) Pursuant to the Developer Agreement, starting on the Commercial Operation Date, Ava shall require Developer to post and maintain a performance security deposit of \$200/kW of capacity for each Project (“**Developer Performance Security**”) until all of Developer’s payment and performance obligations under the Developer Agreement have been satisfied in full. Per the terms of the Developer Agreement, Ava shall be entitled to draw on such Developer Performance Security for a Project to satisfy any damages or other amounts owed by Developer to Ava under the Developer Agreement, including as reimbursement for Removal Costs.

ARTICLE 15 INSURANCE

At all times during the Term, the Parties shall maintain the following insurance, as applicable:

Section 15.1 *Ava’s Insurance*. Ava shall cause Developer to obtain and maintain the policies of insurance in amounts and with coverage as set forth in Exhibit IV of the applicable Addendum for the Term of this Agreement.

Section 15.2 *City’s Insurance*. City is a self-insured public agency. Upon Ava’s or Developer’s request, City shall deliver to Ava or Developer certificates of insurance evidencing the insurance coverage.

ARTICLE 16 INDEMNIFICATION AND LIMITATIONS OF LIABILITY

Section 16.1 *Indemnity by the Parties*. To the fullest extent permitted by law, each Party (“**Indemnifying Party**”) shall defend, indemnify, and hold harmless, with counsel of its own choosing (subject to terms of the next paragraph), the other Party, and its successors and assigns, and their elected officials, officers, directors, employees, agents, affiliates and representatives (each, an “**Indemnified Party**”) from and against any and all third-party claims, liability or losses (“**Claims**”), including but not limited to those losses arising from (i) personal injury or death, (ii) damage to property, (iii) taxes for which the Indemnifying Party is responsible under this Agreement, (iv) fines or penalties payable by the Indemnified Party or (v) any other actions resulting in damages, losses or liabilities to the extent such losses result from or arise out of or in any way are connected with the Indemnifying Party’s performance of this Agreement or, in the case of Ava, (i) City’s use of any service, technology or good provided by Ava to City under this Agreement infringes any patent, trademark, copyright or other intellectual property right, including trade secret rights, of a third-party, except as may arise solely from the negligence, willful misconduct or violation of Law by the Indemnified Party, its officers, employees, subcontractors or agents or (ii) City’s damages stemming from failure to release specific records pursuant to the California Public Records Act at Ava’s direction that City not release such specific requested records related to this Agreement to the public. Notwithstanding the above, an Indemnifying Party shall not be required to defend, indemnify, and hold harmless an Indemnified Party for the Indemnified Party’s own negligent acts, omissions or willful misconduct. 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.

(a) Design Professional Services. To the extent that a portion of Ava’s services under this Agreement are design professional services subject to Civil Code Section 2782.8, and to the extent that a particular claim or litigation arises from such design professional services, Ava’s obligations under this Section 16.1(a) shall be subject to any applicable limitations mandated by Civil Code Section 2782.8.

Section 16.2 *Notice and Participation in Third Party Claims*. The Indemnified Party shall give the Indemnifying Party written notice with respect to any liability asserted under a Claim as soon as possible upon the receipt of information of any possible Claim or of the commencement of such Claim. The Indemnifying Party may assume the defense of any Claim, at its sole cost and expense, with counsel designated by the Indemnifying Party and reasonably satisfactory to the Indemnified Party. The Indemnified Party may, however, select separate counsel if both Parties are defendants in the Claim and such defense or other form of participation is not reasonably available to the Indemnifying Party. The Indemnifying Party shall pay the reasonable attorneys’ fees incurred by such separate counsel until such time as the need for separate counsel expires. The Indemnified Party may also, at the sole cost and expense of the Indemnifying Party, assume the defense of any Claim if the Indemnifying Party fails to assume the defense of the Claim within a reasonable time. Neither Party may settle any Claim covered by this Section 16.2 unless it has obtained the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. The Indemnifying Party has no liability under this Section 16.2 for any Claim for which such notice is not provided if the failure to give notice prejudices the Indemnifying Party.

All of the Parties' obligations under this Section 16.2 are intended to apply to the fullest extent permitted by Law and shall survive the expiration or sooner termination of this Agreement.

Section 16.3 *Environmental Indemnification.*

(a) Ava Indemnity. Ava shall cause Developer to indemnify, defend, and hold harmless all of City's Indemnified Parties from and against all liabilities arising out of or relating to the existence at, on, above, below or near the Project Site of any Hazardous Substance to the extent deposited, spilled or otherwise caused by Developer, Ava or any of their contractors, agents or employees, to the extent such liabilities do not result from the gross negligence or willful misconduct of City.

(b) City Indemnity. City shall indemnify, defend, and hold harmless Developer and all of Ava's Indemnified Parties from and against all liabilities arising out of or relating to the existence at, on, above, below or near the Project Site of any Hazardous Substance, except to the extent deposited, spilled or otherwise caused by Developer, Ava or any of their contractors, agents or employees, to the extent such liabilities do not result from the gross negligence or willful misconduct of Developer or Ava.

(c) Notice. Each Party shall promptly notify the other Party if it becomes aware of any Hazardous Substance on or about the Project Site generally or any deposit, spill or release of any Hazardous Substance.

Section 16.4 *Limitations on Liability.*

(a) No Consequential Damages. EXCEPT TO THE EXTENT PART OF (A) AN EXPRESS REMEDY OR EXPRESS MEASURE OF DAMAGES HEREIN, INCLUDING ANY TERMINATION PAYMENT, (B) A THIRD PARTY INDEMNITY CLAIM, OR (C) RESULTING FROM A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR LOSSES OR DAMAGES FOR LOST REVENUE OR LOST PROFITS, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT BY STATE, IN TORT OR IN CONTRACT.

(b) Cumulative Remedies. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED, OR IF A REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY NON-EXCLUSIVE, THE NON-DEFAULTING PARTY SHALL HAVE THE RIGHT TO EXERCISE ALL RIGHTS AND REMEDIES AVAILABLE TO IT AT LAW OR IN EQUITY, PROVIDED, HOWEVER, THAT THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY AND ALL OTHER DAMAGES AND REMEDIES ARE WAIVED.

(c) Exclusive Remedies. FOR BREACH OF ANY PROVISION OF THIS AGREEMENT FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED IN THIS AGREEMENT, THE RIGHTS OF THE NON-DEFAULTING PARTY AND THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED AS SET FORTH IN THIS AGREEMENT, AS THE SOLE AND EXCLUSIVE FULL, AGREED UPON

AND LIQUIDATED DAMAGES, AND NOT AS A PENALTY, AND ALL OTHER DAMAGES OR REMEDIES ARE WAIVED.

(d) Limitation on Ava Liability Prior to COD. Notwithstanding anything herein to the contrary, with respect to each Project, Ava's liability for Commercial Operation Delay Damages shall be capped in the aggregate at an amount equal to the Developer Performance Security.

ARTICLE 17 CHANGE IN LAW; COMPLIANCE EXPENDITURE CAP

Section 17.1 *Changes in Law*. Subject to Section 17.2 below, in the event that any Change in Law occurring after the Effective Date results in this Agreement or any provisions hereof incapable of being performed or administered, then either Party may request that Ava and the City entered into negotiations to make the minimum changes to this Agreement necessary to make this Agreement capable of being performed and administered, while attempting to preserve to the maximum extent possible the benefits, burdens, and obligations set forth in this Agreement as of the Effective Date. Upon delivery of such a request, the Parties shall engage in such negotiations in good faith. If the Parties are unable, within sixty (60) days after delivery of such request, to agree upon changes to this Agreement or to resolve issues relating to changes to this Agreement, then either Party may submit issues pertaining to changes to this Agreement to the dispute resolution process set forth in Section 20.4. Notwithstanding the foregoing, (i) a change in cost shall not in and of itself be deemed to render this Agreement or any of the provisions hereof incapable of being performed or administered, or constitute, or form the basis of, a Force Majeure Event, and (ii) all unaffected provisions of this Agreement shall remain in full force and effect during any period of such negotiation or dispute resolution.

Section 17.2 *Compliance Expenditure Cap*. With respect to each Project, if a Change in Law has increased Ava's known or reasonably expected costs to comply with its obligations under this Agreement or the applicable PSA (any action required to be taken by Ava to comply with such Change in Law, a "**Compliance Action**"), then the Parties agree that the maximum amount of costs and expenses Ava shall be required to bear during the Project Term to comply with all such obligations shall be capped at One Hundred Dollars (\$100) per kW of such Project's Guaranteed Nameplate Capacity or Storage Inverter Power, as applicable, in aggregate over the Project Term (the "**Compliance Expenditure Cap**"). If Ava reasonably anticipates the need to incur out-of-pocket expenses in excess of the Compliance Expenditure Cap in order to take any Compliance Action, Ava shall provide notice to the City of such anticipated out-of-pocket expenses. If, within ten (10) Business Days after receiving Ava's notice, the City does not agree in writing to reimburse Ava for all costs and expenses of Compliance Actions in excess of the Compliance Expenditure Cap, Ava's obligation to take any and all applicable Compliance Actions, and deliver any and all Product that may not be delivered in the absence of such Compliance Actions, shall be waived.

ARTICLE 18 ASSIGNMENT AND FINANCING

Section 18.1 *Assignment*.

(a) Restrictions on Assignment. This Agreement may not be assigned in whole or in part by City. Ava may, by providing prior written notice to City, assign, mortgage, pledge or otherwise directly or indirectly assign its interests in this Agreement to (i) any Financing Party, (ii) any entity through which Ava is obtaining financing from a Financing Party or (iii) any California joint powers authority (each, a “**Permitted Assignee**”); *provided*, that, Ava is not released from liability hereunder as a result of any assignment to a joint powers authority unless such joint powers authority assumes Ava’s obligations hereunder by binding written instrument. Ava will provide prior written notice to City of any assignment of the Agreement by the Developer.

(b) Successors and Permitted Assignees. This Agreement is binding on and inures to the benefit of successors and Permitted Assignees.

Section 18.2 *Financing and Collateral Assignment.* The Parties acknowledge that Ava and/or Developer may obtain debt or equity financing or other credit support from lenders, investors, including tax equity investors, or other third parties (each a “**Financing Party**”) in connection with the installation, construction, ownership, operation, and maintenance of the Project and that Ava’s obligations under the financing documents may be secured by, among other collateral, a pledge or collateral assignment of Ava’s rights under this Agreement.

Section 18.3 *Termination Requires Consent.* Ava and City agree that any right of Ava to terminate this Agreement is subject to the prior written consent of any Financing Party.

ARTICLE 19 CONFIDENTIALITY

Section 19.1 *Confidential Information.* To the maximum extent permitted by Applicable Law, if either Party provides Confidential Information to the other or, if in the course of performing under this Agreement or negotiating this Agreement, a Party learns Confidential Information of the other Party, the receiving or learning Party shall (i) protect the Confidential Information from disclosure to third parties with the same degree of care accorded its own confidential and proprietary information and (ii) refrain from using such Confidential Information, except in the negotiation, performance, enforcement and, in the case of Ava, financing, of this Agreement.

(a) Confidential Information does not include any information that (i) becomes publicly available other than through breach of this Agreement, (ii) is required to be disclosed to a Governmental Authority under Applicable Law or pursuant to a validly issued subpoena, (iii) is independently developed by the receiving Party or (iv) becomes available to the receiving Party without restriction from a third party under no obligation of confidentiality. If disclosure of information is required by a Governmental Authority, the disclosing Party shall, to the extent permitted by Applicable Law, notify the other Party of such required disclosure promptly upon becoming aware of such required disclosure and shall reasonably cooperate with the other Party’s efforts to limit the disclosure to the extent permitted by Applicable Law.

(b) The Parties acknowledge and agree that the Agreement and any transaction entered into in connection herewith are subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.). In order to designate information as

confidential, the disclosing Party must clearly stamp and identify the specific portion of the material designated with the word “confidential.” The Parties agree not to over-designate material as Confidential Information. Over-designation includes stamping whole agreements, entire pages or series of pages as “confidential” that clearly contain information that is not Confidential Information.

Section 19.2 *Permitted Disclosures*. Notwithstanding Section 19.1,

(a) a Party may provide such Confidential Information to its affiliates and to its and its affiliates’ respective officers, directors, members, managers, employees, agents, contractors, consultants, counsel, and Financing Parties, and their respective consultants and counsel (collectively, “**Representatives**”), and potential direct or indirect assignees of this Agreement if such potential assignees are first bound by a written agreement or legal obligation restricting use and disclosure of Confidential Information. Each Party is liable for breaches of this provision by any Person to whom that Party discloses Confidential Information; and

(b) upon request or demand made to either Party hereto by a validly issued subpoena or any third party not a Party hereto and not otherwise subject to the provisions of Section 19.2(a) pursuant to the California Public Records Act for production, inspection and/or copying of Confidential Information (“**Requested Confidential Information**”), the disclosing Party shall as soon as practical, prior to releasing any Requested Confidential Information, notify the other Party in writing via electronic mail that such request has been made. The other Party shall be solely responsible for taking at its sole expense whatever legal steps are necessary to prevent release of the Requested Confidential Information to the third party by the disclosing Party. If the other Party takes no such action within ten days after receiving the foregoing notice from the disclosing Party, the disclosing Party shall, at its discretion, be permitted to comply with the third party’s request or demand and is not required to defend against it. If the other Party takes or attempts to take such action, the disclosing Party shall provide timely and reasonable cooperation to the other Party, if requested by the other Party, and the other Party agrees to indemnify and hold harmless the disclosing Party and its Representatives from any claims, liability, award of attorneys’ fees or damages, and to defend any action, claim or lawsuit brought against any of the disclosing Party or its Representatives for the disclosing Party’s refusal to disclose any Requested Confidential Information.

Section 19.3 *Miscellaneous*. All Confidential Information remains the property of the disclosing Party and will be returned to the disclosing Party or destroyed (at the receiving Party’s option) after the receiving Party’s need for it has expired or upon the request of the disclosing Party. Each Party acknowledges that the disclosing Party would be irreparably injured by a breach of this Article 19 by the receiving Party or its Representatives or other Person to whom the receiving Party discloses Confidential Information of the disclosing Party and that the disclosing Party may be entitled to equitable relief, including injunctive relief and specific performance, for breaches of this Article 19. To the fullest extent permitted by Applicable Law, such remedies shall not be deemed to be the exclusive remedies for a breach of this Article 19 but will be in addition to all other remedies available at Law or in equity. The obligation of confidentiality will survive termination of this Agreement for a period of two years.

Section 19.4 ***Goodwill and Publicity***. Neither Party may (a) make any press release or public announcement of the specific terms of this Agreement or the use of renewable energy or storage involving this Agreement (except for filings or other statements or releases as may be required by Applicable Law) or (b) use any name, trade name, service mark or trademark, as applicable, of the other Party in any promotional or advertising material without the prior written consent of the other Party. The Parties shall coordinate and cooperate with each other when making public announcements regarding this Agreement, the Project and its use, and each Party may promptly review, comment upon, and approve any publicity materials, press releases or other public statements before they are made. Notwithstanding the above, Ava is entitled to place signage on the Project Site with written approval from City reflecting its association with the Project and to make public statements regarding the transactions contemplated by this Agreement and the Project and its use as part of the Ava’s monthly, public board meetings. . Ava may not use the name of City or reference any endorsement from City in any fashion for any purpose, without the prior express written consent of City.

ARTICLE 20 GENERAL PROVISIONS

Section 20.1 ***Interpretation***. Unless otherwise defined or required by the context in which any term appears: (i) headings and the rendering of text in bold and italics are for convenience and reference purposes only and do not affect the meaning or interpretation of this Agreement, (ii) the singular includes the plural and vice versa, (iii) the words “herein,” “hereof”, and “hereunder” refer to this Agreement as a whole and not to any particular section or subsection of this Agreement, (iv) references to any agreement, document or instrument mean such agreement, document or instrument as amended, restated, modified, supplemented or replaced from time to time, (v) the words “include,” “includes” and “including” mean include, includes and including “without limitation,” (vi) references to “or” shall be deemed to be disjunctive but not necessarily exclusive (i.e., unless the context dictates otherwise, “or” shall be interpreted to mean “and/or” rather than “either/or”), (vii) words “herein,” “hereunder,” and “hereof” refer to the provisions of this Agreement as a whole and not to any particular portion or provision of this Agreement, and (viii) references to any statute, code or statutory provision are to be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or reenacted, and include references to all bylaws, instruments, orders, and regulations for the time being made thereunder or deriving validity therefrom unless the context otherwise requires. The captions or headings in this Agreement are strictly for convenience and will not be considered in interpreting this Agreement. As used in this Agreement, “dollar” and the “\$” sign refer to United States dollars.

Section 20.2 ***Choice of Law; Venue***. The law of the State of California governs all matters arising out of this Agreement without giving effect to conflict of laws principles. In the event that a suit is brought by either Party hereunder, the Parties agree that venue shall be exclusively vested in the state courts of California in the County of Alameda or if federal jurisdiction is appropriate, exclusively in the United States District Court in the Northern District of California.

Section 20.3 ***Dispute Resolution***. The Parties shall negotiate in good faith and attempt to resolve expeditiously and inexpensively any dispute, controversy or claim arising out of or relating

to this Agreement (a “**Dispute**”) within fifteen (15) days after the date that a Party gives written notice of such Dispute to the other Party. If the Parties are unable to resolve a Dispute arising hereunder within the earlier of either thirty (30) days of initiating such discussions, or within forty (40) days after submission of notice of the Dispute, the Parties shall submit the Dispute to mediation prior to seeking any and all remedies available at Law in or equity. The Parties will cooperate in selecting a qualified neutral mediator selected from a panel of neutrals and in scheduling the time and place of the mediation as soon as reasonably possible, but in no event later than thirty (30) days after the request for mediation is made. The Parties agree to participate in the mediation in good faith and to share the costs of the mediation, including the mediator’s fee, equally, but such shared costs shall not include each Party’s own attorneys’ fees and costs, which shall be borne solely by such Party. If the mediation is unsuccessful, then either Party may seek any and all remedies available to it at Law or in equity, subject to the limitations set forth in this Agreement.

Section 20.4 *Notices*. All notices under this Agreement shall be in writing and delivered by hand, electronic mail, overnight courier or regular, certified or registered mail, return receipt requested, and will be deemed received upon personal delivery, acknowledgment of receipt of electronic transmission, the promised delivery date after deposit with overnight courier or five days after deposit in the mail. Notices must be sent to the Person identified on **Exhibit V** at the addresses set forth on **Exhibit V**. Each Party may designate a different Person and address by sending written notice to the other Party, to be effective no sooner than ten days after the date of submission of such notice designating a different Person and address.

Section 20.5 *Survival*. The provisions of this Agreement that should reasonably be considered to survive termination of this Agreement, including, without limitation the provisions enumerated in this Section 20.5, will survive termination of this Agreement:

- (a) obligations to pay by either Party that have accrued prior to termination or expiration;
- (b) obligations to repair damage caused by either Party under Article 7, Article 8 or otherwise;
- (c) Section 5.6 (Pass Through Damages);
- (d) Section 5.7 (Books and Records);
- (e) Section 11.2 (Removal);
- (f) Section 11.3 (Abandonment);
- (g) Section 11.4 (Ava Removal Security)
- (h) Article 13 (Defaults, Remedies, and Damages);
- (i) Article 14 (Representations and Warranties);
- (j) Article 16 (Indemnification and Limitations on Liability);

- (k) Article 19 (Confidentiality); and
- (l) Article 20 (General Provisions).

Section 20.6 ***Compliance with All Laws***. The Parties shall at all times comply with all Applicable Laws. City shall at all times keep Ava fully informed of City's charter, codes, ordinances, and regulations and of all state and federal laws in any manner affecting the performance of this Agreement to ensure that the Parties shall at all times comply with all applicable local codes, ordinances, and regulations, as they may be amended from time to time. Examples of such regulations include but are not limited to California Occupational Safety and Health Act of 1973, Labor Code §6300 et. seq., the Fair Packaging and Labeling Act, and the standards and regulations issued there under.

Section 20.7 ***Good Faith & Fair Dealing***. The Parties agree to act reasonably and in accordance with the principles of good faith and fair dealing in the performance of this Agreement. Unless expressly provided otherwise in this Agreement, (i) wherever this Agreement requires the consent, approval or similar action by a Party, such consent, approval or similar action shall not be unreasonably withheld or delayed, and (ii) wherever this Agreement gives a Party a right to determine, require, specify or take similar action with respect to matters, such determination, requirement, specification or similar action shall be reasonable.

Section 20.8 ***Cooperation***. The Parties agree to reasonably cooperate with each other in the implementation and performance of this Agreement. Such duty to cooperate shall not require either Party to act in a manner inconsistent with its rights under this Agreement.

Section 20.9 ***Construction***. The Parties acknowledge that this Agreement was jointly prepared by them, by and through their respective legal counsel, and any uncertainty or ambiguity existing herein shall not be interpreted against either Party on the basis that the Party drafted the language, but otherwise shall be interpreted according to the application of the rules on interpretation of contracts.

Section 20.10 ***Non-Discrimination***. Ava shall comply with all Applicable Laws, including City's policies concerning nondiscrimination and equal opportunity in contracting. Such laws include but are not limited to the following: Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; The Rehabilitation Act of 1973 (Sections 503 and 504); California Fair Employment and Housing Act (Government Code sections 12900 et seq.); and California Labor Code sections 1101 and 1102. Ava shall not discriminate (i) against any subcontractor, employee or applicant for employment or (ii) in the provision of services provided under this Agreement because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations or marital status in the recruitment or selection for training, including apprenticeship, hiring, employment, utilization, promotion, layoff, rates of pay or other forms of compensation.

Section 20.11 ***Non-Exclusive Contract***. This Agreement does not establish an exclusive contract between the City and the Ava for the purchase of electricity or power or any services. To the extent that the City has remained in compliance with and has not defaulted under any terms of

this Agreement, the City expressly reserves all its rights, including but not limited to, the following: the right to utilize others to provide electricity, products, support and services; the right to request proposals from others with or without requesting proposals from the Ava; and the unrestricted right to bid any such product, support or service.

Section 20.12 **Further Assurances**. Each Party shall provide such information, execute and deliver any instruments and documents, and take such other actions as may be reasonably requested by the other Party, which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.

Section 20.13 **Waivers**. No provision or right or entitlement under this Agreement may be waived or varied except in writing signed by the Party to be bound. No waiver of any of the provisions of this Agreement will constitute a waiver of any other provision, nor will such waiver constitute a continuing waiver unless otherwise expressly provided.

Section 20.14 **Non-Dedication of Projects**. Nothing in this Agreement may be construed as the dedication by either Party of its Projects or equipment to the public or any part thereof. Neither Party may knowingly take any action that would subject the other Party, or other Party's Projects or equipment, to the jurisdiction of any Governmental Authority as a public utility or similar entity. Neither Party may assert in any proceeding before a court or regulatory body that the other Party is a public utility by virtue of such other Party's performance under this Agreement. If Ava is reasonably likely to become subject to regulation as a public utility, then the Parties shall use commercially reasonable efforts to restructure their relationship under this Agreement in a manner that preserves their relative economic interests while ensuring that Ava does not become subject to any such regulation. If the Parties are unable to agree upon such restructuring, Ava may terminate this Agreement without further liability under this Agreement except with respect to liabilities accrued prior to the date of termination and remove the Project in accordance with Section 11.2 of this Agreement.

Section 20.15 **Service Contract**. The Parties intend this Agreement to be a "service contract" within the meaning of Section 7701(e)(3) of the Internal Revenue Code of 1986. City shall not take the position on any tax return or in any other filings suggesting that it is anything other than a City of electricity from the Project.

Section 20.16 **No Agency, Lease, Joint Venture or Partnership**. No provision of this Agreement may be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties. No Party is authorized to act on behalf of the other Party, and neither may be considered the agent of the other. Ava shall perform pursuant to this Agreement as an independent contractor and not as an officer, agent, servant or employee of City. Ava shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors, if any. Nothing herein shall be considered as creating a partnership or joint venture between City and Ava. No Person performing any services and/or supplying all goods shall be considered an officer, agent, servant or employee of City, nor shall any such Person be entitled to any benefits available or granted to employees of City. Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Ava's work only, and not as to the means by which such a result is obtained. City does

not retain the right to control the means or the method by which Ava performs work under this Agreement.

Section 20.17 ***Account Manager***. Ava must assign an account manager to City to facilitate the contractual relationship and to be fully responsible and accountable for fulfilling City's requirements. Ava represents and warrants that such account manager will ensure that City receives adequate support, problem resolution assistance, and required information on a timely basis.

Section 20.18 ***Entire Agreement, Modification, Severability***. This Agreement, together with all of the exhibits, constitutes the entire agreement of the Parties regarding its subject matter and supersedes all prior proposals, agreements or other communications between the Parties, oral or written. This Agreement may be modified only by a writing signed by both Parties. If any provision of this Agreement is found unenforceable or invalid, such provision shall not be read to render this Agreement unenforceable or invalid as a whole. In such event, such provision shall be rectified or interpreted so as to best accomplish its objectives within the limits of Applicable Law.

Section 20.19 ***Forward Contract***. The transaction contemplated under this Agreement constitutes a "forward contract" within the meaning of the United States Bankruptcy Code, and the Parties further acknowledge and agree that each Party is a "forward contract merchant" within the meaning of the United States Bankruptcy Code. Each Party further agrees that, for all purposes of this Agreement, each Party waives and agrees not to assert the applicability of the provisions of 11 U.S.C. § 366 in any bankruptcy proceeding wherein such Party is a debtor. In any such proceeding, each Party further waives the right to assert that the other Party is a provider of last resort to the extent such term relates to 11 U.S.C. §366 or another provision of 11 U.S.C. § 101-1532.

Section 20.20 ***No Third-Party Beneficiaries***. Except as otherwise expressly provided herein, this Agreement and all rights hereunder are intended for the sole benefit of the Parties hereto, and the Financing Parties to the extent provided herein or in any other agreement between a Financing Party and Ava or City, and do not imply or create any rights on the part of, or obligations to, any other Person.

Section 20.21 ***Disentanglement***. Ava shall cooperate with City to ensure a smooth transition at the time of termination of this Agreement, regardless of the nature or timing of the termination. Ava shall cooperate with City's efforts to ensure that there is no interruption of electricity and no adverse impact on the provision of services or City's activities. Ava shall return to City all City assets or information in Ava's possession. Ava shall deliver to City or its designee, at City's request, all documentation and data related to City, including, but not limited to, City data and client files, held by Ava, and Ava shall destroy all copies thereof not turned over to City, all at no charge to City.

Section 20.22 ***Accountability***. Ava will be the primary point of contact and assume the responsibility of all matters relating to this Agreement, including those involving the manufacturer, deliverer or any subcontractor, as well as payment issues. If issues arise, the Ava must act as soon as reasonably practicable to correct or resolve the issues.

Section 20.23 **Cooperation with Review**. Ava shall cooperate with City's periodic review of Ava's performance. Such review may be conducted on a bi-annual basis, in the reasonable discretion of City, upon no less than 60 days' advance written notice to Ava.

Section 20.24 **Authority**. The signatories hereto represent and warrant that they are duly authorized on behalf of their respective entities to enter into and consummate this Agreement.

Section 20.25 **Counterparts**. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument. The Parties agree that the digital signatures of the signatories included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Any digital signature shall have the same legal validity and enforceability as a manually executed signature or use of a paper-based record keeping system to the fullest extent permitted by Applicable Law.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the Effective Date.

City of San Leandro

Ava Community Energy, a California joint powers authority

City Manager

By: _____
Name: Howard Chang
Title: Chief Executive Officer

Attest:

APPROVED AS TO FORM:

By: _____
Name: Inder Khalsa
Title: General Counsel
Date: _____

City Clerk

Approved as to Form:

City Attorney

Public Works Director

Schedule I

Defined Terms

“**Adjusted Energy Production**” has the meaning set forth in Section 8.1(a)

“**Adverse Effect**” has the meaning set forth in Section 7.6.

“**Adverse Environmental Conditions**” means (i) the existence or the continuation of the existence of Environmental Contamination (including, without limitation, a sudden or non-sudden accidental or non-accidental Environmental Contamination), or exposure to or release of any substance, chemical, material, pollutant, Hazardous Substance, odor or audible noise or other release or emission in, into or onto the environment at, in, by or related to the Project Site, (ii) the environmental aspect of the transportation, storage, treatment or disposal or materials in connection with the Project, or (iii) the violation, or alleged violation, of any Environmental Law, permits or licenses of, by or from any Governmental Authority relating to environmental matters connected with the applicable Project Site.

“**Affected Projects**” has the meaning set forth in Section 10.5.

“**Agreement**” has the meaning set forth in the Preamble.

“**Ancillary Services**” means operating reserves, regulation, black-start capability, reactive supply, voltage control, frequency response, contingency reserves, other products associated with electric generation and Energy that a Project is capable of providing and all other beneficial attributes and outputs of the Project not required for the operation of the Project.

“**Annual Escalator**” has the meaning set forth in Section 5.1(a)(i).

“**Applicable Law**” means all national, state, local or municipal laws, statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, Governmental Approvals, licenses, permits, directives, and requirements of all regulatory and other Governmental Authorities.

“**Attestation Form**” means documentation provided by Ava to City transferring title to the RECs, specifying the Project, REC quantity, and REC vintage with respect to the RECs sold herein.

“**Authority Having Jurisdiction**” or “**AHJ**” means any agency, organization, office or Person responsible for enforcing the requirements of a statute, regulation, code or standard, or for approving equipment, materials, an installation or a procedure in relation to a Project.

“**Ava Event of Default**” means an Ava Portfolio Default or an Ava Project Default, or both, as the context may require.

“**Ava Pass-Through Costs**” has the meaning set forth in Section 5.6

“**Ava Portfolio Default**” has the meaning set forth in Section 13.3.

“**Ava Project Default**” has the meaning set forth in Section 13.1.

“**Ava Removal Security**” has the meaning set forth in Section 11.4.

“**Ava Termination Payment**” means the corresponding amount set forth in Exhibit VI.

“**Ava WREGIS Account**” has the meaning set forth in Section 9.2.

“**Avoided Utility Cost**” means current rate available through electric utility company.

“**Bankruptcy Event**” means with respect to any entity, the occurrence of any of the following: such entity (a) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar Law, or has any such petition filed or commenced against it and such case filed against it is not dismissed in 60 days, (b) makes an assignment or any general arrangement for the benefit of creditors, (c) otherwise becomes bankrupt or insolvent (however evidenced), (d) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (e) is generally unable to pay its debts as they fall due.

“**Bill Credit Disqualifying Event**” has the meaning set forth in Section 5.1(d).

“**Budgetary Non-Appropriation Event**” has the meaning set forth in Section 10.3.

“**Business Day**” means a day other than a Saturday, Sunday or other day on which commercial banks in the State of California are authorized or required to close.

“**CAISO**” means the California Independent System Operator or any successor entity performing similar functions.

“**Capacity Attribute**” means any current or future defined characteristic, certificate, tag, credit, or accounting construct associated with the amount of power that the Project can accept at or deliver to the Delivery Point at a particular moment and that can be purchased and sold under CAISO market rules, including Resource Adequacy Benefits.

“**CARB**” means the California Air Resources Board.

“**Change in Law**” means (i) the enactment, adoption, promulgation, modification or repeal after the Effective Date of any Applicable Law or regulation, (ii) the imposition of any material conditions on the issuance or renewal of any applicable permit after the Effective Date (notwithstanding the general requirements contained in any applicable permit at the time of application or issue to comply with future laws, ordinances, codes, rules, regulations or similar legislation) or (iii) a change in any utility rate schedule or tariff approved by any Governmental Authority.

“**City**” has the meaning set forth in the Preamble.

“**City Portfolio**” means, collectively, all Projects contemplated under this Agreement.

“**City Portfolio Default**” has the meaning set forth in Section 13.7.

“**City Project Default**” has the meaning set forth in Section 13.5.

“**City WREGIS Account**” has the meaning set forth in Section 9.2.

“**City-Requested Outage**” has the meaning set forth in Section 7.8.

“**City Termination Payment**” means the corresponding amount set forth in Exhibit VII.

“**Claims**” has the meaning set forth in Section 16.1.

“**COD Delay Cure Period**” means (a) with respect to Tranche A Projects, a period of up to forty five (45) days, and (b) with respect to Tranche B Projects, a period of up to one hundred twenty (120) days.

“**COD Delay Damages**” means, with respect to each Project, for each day after the Commercial Operation Deadline that the applicable Project has not achieved COD, liquidated damages in an amount equal to the Pass-Through Damages received from Developer pursuant to the Developer Agreement, less any reasonably incurred Ava Pass-Through Costs calculated in accordance with Section 5.6.

“**COD Delay Notice**” has the meaning set forth in Section 4.6(c).

“**Commercial Operation**” means that the Project is mechanically complete, capable of providing electricity to the Delivery Point at the capacity specified on the applicable Project Site Addendum, subject to the caveats set forth in this Agreement, and has permission to operate from the relevant Governmental Authority. The Project is fully operational, reliable, and interconnected, fully integrated and synchronized with the distribution system.

“**Commercial Operation Date**” or “**COD**” means, for each Project, the date upon which Commercial Operation has been achieved, as indicated via written notice from Ava to the City in accordance with Section 4.6(d).

“**Commercial Operation Deadline**” has the meaning set forth in Section 4.6(a).

“**Commissioning Test**” has the meaning set forth in Section 4.6(d).

“**Compliance Action**” has the meaning set forth in Section 17.2.

“**Compliance Expenditure Cap**” has the meaning set forth in Section 17.2.

“**Confidential Information**” means, whether oral or written, which is delivered by the receiving Party or learning Party, including information that either the learning Party or the receiving Party stamps or otherwise identifies as “confidential” or “proprietary” before disclosing it to the other.

“**Construction Start**” has the meaning set forth in Section 4.4(a).

“**Construction Start Date**” has the meaning set forth in Section 4.4(a).

“Contract Capacity” means the sum of the Guaranteed Nameplate Capacity of each Generating Project and Storage Inverter Power of each Storage Project within the City Portfolio.

“Contract Month” means any calendar month during the Term, commencing on the first calendar month to occur subsequent to the Commercial Operation Date of the first Project to achieve COD hereunder.

“Contract Price” means the Renewable Rate or the Storage Rate, or both, as the context may require.

“Contract Year” means any consecutive twelve (12)-month period during the Term, commencing on the Commercial Operation Date of the first Project to achieve COD and ending on the last day of such twelve (12)-month period.

“CPUC” means the California Public Utilities Commission or any successor agency performing similar statutory functions.

“Credit Downgrade Event” means (a) the long-term, senior, unsecured debt rating of Ava (i) falls below BBB- from S&P and (ii) Baa3 from Moody’s, or (b) Ava is no longer rated by either of S&P and Moody’s.

“Cumulative Storage Contract Capacity” means the aggregate Storage Contract Capacity of all Storage Projects within the City Portfolio.

“Delivery Period” has the meaning set forth in Section 3.1.

“Delivery Point” means, with respect to each Project, the point where such Project is interconnected to City’s existing electrical system.

“Design Plan” has the meaning set forth in Section 4.3.

“Developer” means, [Green Bridge], a [_____], or any successor thereto, in each case, with whom Ava is contracting for the installation, construction, operation, and maintenance of the Project.

“Developer Agreement” has the meaning set forth in Section 2.1.

“Developer Performance Security” has the meaning set forth in Section 14.4(c).

“Discharging Energy” means, with respect to a Storage Project, all Energy delivered to the applicable Delivery Point from the Storage Project, as measured by the Meter in accordance with CAISO metering requirements and Prudent Operating Practices, adjusted pursuant to CAISO requirements for any applicable Electrical Losses.

“Dispute” has the meaning set forth in Section 20.3.

“Early Termination Event” has the meaning set forth in Section 3.2(a).

“Effective Date” has the meaning set forth in the Preamble.

“Electrical Losses” means all transmission or transformation losses between the Project and the Delivery Point, including, as applicable, losses associated with (i) delivery of PV Energy to the Delivery Point, (ii) delivery of Charging Energy to the Storage Project, (iii) conversion of Charging Energy into Discharging Energy, and (iv) delivery of Discharging Energy to the Delivery Point.

“Energy” means electrical energy generated by the Generating Project.

“Environmental Attributes” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Project (to the extent of sales to City of Energy pursuant to [Article 5](#)), and its displacement of conventional energy generation. Environmental Attributes include, without limitation, RECs, and all of the following: (a) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (Sox), nitrogen oxides (Nox), carbon monoxide (CO) and other pollutants; (b) any avoided emissions of carbon dioxide (CO₂), methane (CH₄) and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere; and (c) the reporting rights to these avoided emissions.

“Environmental Contamination” means the presence of a Hazardous Substance in a concentration exceeding legally allowable limits in violation of Applicable Law, including Environmental Law.

“Environmental Law” means any Applicable Law related to (a) the prevention, abatement or elimination of pollution, (b) the protection or preservation of the environment (including air, soil, land surface, subsurface strata, ground water, surface water, coastal water, and wetlands), wildlife (including endangered, threatened or protected species, migratory birds and bald or golden eagles), wildlife habitat, cultural resources, or natural resources, and (c) the use, generation, handling, treatment, storage, disposal, release, transportation or regulation of, or exposure to, Hazardous Substances.

“EOD Relocation Event” has the meaning set forth in [Section 11.1](#).

“EPC Contract” means, with respect to each Project, one or more commercially negotiated contract(s) for the engineering, procurement, construction, and installation of the applicable Project, which shall be entered into by and between Developer and an EPC Contractor.

“EPC Contractor” means Gridscape, or any other contractor proposed by Developer and approved by Ava in its reasonable discretion.

“Error-Free” means the Project Equipment (i) is free from material defects in design, materials, and workmanship, (ii) substantially conforms to the specifications set forth in this Agreement, including the Design Plan, and (iii) functions as designed.

“Estimated Construction Start Date” has the meaning set forth in the applicable PSA.

“Event of Default” means an Ava Event of Default or a City Event of Default, as the context may require.

“**Exclusive License**” has the meaning set forth in Section 6.1(f).

“**Excused Storage Event**” has the meaning set forth in Section 8.2(a).

“**Expected Annual Contract Quantity**” has the meaning set forth in Exhibit I.

“**FERC**” means the Federal Energy Regulatory Commission.

“**Financing Party**” has the meaning set forth in Section 18.2.

“**FM Delay Cure Period**” has the meaning set forth in Section 4.6(b).

“**Force Majeure Delay**” has the meaning set forth in Section 4.6(b).

“**Force Majeure Event**” means any event or circumstance beyond the reasonable control of and without the fault or negligence of breaching Party, including, without limitation, failure or interruption of the production, delivery or acceptance of electricity due to: an act of god; war (declared or undeclared); sabotage; piracy; riot; insurrection; civil unrest or disturbance; military or guerilla action; terrorism; economic sanction or embargo; civil strike, work stoppage, slow-down, or lock-out; explosion; fire; earthquake; epidemic; pandemic or any of the following related to the Outbreak: (i) action by a Governmental Authority that is broader or more restrictive than those measures in effect on the Effective Date or (ii) new events, circumstances or conditions related to the Outbreak arising after Effective Date, provided that such new event, circumstance or condition related to the Outbreak directly impacts the breaching Party’s ability to perform its obligations under this Agreement; abnormal weather condition or actions of the elements; hurricane; flood; lightning; wind; drought; animals; the binding order of any Governmental Authority; the failure to act on the part of any Governmental Authority (including, without limitation delays in permitting not caused by actions or omissions of the Party seeking such permit); unavailability of electricity from the utility grid; and failure or unavailability of equipment, supplies or products outside of Ava’s control or due to a Force Majeure Event. Notwithstanding the foregoing, a Force Majeure Event does not include economic conditions that render a Party’s performance of this Agreement at the Contract Price unprofitable or otherwise uneconomic (including an increase in component costs for any reason, including foreign or domestic tariffs, City’s ability to buy the Product, or any component thereof at a lower price, or Ava’s ability to sell the Product, or any component thereof, at a higher price, than under the Agreement); the inability of a Party to make payments when due under this Agreement, unless the cause of such inability is an event that would otherwise constitute a Force Majeure Event as described above that disables physical or electronic Projects necessary to transfer funds to the payee Party; Ava’s inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Project except to the extent such inability is caused by a Force Majeure Event; any equipment failure except if such equipment failure is caused by a Force Majeure Event; or the Outbreak or the effects or impacts of the Outbreak, except as set forth above.

“**Force Majeure Failure**” has the meaning set forth in Section 10.2.

“**Forced Outage**” means an unexpected failure of one or more components of the Project that prevents Ava from generating Energy or making Project Energy available at the Delivery Point and that is not the result of a Force Majeure Event.

“**Generating Project**” has the meaning set forth in the Preamble.

“**Governmental Approval**” means all authorizations, consents, approvals, waivers, exceptions, variances, filings, permits, orders, licenses, exemptions, notices to and declarations of or with any Governmental Authority and shall include those siting and operating permits and licenses, and any of the foregoing under any applicable Environmental Law, that are required for the development, use, and operation of any Project hereunder.

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

“**Grid Services**” has the meaning set forth in Section 9.4.

“**Guaranteed Energy Damages**” means liquidated damages in an amount equal to the product of (a) the applicable Avoided Utility Cost, multiplied by (b) the Guaranteed Energy Shortfall.

“**Guaranteed Energy Damages Cap**” has the meaning set forth in Section 8.1(b)(i).

“**Guaranteed Energy Production**” has the meaning set forth in Section 8.1(a).

“**Guaranteed Energy Shortfall**” means, with respect to each year in any Performance Measurement Period, the difference between (a) the product of (i) Expected Annual Contract Quantity, and (ii) 0.85; and (b) the Adjusted Energy Production.

“**Guaranteed Nameplate Capacity**” has the meaning set forth on the applicable PSA.

“**Guaranteed Storage Availability**” has the meaning set forth in Section 8.2(a)

“**Guaranteed Storage Damages**” has the meaning set forth in Section 8.2(b)(i).

“**Hazardous Substance**” means any chemical, waste or other substance (a) which now or hereafter becomes defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous wastes,” “restricted hazardous wastes,” “toxic substances,” “toxic pollutants,” “pollution,” “pollutants,” “regulated substances,” or words of similar import under any laws pertaining to the environment, health, safety or welfare, (b) which is declared to be hazardous, toxic, or polluting by any Governmental Authority, (c) exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority, (d) the storage, use, handling, disposal or release of which is restricted or regulated by any Governmental Authority, or (e) for which remediation or cleanup is required by any Governmental Authority.

“**Improvements**” means any buildings and other improvements on the Project Site other than the Project or the Project Equipment.

“**Incentives**” means (i) a payment paid by a utility or state or local Governmental Authority based in whole or in part on the cost or size of the Project such as a rebate, (ii) a performance-based incentive paid as a stream of periodic payments by a utility, state or Governmental Authority based

on the production of the Project, (iii) investment tax credits, production tax credits, and similar tax credits, grants or other tax benefits under federal, state or local law, and (iv) any other attributes, commodity, revenue stream or payment in connection with the Project (such as ancillary or capacity revenue), in each case of (i) through (iv) relating to the construction, ownership, use or production of energy from the Project, provided that Incentives shall not include RECs.

“**Indemnified Party**” has the meaning set forth in Section 16.1.

“**Indemnifying Party**” has the meaning set forth in Section 16.1.

“**Initial Term**” has the meaning set forth in Section 3.1.

“**Insolation**” has the meaning set forth in Section 7.4.

“**Interconnection Agreement**” means the interconnection agreement entered into by Developer pursuant to which the Project will be interconnected with the Transmission System, and pursuant to which Developer’s interconnection Projects and any other interconnection Projects will be constructed, operated, and maintained during the Term.

“**Interest Rate**” has the meaning set forth in Section 5.3.

“**Invoice Information**” has the meaning set forth in Section 5.2.

“**Joint Powers Act**” means the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.).

“**Joint Powers Agreement**” means that certain Joint Powers Agreement dated December 1, 2016, as amended from time to time, under which Ava is organized as a Joint Powers Authority in accordance with the Joint Powers Act.

“**kW**” means kilowatts in alternating current, unless expressly stated in terms of direct current.

“**kWh**” means kilowatt-hour measured in alternating current, unless expressly stated in terms of direct current.

“**Lawful Permitting Denial Event**” has the meaning set forth in Section 10.4.

“**Letter of Credit**” means an irrevocable, standby letter of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a credit rating of at least A- without an outlook designation of “stable” from S&P or A3 with an outlook designation of “stable” from Moody’s, the form of which shall be mutually agreeable to the Parties.

“**License Term**” has the meaning set forth in Section 6.1(a).

“**Licensed Professional Engineer**” means an independent, professional engineer selected by Ava and reasonably acceptable to City, licensed in the State of California.

“**Licensees**” has the meaning set forth in Section 6.1(a).

“**Licenses**” has the meaning set forth in Section 6.1(f).

“**Lien**” has the meaning set forth in Section 6.3.

“**Local Electric Utility**” means Pacific Gas and Electric Company, an investor-owned utility headquartered in San Francisco, California.

“**Lost Output**” has the meaning set forth in Section 8.1(a).

“**Meter**” has the meaning set forth in Section 12.1.

“**Modified Design Plan**” has the meaning set forth in Section 4.3.

“**Monthly Bill Credit**” has the meaning set forth in Section 5.1(d).

“**Monthly Payment**” has the meaning set forth in Section 5.1(a)

“**Monthly Storage Availability**” has the meaning set forth in Section 8.2(a).

“**MSDS**” has the meaning set forth in Section 7.11.

“**NERC**” means the North American Electric Reliability Corporation.

“**No-Fault Relocation Event**” has the meaning set forth in Section 11.1.

“**Non-Appropriation Period**” has the meaning set forth in Section 10.3.

“**Non-Appropriation Start Date**” has the meaning set forth in Section 10.3.

“**Non-Exclusive License**” has the meaning set forth in Section 6.1(a).

“**On-Site Services**” has the meaning set forth in Section 7.10(a).

“**On-Site Contractor**” has the meaning set forth in Section 7.10(a).

“**Optimization Savings**” has the meaning set forth in Section 9.3.

“**Outage Allowance**” has the meaning set forth in Section 7.8.

“**Outbreak**” means the outbreak of coronavirus disease (COVID-19) that was first reported from Wuhan, China on or about December 31, 2019 and declared a “Public Health Emergency of International Concern” by the World Health Organization on January 30, 2020.

“**Parties**” and “**Party**” have the meanings set forth in the Preamble.

“**Performance Measurement Period**” has the meaning set forth in Section 8.1(a).

“**Permitted Assignee**” has the meaning set forth in Section 18.1.

“Permitting Authority” has the meaning set forth in Section 10.4.

“Person” means any individual, sole proprietorship, corporation, limited liability company, limited or general partnership, joint venture, association, joint-stock company, trust, incorporated organization, institution, public benefit corporation, unincorporated organization, government entity or other entity.

“Planned Outage” has the meaning set forth in Section 7.7.

“Portfolio Delivery Period” means the period starting on the first Commercial Operation Date to occur with respect to any Project hereunder and ending upon the expiration or early termination of all Project Terms hereunder.

“Product” means PV Energy, Storage Capacity, and RECs.

“Progress Report” has the meaning set forth in Section 4.2.

“Project” means any individual Generating Project or Storage Project.

“Project Energy” means the sum of PV Energy and Discharging Energy during the monthly billing period contemplated under this Agreement, net of Electrical Losses and Station Use, as measured by the Meter, which Meter will be adjusted in accordance with CAISO meter requirements and Prudent Operating Practices to account for Electrical Losses and Station Use.

“Project Equipment” means PV modules, PV inverters, PV racking, battery modules, battery inverters, charge controllers, electrical panels, electrical disconnects, electric meters, transformers, and any other supporting equipment, structures, and security features, each to the extent applicable for any given Project.

“Project Monthly Payment” has the meaning set forth in Section 5.1(a)(ii).

“Project Roof” has the meaning set forth in Section 8.3(a).

“Project Site” means, with respect to a Project, the real property upon which such Project shall be installed, as described or depicted in the applicable PSA.

“Project Term” has the meaning set forth in Section 3.1.

“Prudent Operating Practice” means (a) the applicable practices, methods, and acts required by or consistent with Applicable Laws and reliability criteria, and otherwise engaged in or approved by a significant portion of the solar industry during the relevant time period with respect to distributed generation generating projects with integrated storage in the Western United States or (b) any of the practices, methods, and acts that, in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, and expedition. Prudent Operating Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to acceptable practices, methods or acts generally accepted in the industry with respect to distributed generation generating projects with integrated storage in the Western United

States. Prudent Operating Practice includes compliance with Applicable Laws, applicable reliability criteria, and the criteria, rules, and standards promulgated in the National Electric Safety Code and the National Electrical Code, as they may be amended or superseded from time to time, including the criteria, rules and standards of any successor organizations.

“**PV Energy**” means that portion of Energy that is delivered directly to the Delivery Point from a Generating Project and is not Discharging Energy.

“**PV Payment**” has the meaning set forth in Section 5.1(a)(i).

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

“**Relocation Request**” has the meaning set forth in Section 11.1.

“**Removal Costs**” has the meaning set forth in Section 11.3.

“**Removal Deadline**” has the meaning set forth in Section 11.2.

“**Removal Services**” has the meaning set forth in Section 11.2.

“**Renewable Rate**” means the Tranche A PPA Rate or the Tranche B PPA Rate, or any or all of the foregoing as the context may require.

“**Renewal Term**” has the meaning set forth in Section 3.1.

“**Representatives**” has the meaning set forth in Section 19.2.

“**Requested Confidential Information**” has the meaning set forth in Section 19.2(b).

“**Resource Adequacy Benefits**” means the rights and privileges attached to the Project that satisfy any entity’s resource adequacy obligations, as those obligations are set forth in any CPUC decision and includes any local, zonal or otherwise locational attributes associated with the Project, in addition to flex attributes.

“**Roof Damage Warranty**” has the meaning set forth in Section 8.3(a).

“**Site Control**” means that City: (A) is the fee simple owner of the Project Site; or (B) is the lessee of the Project Site pursuant to a lease which (i) has a term no shorter than the duration of the Initial Term, and (ii) authorizes City to act in all manners relating to the control and operation of the Project Site.

“Station Use” means:

- (a) the Energy produced or discharged by the Project that is used within the Project to power the lights, motors, control systems, and other electrical loads that are necessary for operation of the Project; and
- (b) the Energy produced or discharged by the Project that is consumed within the Project’s electric energy distribution system as losses.

“Storage Capacity” means the maximum dependable operating capability of the Storage Project to discharge electric energy that can be sustained for four consecutive hours (in kWh).

“Storage Contract Capacity” means the nameplate Storage Capacity, in kWh, of a Storage Project, as specified in the applicable PSA.

“Storage Inverter Power” means the nameplate discharging power rating, in kilowatts, of a Storage Project, as specified in the applicable PSA.

“Storage Payment” has the meaning set forth in Section 5.1(a)(i).

“Storage Project” has the meaning set forth in the Recitals.

“Storage Rate” has the meaning set forth in Section 5.1(a)(i).

“Term” has the meaning set forth in Section 3.1.

“Termination Payment” means the Ava Termination Payment or City Termination Payment, or both, as the context may require.

“Tier 1” means, with respect to the Generating Project, any equipment offered by any Tier 1 Supplier and, with respect to a Storage Project, any battery storage system that (i) is offered by any Tier 1 Supplier, (ii) benefits from a manufacturer’s warranty (including an energy retention warranty), and (iii) includes all of the components, functionality, and other material features that affect performance and the user experience (i.e., data acquisition and operating controls) of a standard, high-quality storage project.

“Tier 1 Supplier” means a “Tier 1 Module Manufacturer” as listed from time to time by *Bloomberg New Energy Finance’s PV Market Outlook*, published on a quarterly basis, or if no longer published, a similar publication agreed upon by Ava and City in writing, and as agreed to by City.

“Total System Benefit” means the sum of all revenue and bill savings from Optimization Savings realized by the operation of the Project, net of any electricity expenses associated with the operation of the Project, as calculated by Ava. Total System Benefit does not include RECs or Incentives. A hypothetical calculation of Total System Benefit is as follows: [estimated cumulative Project Site utility expenses during the Term if the Project did not exist] less [estimated cumulative Project Site utility expenses during the Term with the Project in operation] less [cumulative Monthly Payments during the Term].

“Tranche A PPA Rate” has the meaning set forth in Section 5.1(a)(i).

“Tranche A Project” means a Project designated as such in the applicable PSA.

“Tranche B PPA Rate” has the meaning set forth in Section 5.1(a)(i).

“Tranche B Project” means a Project designated as such in the applicable PSA.

“Transmission System” means the transmission Projects operated by the CAISO, now or hereafter in existence, which provide energy transmission service downstream from the Delivery Point.

“WECC” means the Western Electricity Coordinating Council.

EXHIBIT I

EXPECTED ANNUAL CONTRACT QUANTITY

Estimated Fees

Year	NEM 2.0 production (kWh)	NEM 2.0 rate (\$/kWh)	NEM 3.0 production (kWh)	NEM 3.0 rate (\$/kWh)	Battery Storage fee (\$)	Total
1	1,336,943	\$0.299	92,636	\$0.420	\$87,586	\$525,962
2	1,330,258	\$0.306	92,173	\$0.430	\$89,775	\$536,865
3	1,323,607	\$0.314	91,712	\$0.441	\$92,020	\$547,995
4	1,316,989	\$0.322	91,253	\$0.452	\$94,320	\$559,358
5	1,310,404	\$0.330	90,797	\$0.463	\$96,678	\$570,959
6	1,303,852	\$0.338	90,343	\$0.475	\$99,095	\$582,802
7	1,297,333	\$0.347	89,891	\$0.487	\$101,573	\$594,893
8	1,290,846	\$0.355	89,442	\$0.499	\$104,112	\$607,237
9	1,284,392	\$0.364	88,995	\$0.512	\$106,715	\$619,839
10	1,277,970	\$0.373	88,550	\$0.524	\$109,383	\$632,706
11	1,271,580	\$0.382	88,107	\$0.538	\$112,117	\$645,841
12	1,265,222	\$0.392	87,667	\$0.551	\$114,920	\$659,252
13	1,258,896	\$0.402	87,228	\$0.565	\$117,793	\$672,943
14	1,252,602	\$0.412	86,792	\$0.579	\$120,738	\$686,922
15	1,246,339	\$0.422	86,358	\$0.593	\$123,756	\$701,193
16	1,240,107	\$0.433	85,926	\$0.608	\$126,850	\$715,764
17	1,233,906	\$0.444	85,497	\$0.623	\$130,022	\$730,640
18	1,227,737	\$0.455	85,069	\$0.639	\$133,272	\$745,827
19	1,221,598	\$0.466	84,644	\$0.655	\$136,604	\$761,334
20	1,215,490	\$0.478	84,221	\$0.671	\$140,019	\$777,165
21	1,209,413	\$0.490	83,799	\$0.688	\$143,520	\$793,329
22	1,203,366	\$0.502	83,380	\$0.705	\$147,108	\$809,832
23	1,197,349	\$0.514	82,964	\$0.723	\$150,785	\$826,681
24	1,191,362	\$0.527	82,549	\$0.741	\$154,555	\$843,885
25	1,185,405	\$0.540	82,136	\$0.759	\$158,419	\$861,449

Exhibit II - San Leandro - Project Site Addendum Summary

City:	San Leandro
City Effective Date:	
Initial Term:	25 years
Cumulative Guaranteed Nameplate Capacity (kW):	879.9kW
Storage Inverter Power (kW):	712.1kW

Contract Capacity	1,592.0kW
Tranche A PPA Rate:	\$ 0.2988
Tranche B PPA Rate:	\$ 0.4199
Renewable Rate Escalator:	2.50%
Storage Rate:	\$10.25/kW-month

San Leandro Site Name	Project Address	Tranche	Project Type (Generating, Storage, Both)	Project PV Description (e.g., carport, rooftop, etc.)	Guaranteed Nameplate Capacity (kW)	Storage Inverter Power (kW)	Storage Contract Capacity (kWh)	Estimated Construction Start Date	Estimated Commercial Operation Date
San Leandro Manor Branch Library	1241 Manor Blvd. San Leandro, CA 94579	Tranche A	Both	Carport	48.80kW	61.92kW	154.80kWh	7/3/2025	2/28/2026
San Leandro Public Works Service Center	14200 Chapman Road San Leandro, CA 94578	Tranche A	Both	Carport	106.30kW	61.92kW	154.80kWh	7/3/2025	2/28/2026
San Leandro Fire Station #11	14903 Catalina St. San Leandro, CA 94577	Tranche B	Both	Carport	24.40kW	30.96kW	77.40kWh	3/20/2026	12/1/2026
San Leandro Fire Station #10	2194 Williams St. San Leandro, CA 94577	Tranche B	Both	Carport	33.80kW	30.96kW	77.40kWh	3/20/2026	12/1/2026
San Leandro City Hall	835 E 14th St. San Leandro, CA 94577	Tranche A	Both	Carport & Rooftop	181.00kW	154.80kW	387.00kWh	7/3/2025	2/28/2026
San Leandro Main Library	300 Estudillo Ave. San Leandro, CA 94577	Tranche A	Both	Carport	410.60kW	309.60kW	774.00kWh	7/3/2025	2/28/2026
San Leandro Marina Community Center	15301 Wicks Blvd San Leandro, CA 94579	Tranche A	Both	Carport	75.00kW	61.92kW	154.80kWh	7/3/2025	2/28/2026
San Leandro Total:					879.90kW	712.08kW	1,780.20kWh		

Exhibit II-1

PSA for San Leandro Manor Branch Library

[See following pages]

Exhibit II-1 - Project Site Addendum

Project Name	Project Type (Generating, Storage, Both)	Project PV Description (e.g., carport, rooftop, etc.)	City / Site Owner	Project Address
San Leandro Manor Branch Library	Both	Carport	San Leandro	1241 Manor Blvd. San Leandro, CA 94579

Tranche	Tranche A
----------------	-----------

Milestone Schedule			
Estimated Construction Start Date	Construction Start Deadline	Estimated Commercial Operation Date	Commercial Operation Deadline
7/3/2025	7/19/2025	2/28/2026	2/28/2026

Generating Project Terms
Guaranteed Nameplate Capacity (kW)
48.80kW

Storage Project Terms	
Storage Inverter Power (kW)	Storage Contract Capacity (kWh)
61.92kW	154.80kWh

Project Site Information
<p>Project Site Description: The Project Site is the Manor Branch Library. The Generating Project will include PV panels located on a carport in the west parking lot, and the Storage Project will include a battery energy storage system located on the northeast side of the parking lot. The Project shall be built as documented within the enclosed design plans, which are subject to further modification with City's approval.</p> <p>Access Points: [City to advise, as applicable]</p> <p>Construction Assumptions: Not applicable</p> <p>Electrical Diagram: [See attached]</p>

Exhibit II-1

**Site Plan, Electrical Diagrams, and Metering Information for
San Leandro Manor Branch Library**

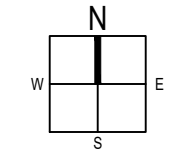
[See following pages]

SYSTEM INFO
 SYSTEM SIZE : 48.75 kWDC; 50.00 kWAC
 BESS SYSTEM SIZE : 60.00 kWAC; 163.84 kWh
 PV MODULE : (78) RUNERGY, HY-DH156N8 (625W)
 PV INVERTER TYPE : (02) CPS SCA25KTL-DO/US-208 (25kW)
 BATTERY TYPE : (01) GRIDSCAPE GSX160 (163.84 kWh TOTAL)
 BATTERY INVERTER : (01) GRIDSCAPE GS60X (60kW)

All PV/BESS system related electrical equipment shall be located at the site mutually agreed by the city at the later date.



01 SITE PLAN
1"=20'



GRIDSCAPE
 GRIDSCAPE SOLUTIONS
 46711 FREMONT BLVD.
 FREMONT, CA 94538

GRIDSCAPE ENERGY
 GRIDSCAPE ENERGY
 46711 FREMONT BLVD.
 FREMONT, CA 94539

COMPANY NAME: GRIDSCAPE ENERGY
 CSLB: #1121493
 CONTACT INFO: 510-89-6030

REVISION / SUBMITTAL		
NO.	DESCRIPTION	DATE

PROJECT
 NEW PV SYSTEM: 48.75 kWDC / 50.00 kWAC
 NEW BESS SYSTEM: 60.00 kWAC / 163.84 kWh
**WASHINGTON MANOR
 BRANCH LIBRARY**
 1241 MANOR BLVD, SAN LEANDRO, CA 94579

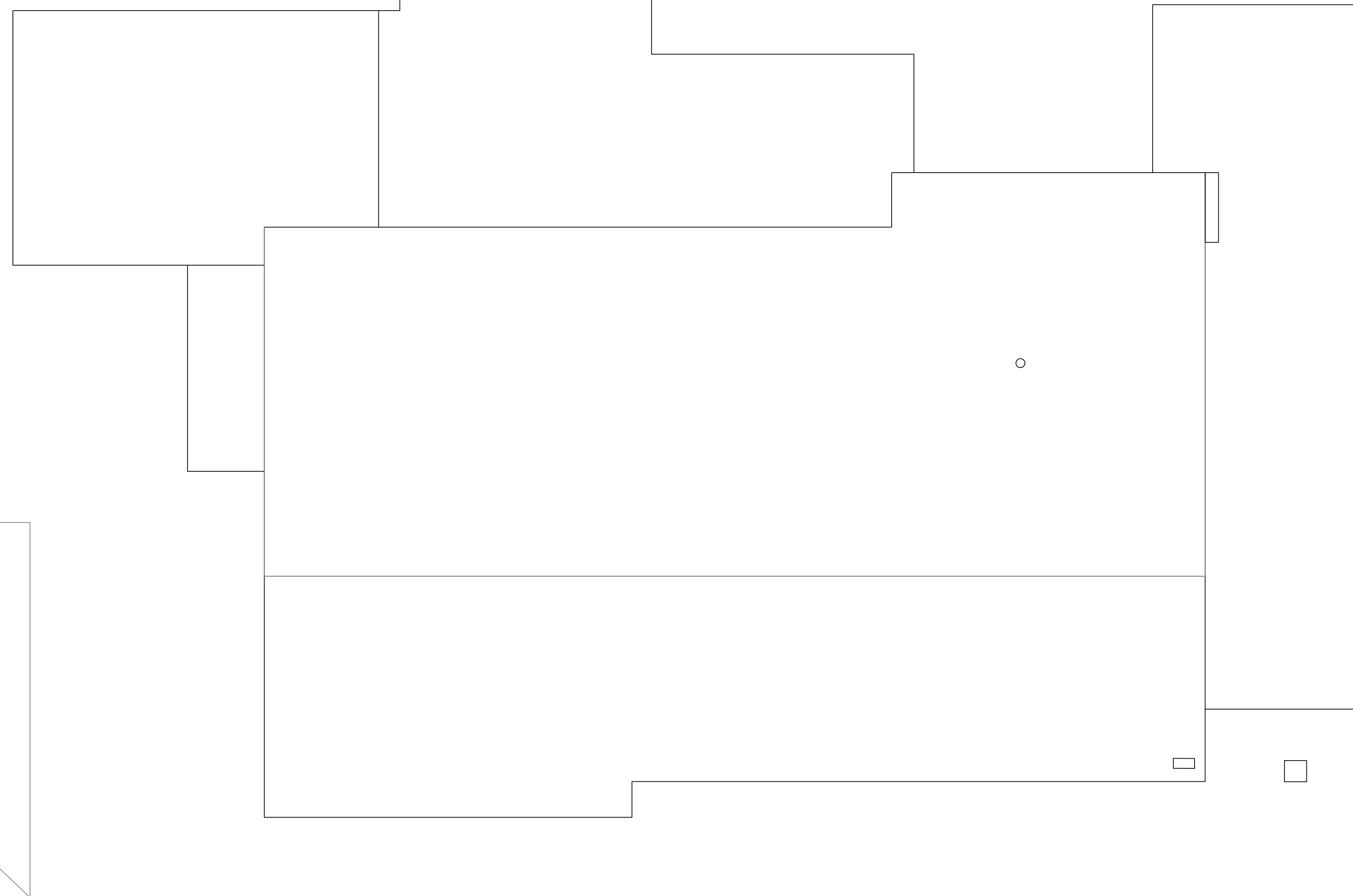
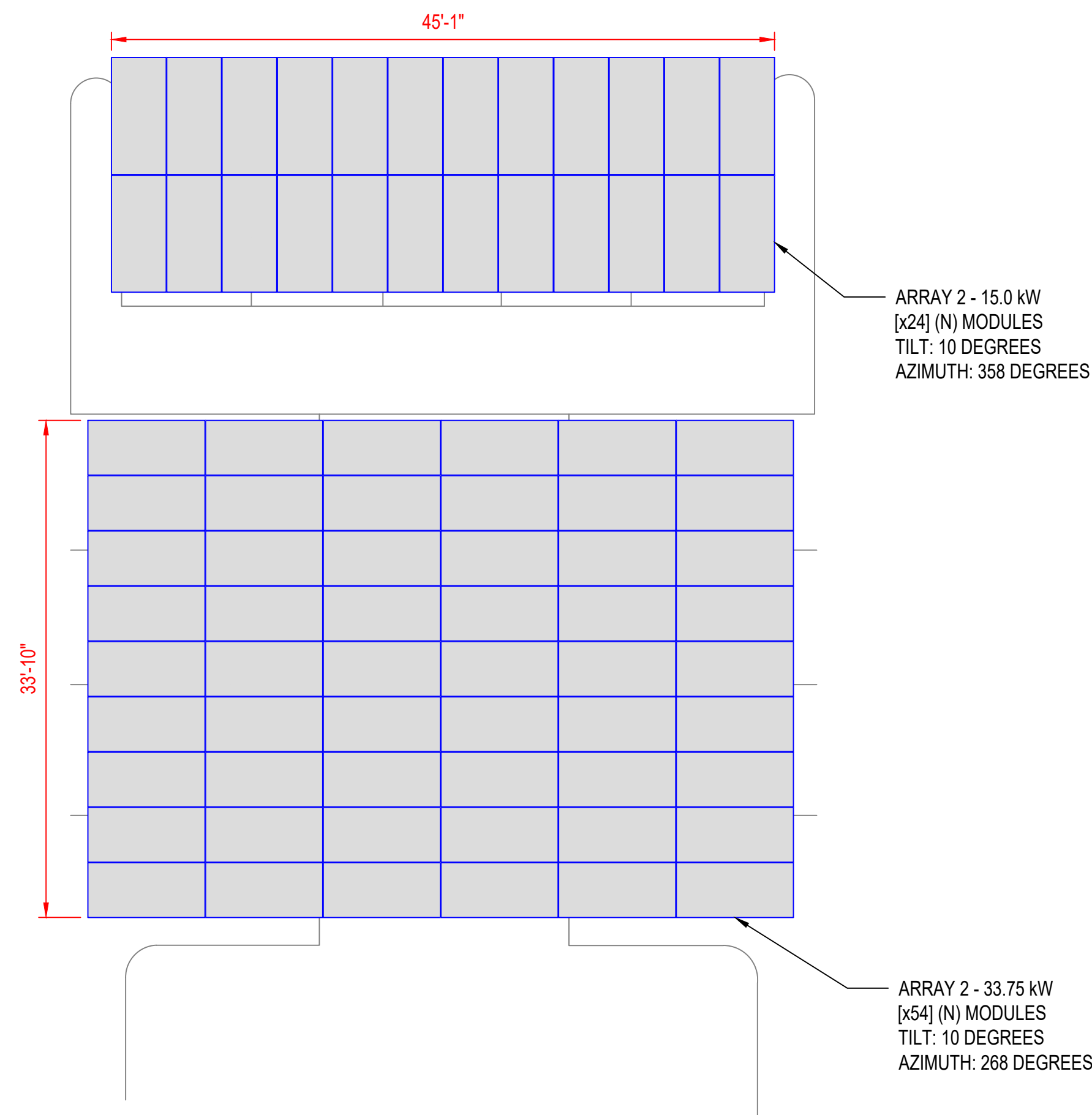
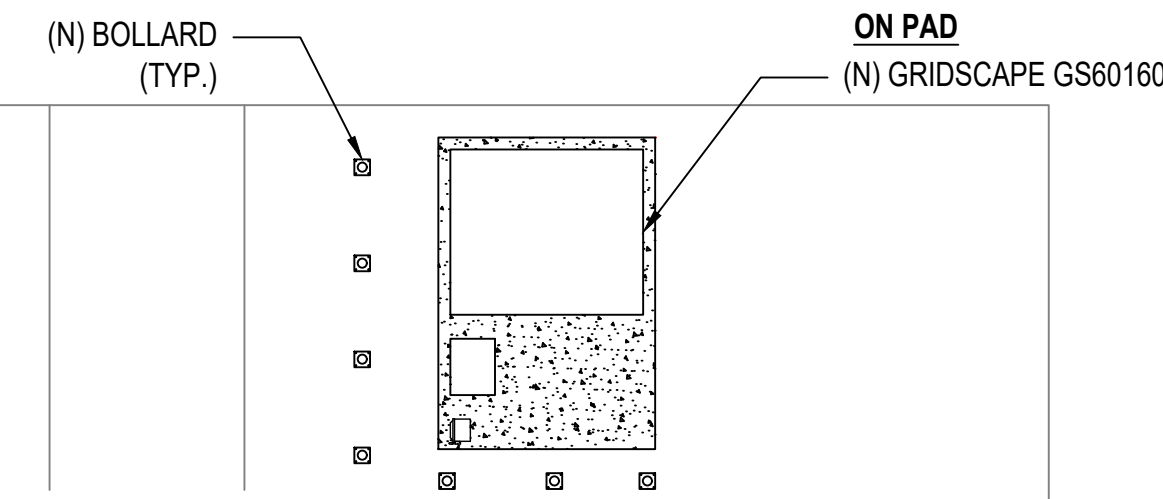
ENGINEER OF RECORD

PAPER SIZE: 36" x 24" (ARCH D)
 SHEET TITLE: **SITE PLAN**
 (SHEET 1 OF 2)
 DATE: 11.15.2024
 DESIGN BY: RES
 CHECKED BY: GS
 SHEET NUMBER: **A-101**

SYSTEM INFO
 SYSTEM SIZE : 48.75 kWDC; 50.00 kWAC
 BESS SYSTEM SIZE : 60.00 kWAC; 163.84 kWh
 PV MODULE : (78) RUNERGY, HY-DH156N8 (625W)
 PV INVERTER TYPE : (02) CPS SCA25KTL-DO/US-208 (25kW)
 BATTERY TYPE : (01) GRIDSCAPE GSX160 (163.84 kWh TOTAL)
 BATTERY INVERTER : (01) GRIDSCAPE GS60X (60kW)

All PV/BESS system related electrical equipment shall be located at the site mutually agreed by the city at the later date.

GENERAL NOTES
 1. FIELD VERIFY ALL MEASUREMENTS



GRIDSCAPE
 GRIDSCAPE SOLUTIONS
 46711 FREMONT BLVD.
 FREMONT, CA 94538

GRIDSCAPE ENERGY
 GRIDSCAPE ENERGY
 46711 FREMONT BLVD.
 FREMONT, CA 94539

COMPANY NAME: GRIDSCAPE ENERGY
 CSLB#: #1121493
 CONTACT INFO: 510-894-6030

REVISION / SUBMITTAL

NO.	DESCRIPTION	DATE

PROJECT

NEW PV SYSTEM: 48.75 kWDC / 50.00 kWAC
 NEW BESS SYSTEM: 60.00 kWAC / 163.84 kWh
WASHINGTON MANOR
BRANCH LIBRARY
 1241 MANOR BLVD, SAN LEANDRO, CA 94579

ENGINEER OF RECORD

PAPER SIZE: 30" x 24" (ARCH D)

SHEET TITLE:
ARRAY ELECTRICAL PLAN

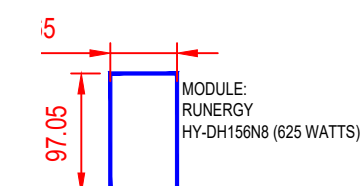
(SHEET 2 OF 2)

DATE: 11.15.2024

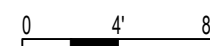
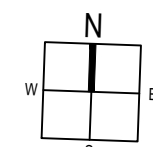
DESIGN BY: RES

CHECKED BY: GS

SHEET NUMBER:



01 **ARRAY ELECTRICAL PLAN**
 1/8"=1'-0"



A-102

Exhibit II-1

Attachment A: Project Site Safety & Security Requirements

[City to provide, if applicable]

Exhibit II-2

PSA for San Leandro Public Works Service Center

[See following pages]

Exhibit II-2 - Project Site Addendum

Project Name	Project Type (Generating, Storage, Both)	Project PV Description (e.g., carport, rooftop, etc.)	City / Site Owner	Project Address
San Leandro Public Works Service Center	Both	Carport	San Leandro	14200 Chapman Road San Leandro, CA 94578

Tranche	Tranche A
----------------	-----------

Milestone Schedule			
Estimated Construction Start Date	Construction Start Deadline	Estimated Commercial Operation Date	Commercial Operation Deadline
7/3/2025	7/19/2025	2/28/2026	2/28/2026

Generating Project Terms
Guaranteed Nameplate Capacity (kW)
106.30kW

Storage Project Terms	
Storage Inverter Power (kW)	Storage Contract Capacity (kWh)
61.92kW	154.80kWh

Project Site Information
<p>Project Site Description: The Project Site is the City of San Leandro Public Works. The Generating Project will include PV panels located on a carport in the southeast parking lot, and the Storage Project will include a battery energy storage system located on the northwest side of the property next to the main building. The Project shall be built as documented within the enclosed design plans, which are subject to further modification with City's approval.</p> <p>Access Points: [City to advise, as applicable]</p> <p>Construction Assumptions: Not applicable</p> <p>Electrical Diagram: [See attached]</p>

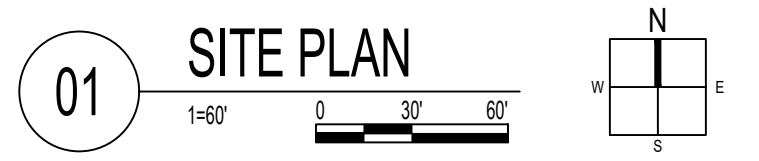
Exhibit II-2

**Site Plan, Electrical Diagrams, and Metering Information for
San Leandro Public Works Service Center**

[See following pages]

SYSTEM INFO	
PV SYSTEM SIZE	: 105.00 kWDC; 86.00 kWAC
BESS SYSTEM SIZE	: 60.00 kWAC; 163.84 kWh
PV MODULE	: (168) RUNERGY HY-DH156N8 625 (625W)
PV INVERTER TYPE	: (1) CPS SCA50KTL-DO/US-480 (50KW)
	: (1) CPS SCA36KTL-DO/US-480 (36kW)
BATTERY TYPE	: (1) GRIDSCAPE GSX160 (163.84kWh)
BATTERY INVERTER	: (1) GRIDSCAPE GS60X (60kW)

All PV/BESS system related electrical equipment shall be located at the site mutually agreed by the city at the later date.



GRIDSCAPE
 GRIDSCAPE SOLUTIONS
 46711 FREMONT BLVD.
 FREMONT, CA 94538

PHONE: 510-884-6030

GRIDSCAPE ENERGY
 GRIDSCAPE ENERGY
 46711 FREMONT BLVD.
 FREMONT, CA 94539

COMPANY NAME: GRIDSCAPE ENERGY
 CSLB#: #1121493
 CONTACT INFO: 510-884-6030

REVISION / SUBMITTAL		
NO.	DESCRIPTION	DATE

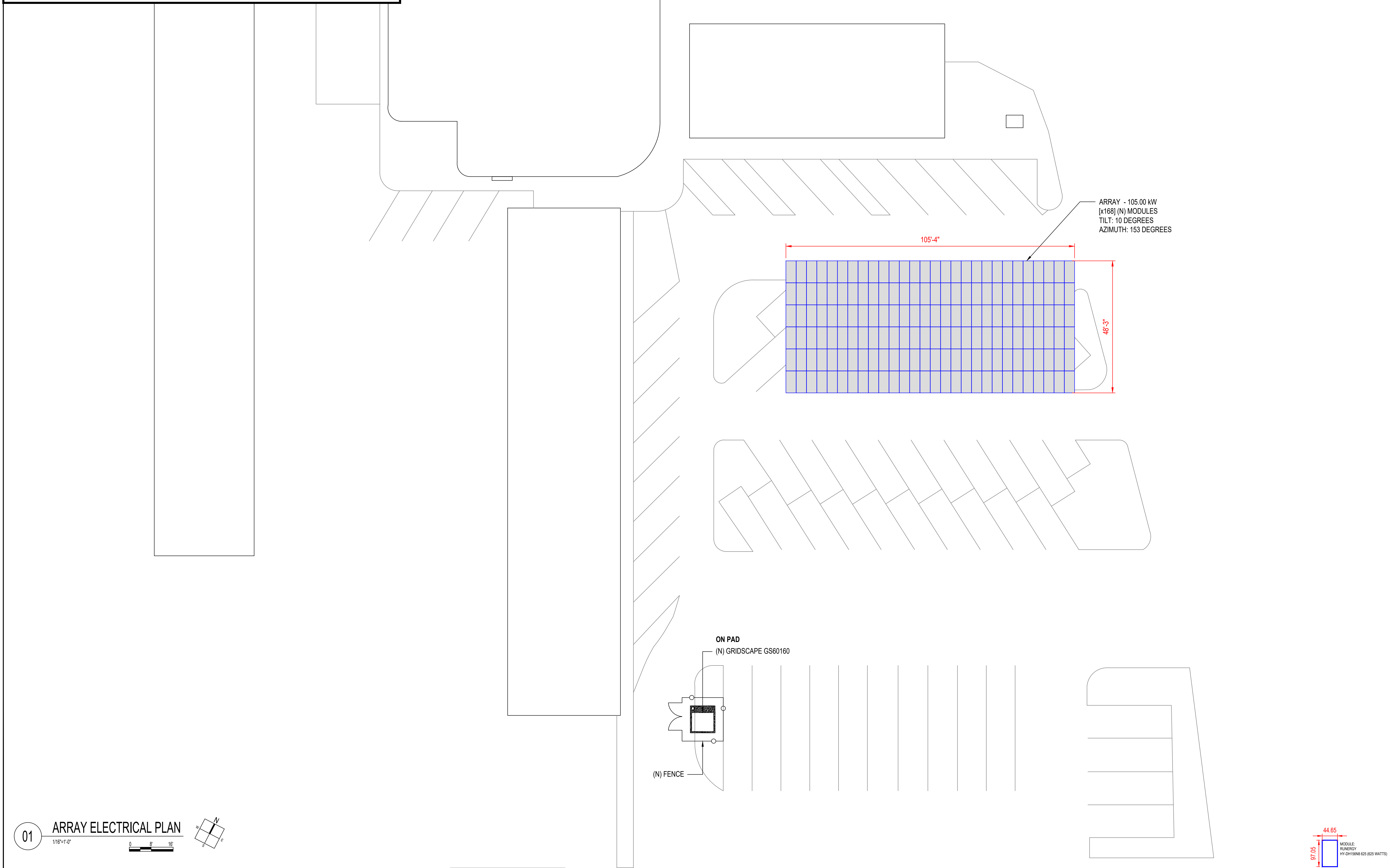
PROJECT
 NEW PV SYSTEM: 105.00 kWDC / 86.00 kWAC
 NEW BESS SYSTEM: 60.00 kWAC / 163.84 kWh
PUBLIC WORKS SERVICE CENTER
 14200 CHAPMAN RD, SAN LEANDRO, CA 94578
 ENGINEER OF RECORD

PAPER SIZE: 36" x 24" (ARCH D)
 SHEET TITLE: **SITE PLAN**
 (SHEET 1 OF 2)
 DATE: 11.15.2024
 DESIGN BY: RES
 CHECKED BY: GS
 SHEET NUMBER: **A-101**

SYSTEM INFO	
PV SYSTEM SIZE	: 105.00 kWDC; 86.00 kWAC
BESS SYSTEM SIZE	: 60.00 kWAC; 163.84 kWh
PV MODULE	: (168) RUNERGY HY-DH156N8 625 (625W)
PV INVERTER TYPE	: (1) CPS SCA50KTL-DO/US-480 (50kW)
	: (1) CPS SCA36KTL-DO/US-480 (36kW)
BATTERY TYPE	: (1) GRIDSCAPE GSX160 (163.84kWh)
BATTERY INVERTER	: (1) GRIDSCAPE GS60X (60kW)

All PV/BESS system related electrical equipment shall be located at the site mutually agreed by the city at the later date.

GENERAL NOTES
 1. FIELD VERIFY ALL MEASUREMENTS
 2. SEE SHEET T-001 FOR LEGEND OF SYMBOLS



GRIDSCAPE
 GRIDSCAPE SOLUTIONS
 46711 FREMONT BLVD.
 FREMONT, CA 94538

GRIDSCAPE ENERGY
 GRIDSCAPE ENERGY
 46711 FREMONT BLVD.
 FREMONT, CA 94539

COMPANY NAME: GRIDSCAPE ENERGY
 CSLB#: #1121493
 CONTACT INFO: 510-89-6030

REVISION / SUBMITTAL		
NO.	DESCRIPTION	DATE

PROJECT
 NEW PV SYSTEM: 105.00 kWDC / 86.00 kWAC
 NEW BESS SYSTEM: 60.00 kWAC / 163.84 kWh
PUBLIC WORKS SERVICE CENTER
 14200 CHAPMAN RD, SAN LEANDRO, CA 94578
ENGINEER OF RECORD

PAPER SIZE: 30" x 24" (ARCH D)
 SHEET TITLE:
ARRAY ELECTRICAL PLAN
 (SHEET 2 OF 2)
 DATE: 11.15.2024
 DESIGN BY: RES
 CHECKED BY: GS
 SHEET NUMBER:
A-102

Exhibit II-2

Attachment A: Project Site Safety & Security Requirements

[City to provide, if applicable]

Exhibit II-3

PSA for San Leandro Fire Station #11

[See following pages]

Exhibit II-3 - Project Site Addendum

Project Name	Project Type (Generating, Storage, Both)	Project PV Description (e.g., carport, rooftop, etc.)	City / Site Owner	Project Address
San Leandro Fire Station #11	Both	Carport	San Leandro	14903 Catalina St. San Leandro, CA 94577

Tranche	Tranche B
----------------	-----------

Milestone Schedule			
Estimated Construction Start Date	Construction Start Deadline	Estimated Commercial Operation Date	Commercial Operation Deadline
3/20/2026	4/30/2026	12/1/2026	1/31/2027

Generating Project Terms
Guaranteed Nameplate Capacity (kW)
24.40kW

Storage Project Terms	
Storage Inverter Power (kW)	Storage Contract Capacity (kWh)
30.96kW	77.40kWh

Project Site Information
<p>Project Site Description: The Project Site is the Alameda County Fire Station 11. The Generating Project will include PV panels located on a carport on the south side of the parking lot, and the Storage Project will include a battery energy storage system located on the west side of the main building in the landscape area. The Project shall be built as documented within the enclosed design plans, which are subject to further modification with City's approval.</p> <p>Access Points: [City to advise, as applicable]</p> <p>Construction Assumptions: Not applicable</p> <p>Electrical Diagram: [See attached]</p>

Exhibit II-3

**Site Plan, Electrical Diagrams, and Metering Information for
San Leandro Fire Station #11**

[See following pages]

SYSTEM INFO
 PV SYSTEM SIZE : 25.00 kWDC; 25.00.00 kWAC
 BESS SYSTEM SIZE : 30.00 kWDC; 81.92 kWh
 PV MODULE : (40) RUNERGY HY-DH156N8-625 (625W)
 PV INVERTER TYPE : (1) CHINT POWER SYSTEMS CPS SCA25KTL-DO/US-208 (25kW)
 BATTERY TYPE : (1) GRIDScape GSX80 (81.92 kWh)
 BATTERY INVERTER : (1) GRIDScape GS30X (30kW)

All PV/BESS system related electrical equipment shall be located at the site mutually agreed by the city at the later date.



01 SITE PLAN
 1/16" = 1'-0"
 N
 E
 S
 W

GRIDScape
 GRIDScape SOLUTIONS
 46711 FREMONT BLVD.
 FREMONT, CA 94538

PHONE: 510-884-6030

GRIDScape
 ENERGY
 GRIDScape ENERGY
 46711 FREMONT BLVD.
 FREMONT, CA 94539

COMPANY NAME: GRIDScape ENERGY
 CSLB#: #1121493
 CONTACT INFO: 510-884-6030

REVISION / SUBMITTAL		
NO.	DESCRIPTION	DATE

PROJECT
 NEW PV SYSTEM: 25.00 kWDC / 25.00 kWAC
 NEW BESS SYSTEM: 30.00 kWDC / 81.92 kWh
FIRE STATION #11
 14903 CATALINA ST, SAN LEANDRO, CA 94577

ENGINEER OF RECORD

PAPER SIZE: 36" x 24" (ARCH D)
 SHEET TITLE:
 SITE PLAN
 (SHEET 1 OF 2)
 DATE: 11.15.2024
 DESIGN BY: RES
 CHECKED BY: GS
 SHEET NUMBER:

A-101

SYSTEM INFO	
PV SYSTEM SIZE	: 25.00 kWDC; 25.00.00 kWAC
BESS SYSTEM SIZE	: 30.00 kWDC; 81.92 kWh
PV MODULE	: (40) RUNERGY HY-DH156N8-625 (625W)
PV INVERTER TYPE	: (1) CHINT POWER SYSTEMS CPS SCA25KTL-DO/US-208 (25kW)
BATTERY TYPE	: (1) GRIDSCAPE GSX80 (81.92 kWh)
BATTERY INVERTER	: (1) GRIDSCAPE GS30X (30kW)

All PV/BESS system related electrical equipment shall be located at the site mutually agreed by the city at the later date.

GENERAL NOTES
 1. FIELD VERIFY ALL MEASUREMENTS
 2. SEE SHEET T-001 FOR LEGEND OF SYMBOLS

GRIDSCAPE
 GRIDSCAPE SOLUTIONS
 46711 FREMONT BLVD.
 FREMONT, CA 94538
 PHONE: 510-894-6030

GRIDSCAPE ENERGY
 GRIDSCAPE ENERGY
 46711 FREMONT BLVD.
 FREMONT, CA 94539

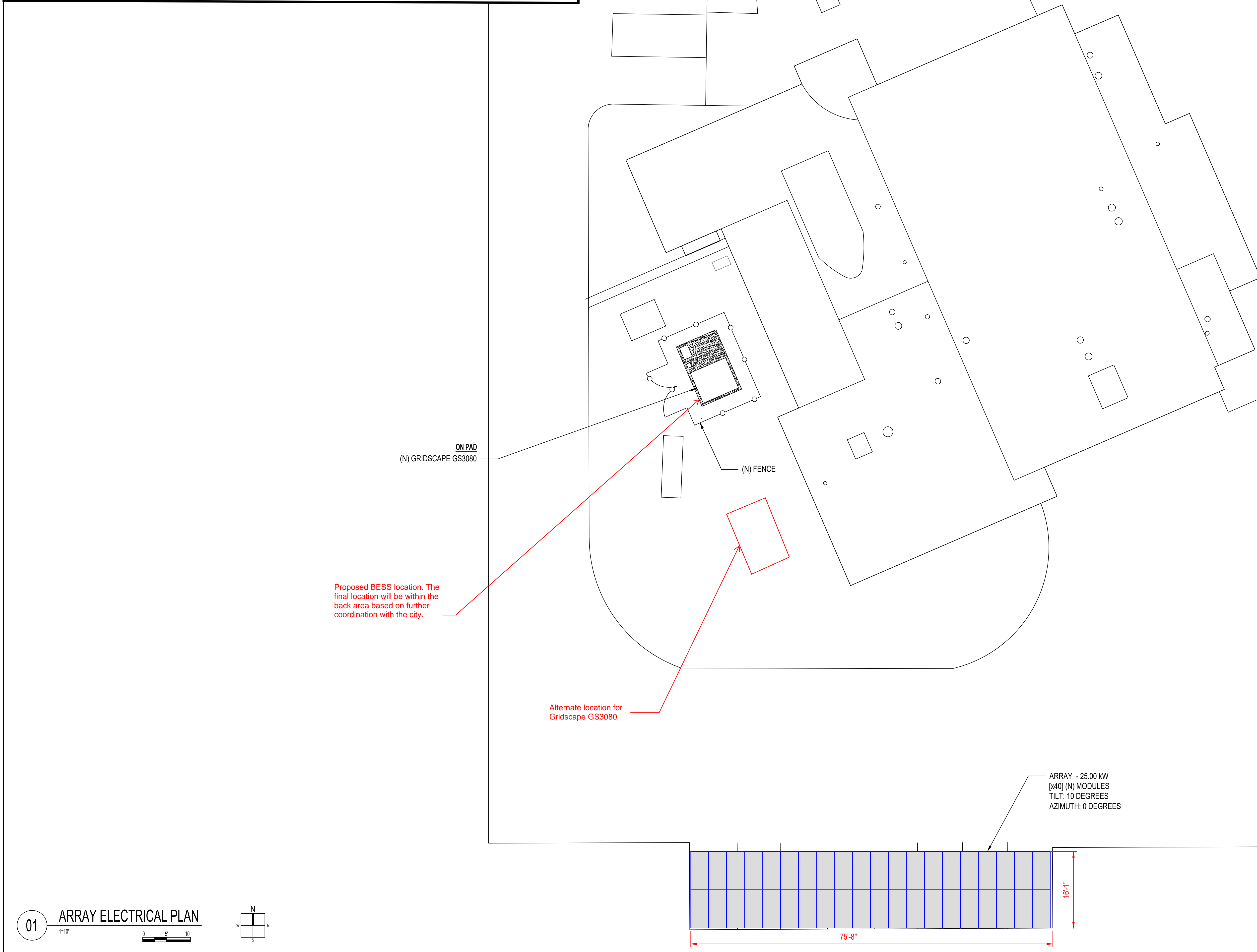
COMPANY NAME: GRIDSCAPE ENERGY
 CSLB#: #1121493
 CONTACT INFO: 510-89-6030

REVISION / SUBMITTAL		
NO.	DESCRIPTION	DATE

PROJECT
 NEW PV SYSTEM: 25.00 kWDC / 25.00 kWAC
 NEW BESS SYSTEM: 30.00 kWDC / 81.92 kWh
FIRE STATION #11
 14903 CATALINA ST, SAN LEANDRO, CA 94577

ENGINEER OF RECORD
 PAPER SIZE: 30" x 24" (ARCH D)

SHEET TITLE:
ARRAY ELECTRICAL PLAN
 (SHEET 2 OF 2)
 DATE: 11.15.2024
 DESIGN BY: RES
 CHECKED BY: GS
 SHEET NUMBER:
A-102



01 ARRAY ELECTRICAL PLAN
 1"=10'
 0 5 10'
 N
 W E
 S

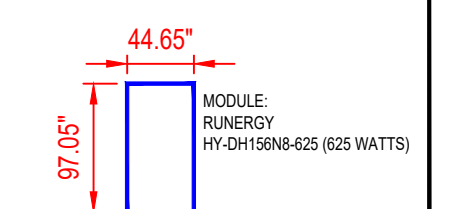


Exhibit II-3

Attachment A: Project Site Safety & Security Requirements

[City to provide, if applicable]

Exhibit II-4

PSA for San Leandro Fire Station #10

[See following pages]

Exhibit II-4 - Project Site Addendum

Project Name	Project Type (Generating, Storage, Both)	Project PV Description (e.g., carport, rooftop, etc.)	City / Site Owner	Project Address
San Leandro Fire Station #10	Both	Carport	San Leandro	2194 Williams St. San Leandro, CA 94577

Tranche	Tranche B
----------------	-----------

Milestone Schedule			
Estimated Construction Start Date	Construction Start Deadline	Estimated Commercial Operation Date	Commercial Operation Deadline
3/20/2026	4/30/2026	12/1/2026	1/31/2027

Generating Project Terms
Guaranteed Nameplate Capacity (kW)
33.80kW

Storage Project Terms	
Storage Inverter Power (kW)	Storage Contract Capacity (kWh)
30.96kW	77.40kWh

Project Site Information
<p>Project Site Description: The Project Site is the Alameda County Fire Department Station 10. The Generating Project will include PV panels located on a carport in the northwest parking lot, and the Storage Project will include a battery energy storage system located on the east side of the main building in the landscape area. The Project shall be built as documented within the enclosed design plans, which are subject to further modification with City's approval.</p> <p>Access Points: [City to advise, as applicable]</p> <p>Construction Assumptions: Not applicable</p> <p>Electrical Diagram: [See attached]</p>

Exhibit II-4

**Site Plan, Electrical Diagrams, and Metering Information for
San Leandro Fire Station #10**

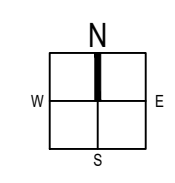
[See following pages]

SYSTEM INFO	
PV SYSTEM SIZE	: 33.75 kWDC; 25.00 kWAC
BESS SYSTEM SIZE	: 30.00 kWDC; 81.92 kWh
PV MODULE	: (54) RUNERGY HY-DH156N8-625 (625W)
PV INVERTER TYPE	: (1) CHINT POWER SYSTEMS CPS SCA25KTL-DO/US-208 (25kW)
BATTERY TYPE	: (1) GRIDSCAPE GSX80 (81.92 kWh)
BATTERY INVERTER	: (1) GRIDSCAPE GS30X (30kW)

All PV/BESS system related electrical equipment shall be located at the site mutually agreed by the city at the later date.



01 SITE PLAN
1/16" = 1'-0"



GRIDSCAPE
GRIDSCAPE SOLUTIONS
46711 FREMONT BLVD.
FREMONT, CA 94538

PHONE: 510-884-6030

GRIDSCAPE
ENERGY
GRIDSCAPE ENERGY
46711 FREMONT BLVD.
FREMONT, CA 94539

COMPANY NAME: GRIDSCAPE ENERGY
CSLB#: #1121493
CONTACT INFO: 510-884-6030

REVISION / SUBMITTAL		
NO.	DESCRIPTION	DATE

PROJECT
NEW PV SYSTEM: 33.75 kWDC / 25.00 kWAC
NEW BESS SYSTEM: 30.00 kWAC / 81.92 kWh

FIRE STATION #10
2194 WILLIAMS ST, SAN LEANDRO, CA 94577

ENGINEER OF RECORD

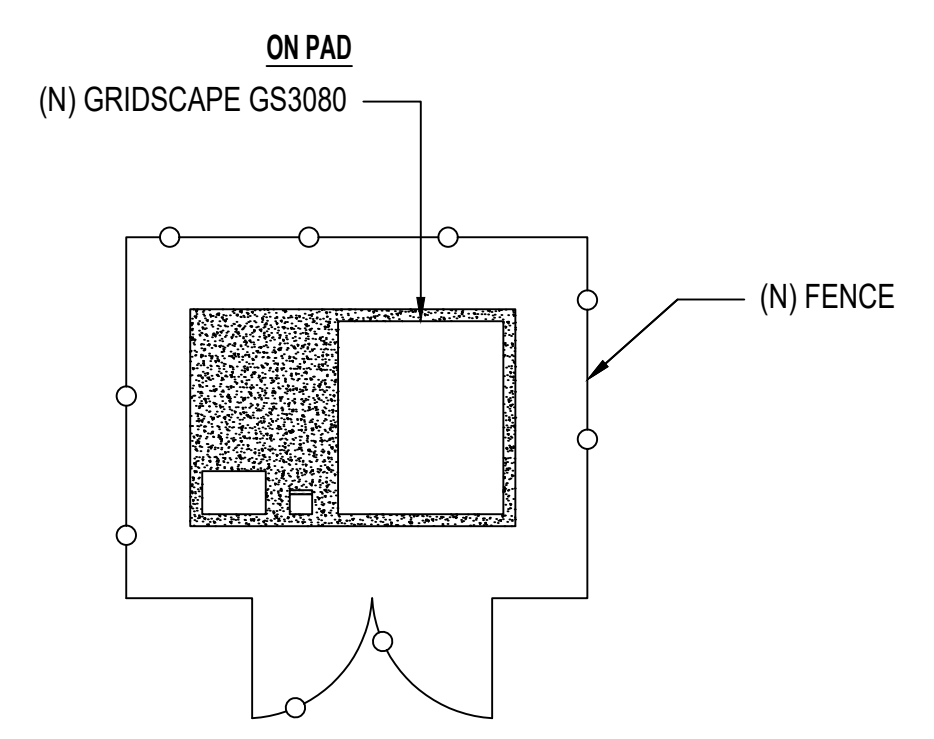
PAPER SIZE: 36" x 24" (ARCH D)
SHEET TITLE:
SITE PLAN
(SHEET 1 OF 2)
DATE: 11.15.2024
DESIGN BY: RES
CHECKED BY: GS
SHEET NUMBER:

A-101

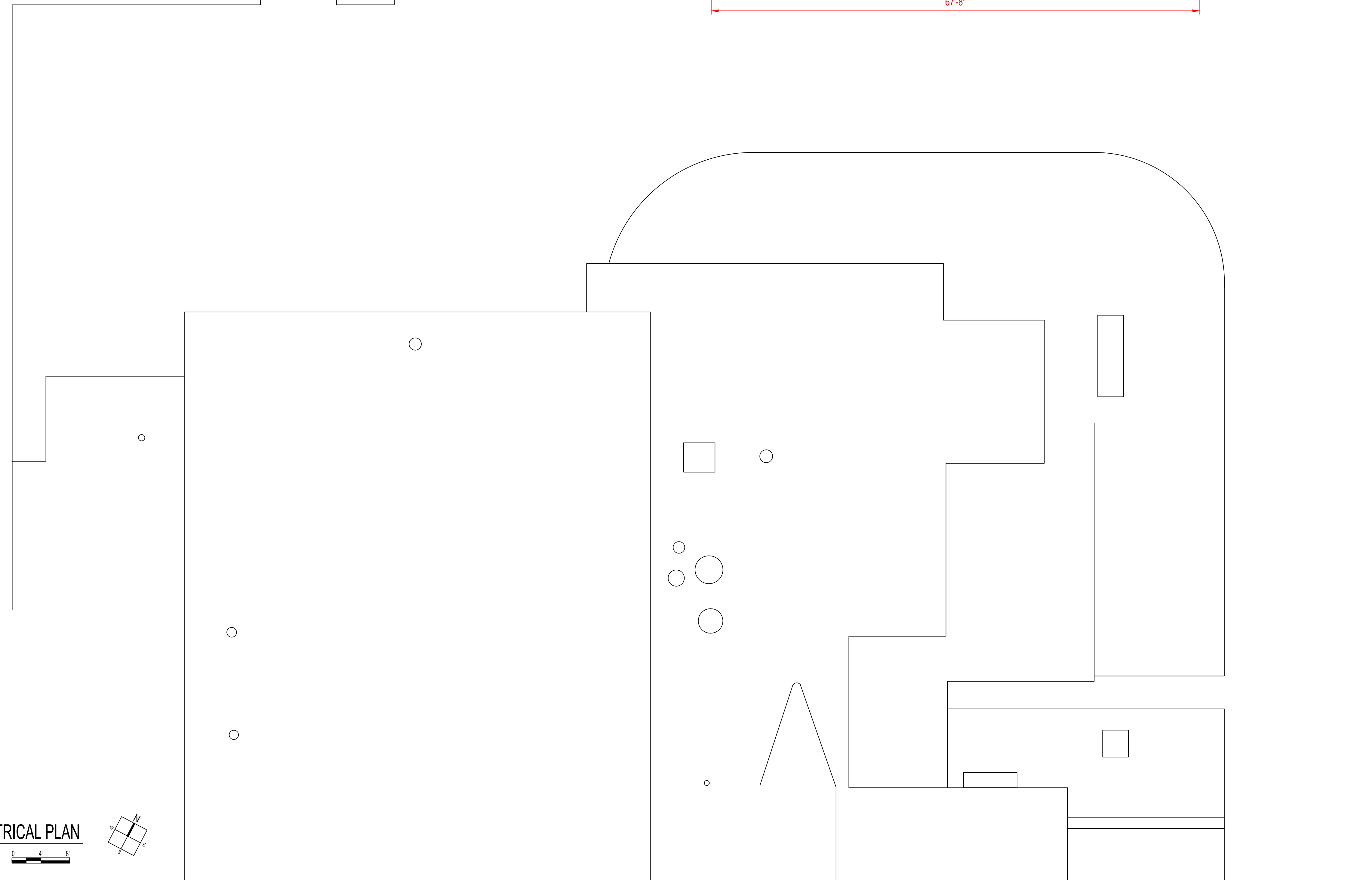
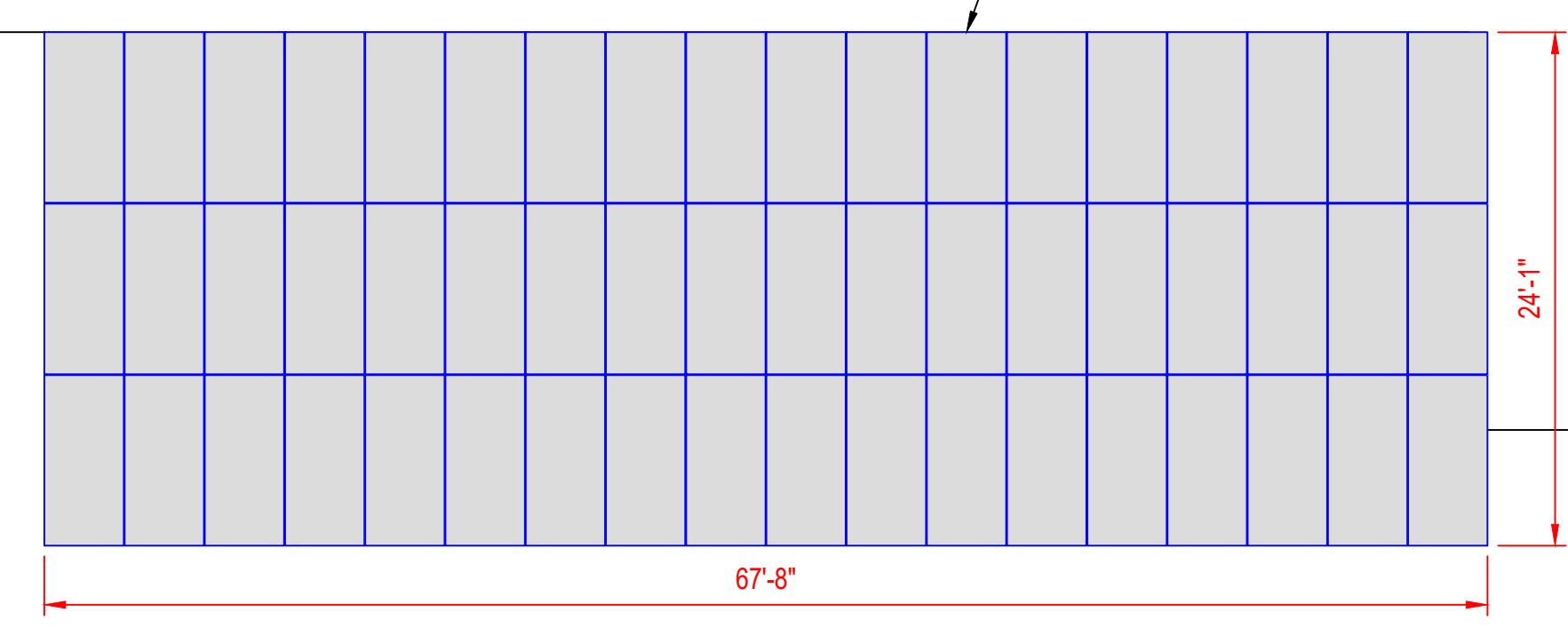
SYSTEM INFO
 PV SYSTEM SIZE : 33.75 kWDC; 25.00 kWAC
 BESS SYSTEM SIZE : 30.00 kWDC; 81.92 kWh
 PV MODULE : (54) RUNERGY HY-DH156N8-625 (625W)
 PV INVERTER TYPE : (1) CHINT POWER SYSTEMS CPS SCA25KTL-DO/US-208 (25kW)
 BATTERY TYPE : (1) GRIDSCAPE GSX80 (81.92 kWh)
 BATTERY INVERTER : (1) GRIDSCAPE GS30X (30kW)

All PV/BESS system related electrical equipment shall be located at the site mutually agreed by the city at the later date.

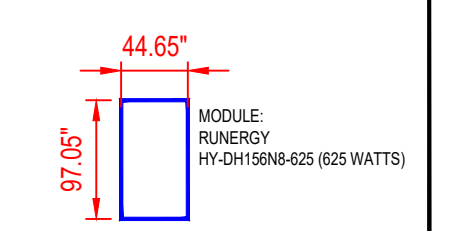
GENERAL NOTES
 1. FIELD VERIFY ALL MEASUREMENTS
 2. SEE SHEET T-01 FOR LEGEND OF SYMBOLS



ARRAY - 33.75 kW
 [x54] (N) MODULES
 TILT: 10 DEGREES
 AZIMUTH: 152 DEGREES



01 ARRAY ELECTRICAL PLAN
 1/8"=1'-0"
 0 4 8



GRIDSCAPE
 GRIDSCAPE SOLUTIONS
 46711 FREMONT BLVD.
 FREMONT, CA 94538
 PHONE: 510-894-6030

GRIDSCAPE ENERGY
 GRIDSCAPE ENERGY
 46711 FREMONT BLVD.
 FREMONT, CA 94539

COMPANY NAME: GRIDSCAPE ENERGY
 CSLB#: #1121493
 CONTACT INFO: 510-89-6030

REVISION / SUBMITTAL		
NO.	DESCRIPTION	DATE

PROJECT
 NEW PV SYSTEM: 33.75 kWDC / 25.00 kWAC
 NEW BESS SYSTEM: 30.00 kWDC / 81.92 kWh

FIRE STATION #10
 2194 WILLIAMS ST, SAN LEANDRO, CA 94577

ENGINEER OF RECORD

PAPER SIZE: 36" x 24" (ARCH D)

SHEET TITLE:
 ARRAY ELECTRICAL PLAN
 (SHEET 2 OF 2)

DATE: 11.15.2024
 DESIGN BY: RES
 CHECKED BY: GS
 SHEET NUMBER:
 A-102

Exhibit II-4

Attachment A: Project Site Safety & Security Requirements

[City to provide, if applicable]

Exhibit II-5

PSA for San Leandro City Hall

[See following pages]

Exhibit II-5 - Project Site Addendum

Project Name	Project Type (Generating, Storage, Both)	Project PV Description (e.g., carport, rooftop, etc.)	City / Site Owner	Project Address
San Leandro City Hall	Both	Carport & Rooftop	San Leandro	835 E 14th St. San Leandro, CA 94577

Tranche	Tranche A
----------------	-----------

Milestone Schedule			
Estimated Construction Start Date	Construction Start Deadline	Estimated Commercial Operation Date	Commercial Operation Deadline
7/3/2025	7/19/2025	2/28/2026	2/28/2026

Generating Project Terms
Guaranteed Nameplate Capacity (kW)
181.00kW

Storage Project Terms	
Storage Inverter Power (kW)	Storage Contract Capacity (kWh)
154.80kW	387.00kWh

Project Site Information
<p>Project Site Description: The Project Site is the City of San Leandro City Hall. The Generating Project will include PV panels located on the rooftop on the north side of the building along Lorrain Rd., as well on a carport located in the northwest parking area along Lafayette Ave. The Storage Project will include a battery energy storage system located on the southwest corner of the property along Lafayette Ave. The Project shall be built as documented within the enclosed design plans, which are subject to further modification with City's approval.</p> <p>Access Points: [City to advise, as applicable]</p> <p>Construction Assumptions: Not applicable</p> <p>Electrical Diagram: [See attached]</p>

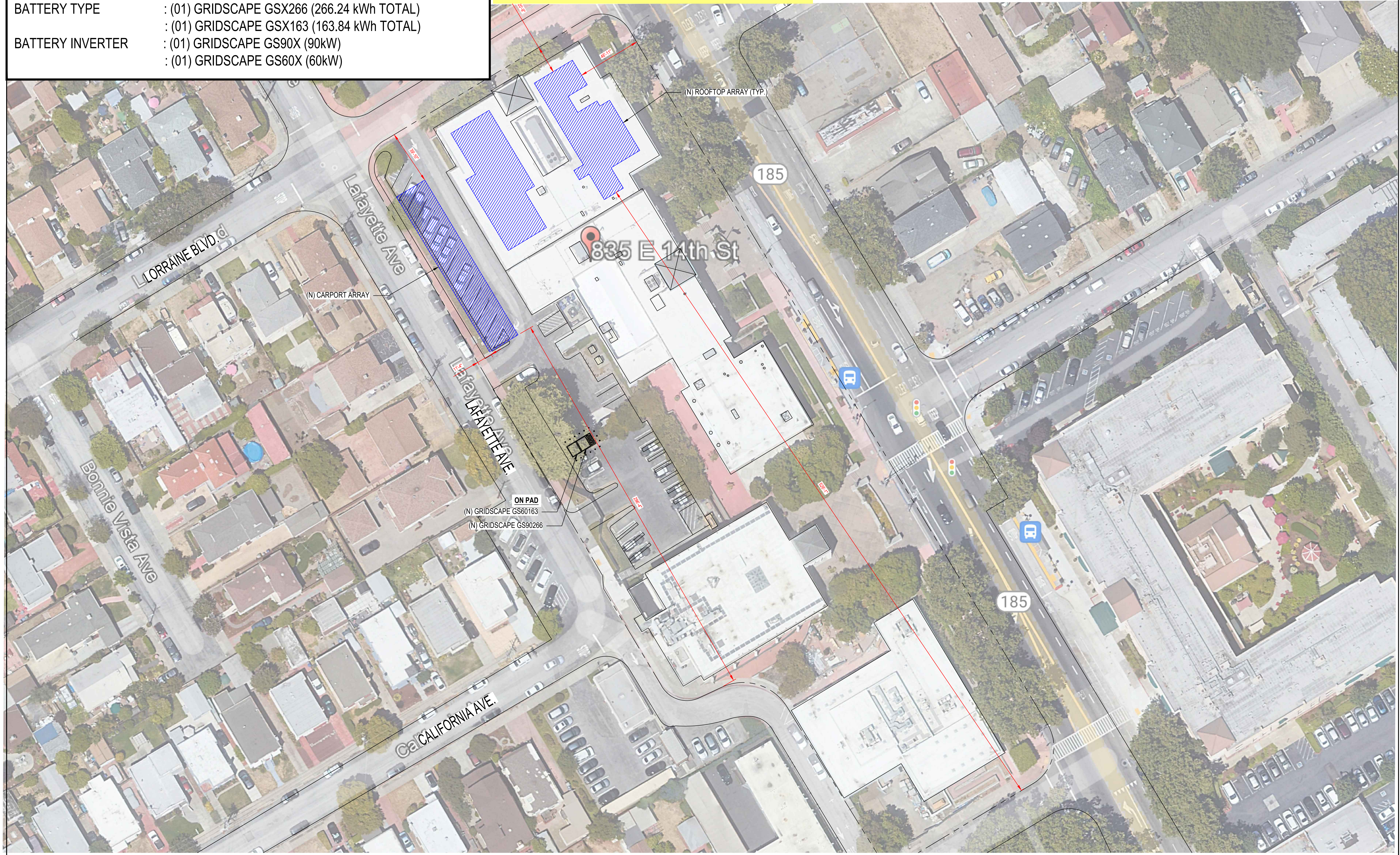
Exhibit II-5

**Site Plan, Electrical Diagrams, and Metering Information for
San Leandro City Hall**

[See following pages]

SYSTEM INFO
 SYSTEM SIZE : 181.25 kWDC; 150 kWAC
 BESS SYSTEM SIZE : 150.00 kWAC; 430.08 kWh
 PV MODULE : (290) RUNERGY HY-DH156N8 625 (625W)
 RAPID SHUTDOWN : (93) AP SMART RSD-D-20 RAPID SHUTDOWN DEVICES
 PV INVERTER TYPE : (03) CPS SCA50KTL-DO/US-480 (50KW)
 BATTERY TYPE : (01) GRIDSCAPE GSX266 (266.24 kWh TOTAL)
 : (01) GRIDSCAPE GSX163 (163.84 kWh TOTAL)
 BATTERY INVERTER : (01) GRIDSCAPE GS90X (90kW)
 : (01) GRIDSCAPE GS60X (60kW)

All PV/BESS system related electrical equipment shall be located at the site mutually agreed by the city at the later date.



01 SITE PLAN
 1/32"=1'-0" 0 16' 32'
 N
 W E S

GRIDSCAPE
 GRIDSCAPE SOLUTIONS
 46711 FREMONT BLVD.
 FREMONT, CA 94538

PHONE: 510-884-6030

GRIDSCAPE
 ENERGY
 GRIDSCAPE ENERGY
 46711 FREMONT BLVD.
 FREMONT, CA 94539

COMPANY NAME: GRIDSCAPE ENERGY
 CSLB#: #1121493
 CONTACT INFO: 510-884-6030

REVISION / SUBMITTAL		
NO.	DESCRIPTION	DATE

PROJECT
 NEW PV SYSTEM: 181.25 kWDC / 150.00 kWAC
 NEW BESS SYSTEM: 150.00 kWAC / 430.08 kWh

CITY HALL
 835 E 14TH ST, SAN LEANDRO, CA 94577

ENGINEER OF RECORD

PAPER SIZE: 36" x 24" (ARCH D)
 SHEET TITLE: SITE PLAN
 (SHEET 1 OF 2)
 DATE: 11.18.2024
 DESIGN BY: RES
 CHECKED BY: GS
 SHEET NUMBER:

A-101

SYSTEM INFO	
SYSTEM SIZE	: 181.25 kWDC; 150 kWAC
BESS SYSTEM SIZE	: 150.00 kWAC; 430.08 kWh
PV MODULE	: (290) RUNERGY HY-DH156N8 625 (625W)
RAPID SHUTDOWN	: (93) AP SMART RSD-D-20 RAPID SHUTDOWN DEVICES
PV INVERTER TYPE	: (03) CPS SCA50KTL-DO/US-480 (50KW)
BATTERY TYPE	: (01) GRIDSCAPE GSX266 (266.24 kWh TOTAL)
	: (01) GRIDSCAPE GSX163 (163.84 kWh TOTAL)
BATTERY INVERTER	: (01) GRIDSCAPE GS90X (90kW)
	: (01) GRIDSCAPE GS60X (60kW)

All PV/BESS system related electrical equipment shall be located at the site mutually agreed by the city at the later date.

GENERAL NOTES
 1. FIELD VERIFY ALL MEASUREMENTS
 2. SEE SHEET T-001 FOR LEGEND OF SYMBOLS

GRIDSCAPE
 GRIDSCAPE SOLUTIONS
 46711 FREMONT BLVD.
 FREMONT, CA 94538

PHONE: 510-894-6030
GRIDSCAPE ENERGY
 GRIDSCAPE ENERGY
 46711 FREMONT BLVD.
 FREMONT, CA 94539

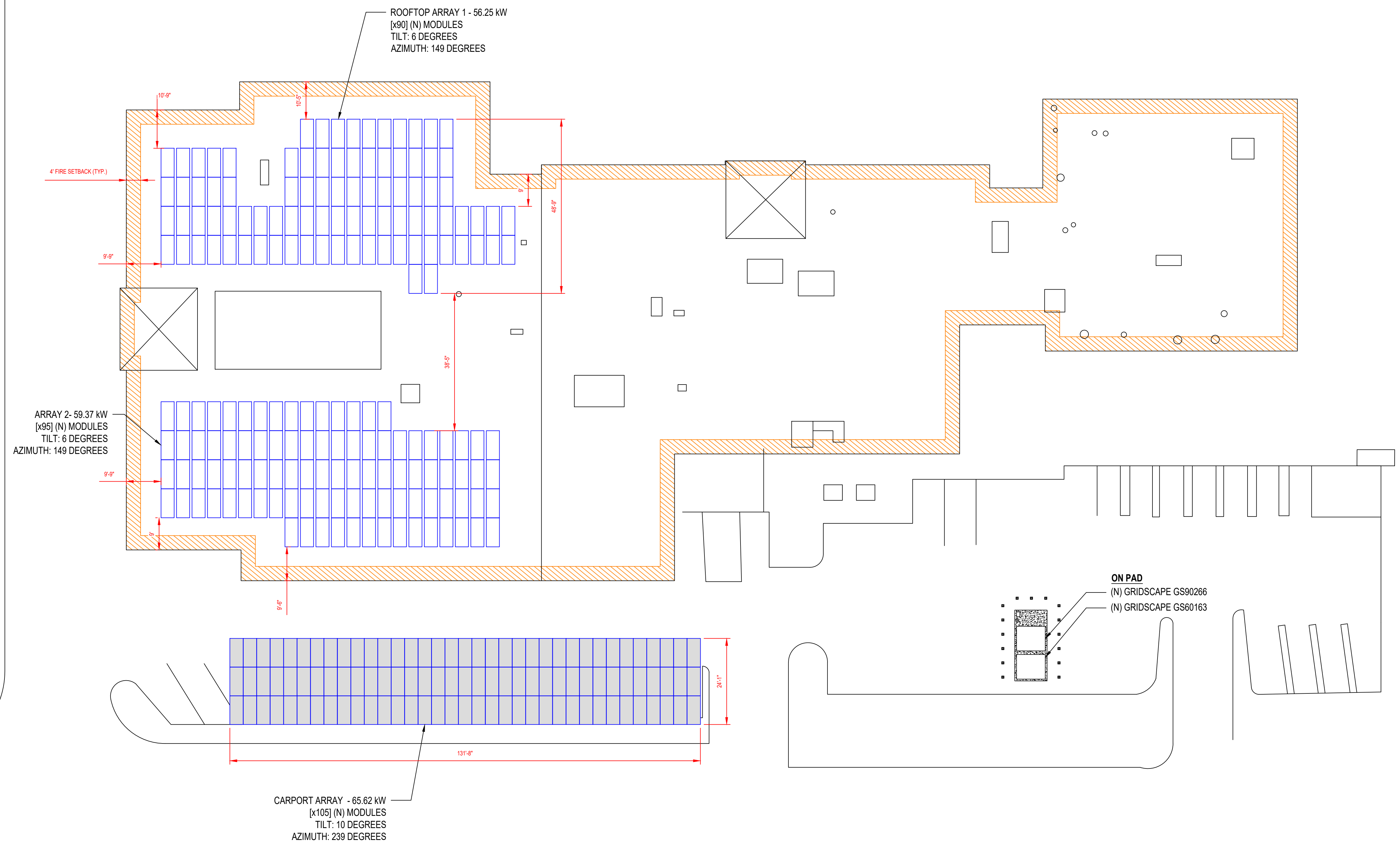
COMPANY NAME: GRIDSCAPE ENERGY
 CSLB#: #1121493
 CONTACT INFO: 510-89-6030

REVISION / SUBMITTAL		
NO.	DESCRIPTION	DATE

PROJECT
 NEW PV SYSTEM: 181.25 kWDC / 150.00 kWAC
 NEW BESS SYSTEM: 150.00 kWAC / 430.08 kWh
CITY HALL
 835 E 14TH ST, SAN LEANDRO, CA 94577
ENGINEER OF RECORD

PAPER SIZE: 30" x 24" (ARCH D)
 SHEET TITLE:
ARRAY ELECTRICAL PLAN
 (SHEET 2 OF 2)
 DATE: 11.18.2024
 DESIGN BY: RES
 CHECKED BY: GS
 SHEET NUMBER:

A-102



01 ARRAY ELECTRICAL PLAN
 1/16"=1'-0"

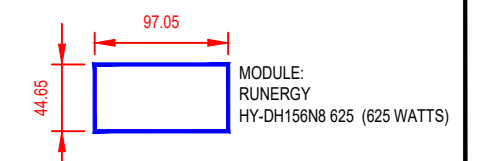
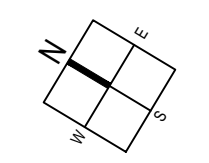


Exhibit II-5

Attachment A: Project Site Safety & Security Requirements

[City to provide, if applicable]

Exhibit II-6

PSA for San Leandro Main Library

[See following pages]

Exhibit II-6 - Project Site Addendum

Project Name	Project Type (Generating, Storage, Both)	Project PV Description (e.g., carport, rooftop, etc.)	City / Site Owner	Project Address
San Leandro Main Library	Both	Carport	San Leandro	300 Estudillo Ave. San Leandro, CA 94577

Tranche	Tranche A
----------------	-----------

Milestone Schedule			
Estimated Construction Start Date	Construction Start Deadline	Estimated Commercial Operation Date	Commercial Operation Deadline
7/3/2025	7/19/2025	2/28/2026	2/28/2026

Generating Project Terms
Guaranteed Nameplate Capacity (kW)
410.60kW

Storage Project Terms	
Storage Inverter Power (kW)	Storage Contract Capacity (kWh)
309.60kW	774.00kWh

Project Site Information
<p>Project Site Description: The Project Site is the San Leandro Community Library. The Generating Project will include PV panels located on a carport in the east parking lot, and the Storage Project will include a battery energy storage system located underneath the carport. The Project shall be built as documented within the enclosed design plans, which are subject to further modification with City's approval.</p> <p>Access Points: [City to advise, as applicable]</p> <p>Construction Assumptions: Not applicable</p> <p>Electrical Diagram: [See attached]</p>

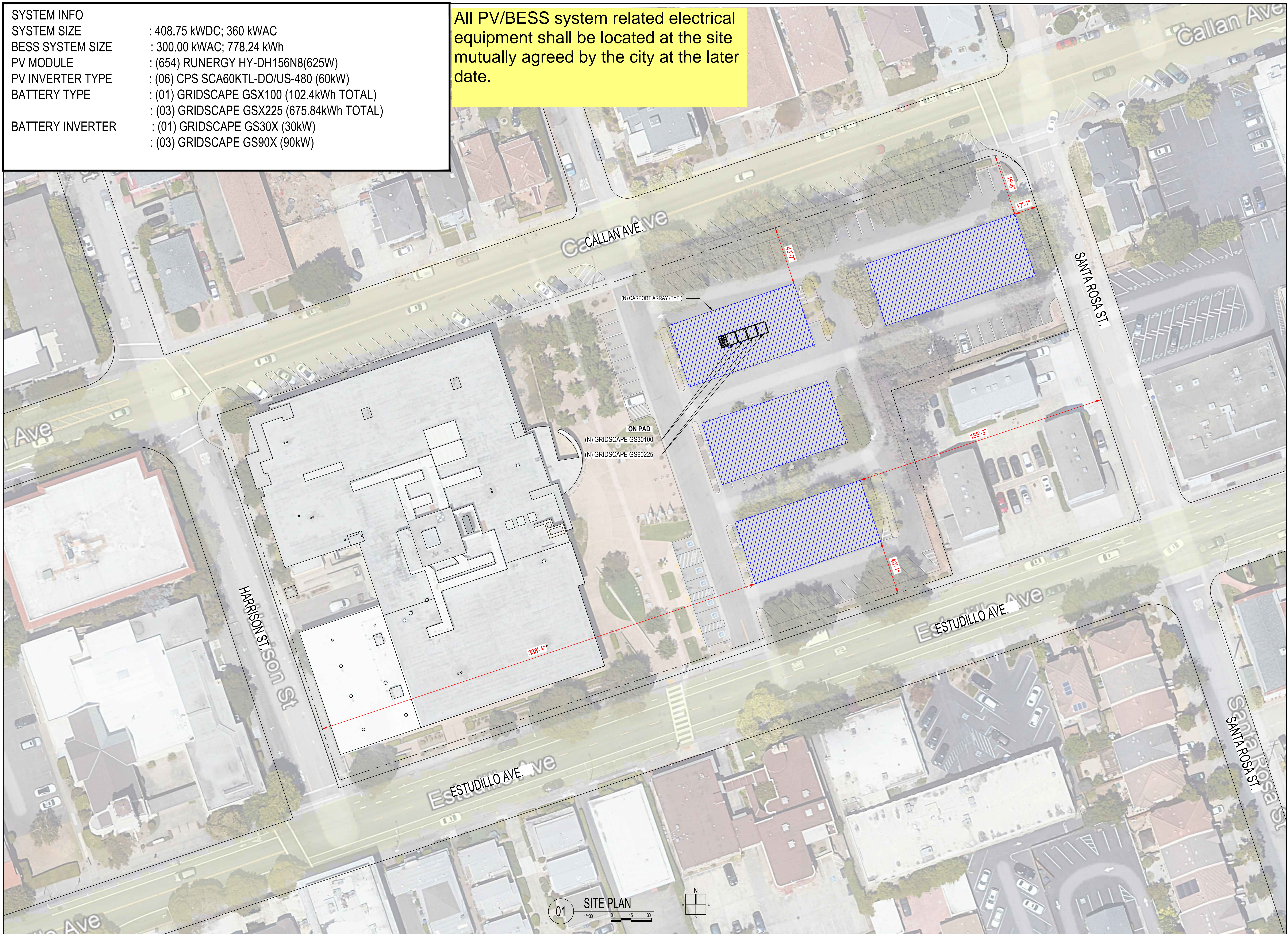
Exhibit II-6

**Site Plan, Electrical Diagrams, and Metering Information for
San Leandro Main Library**

[See following pages]

SYSTEM INFO
 SYSTEM SIZE : 408.75 kWDC; 360 kWAC
 BESS SYSTEM SIZE : 300.00 kWAC; 778.24 kWh
 PV MODULE : (654) RUNERGY HY-DH156N8(625W)
 PV INVERTER TYPE : (06) CPS SCA60KTL-DO/US-480 (60kW)
 BATTERY TYPE : (01) GRIDSCAPE GSX100 (102.4kWh TOTAL)
 : (03) GRIDSCAPE GSX225 (675.84kWh TOTAL)
 BATTERY INVERTER : (01) GRIDSCAPE GS30X (30kW)
 : (03) GRIDSCAPE GS90X (90kW)

All PV/BESS system related electrical equipment shall be located at the site mutually agreed by the city at the later date.



01 SITE PLAN
1"=30'

GRIDSCAPE
 GRIDSCAPE SOLUTIONS
 46711 FREMONT BLVD.
 FREMONT, CA 94538

PHONE: 510-884-6030
GRIDSCAPE
 ENERGY
 GRIDSCAPE ENERGY
 46711 FREMONT BLVD.
 FREMONT, CA 94539

COMPANY NAME: GRIDSCAPE ENERGY
 CSL#: #1121493
 CONTACT INFO: 510-884-6030

REVISION / SUBMITTAL		
NO.	DESCRIPTION	DATE

PROJECT
 NEW PV SYSTEM: 408.75 kWDC / 360.00 kWAC
 NEW BESS SYSTEM : 300.00 kWAC/778.24 kWh
SAN LEANDRO
COMMUNITY LIBRARY
 300 ESTUDILLO AVE, SAN LEANDRO, CA 94577

ENGINEER OF RECORD

PAPER SIZE: 36" x 24" (ARCH D)
 SHEET TITLE:
 SITE PLAN
 (SHEET 1 OF 2)
 DATE: 11.15.2024
 DESIGN BY: RES
 CHECKED BY: GS
 SHEET NUMBER:

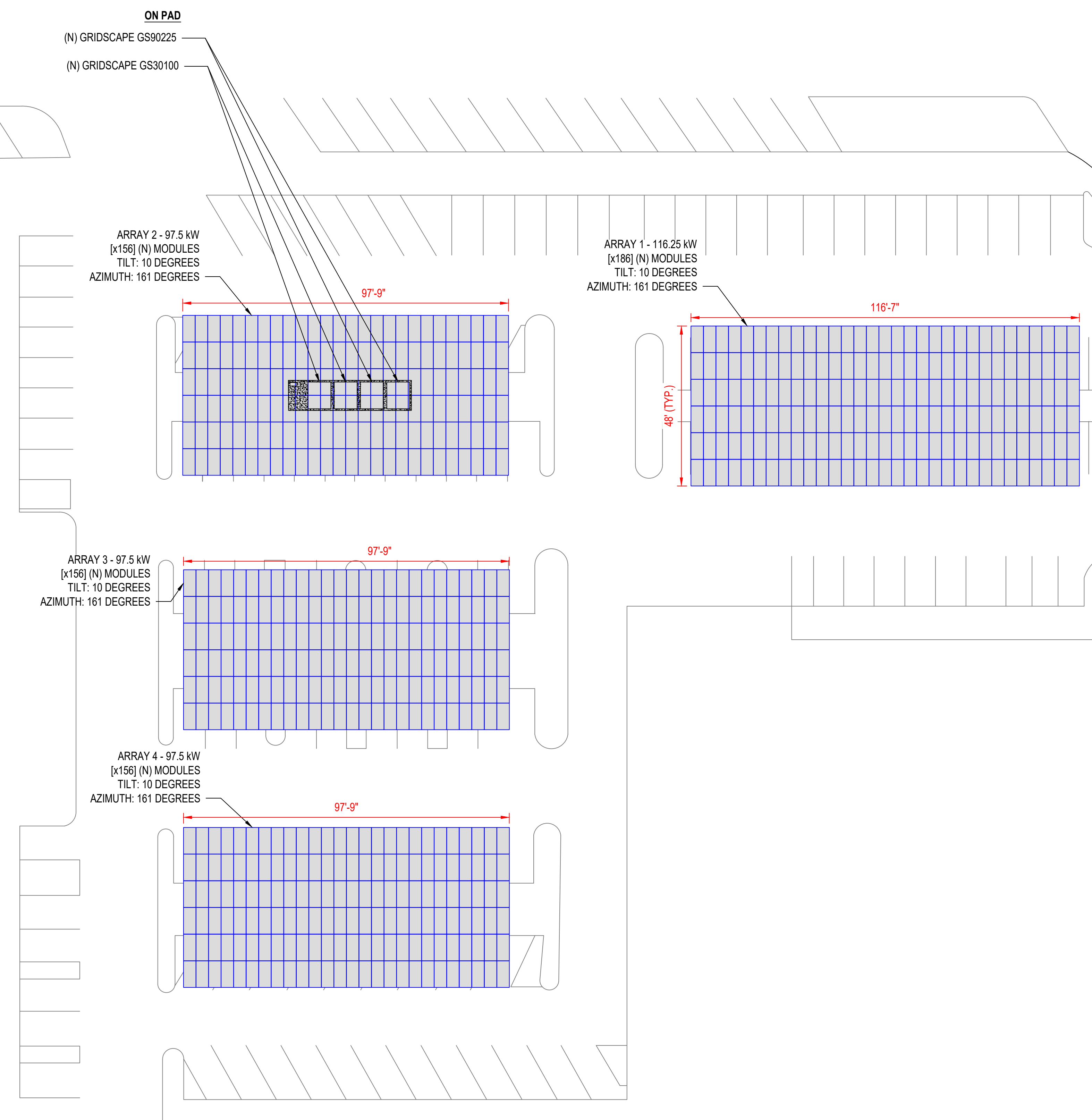
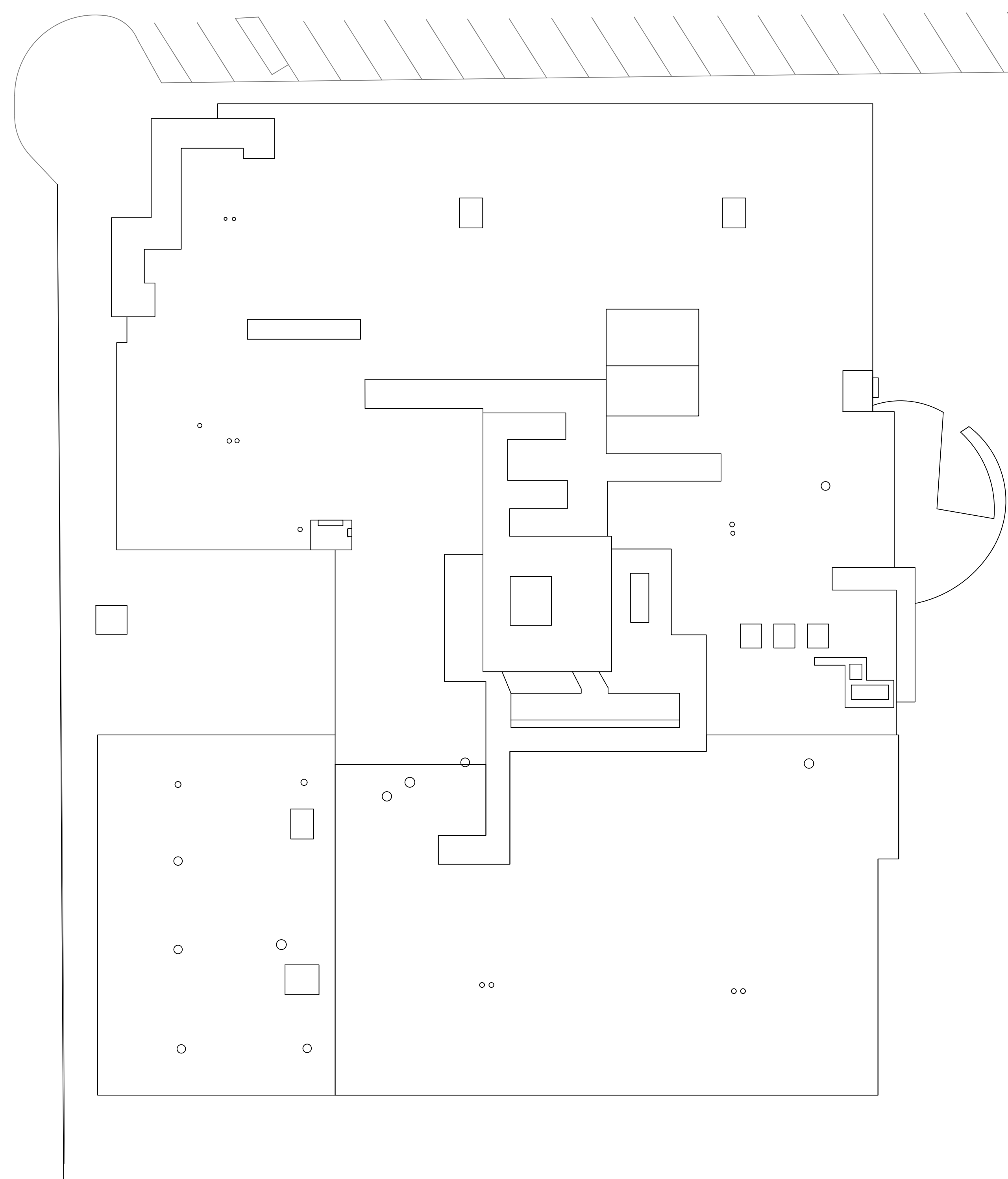
A-101

SYSTEM INFO

SYSTEM SIZE : 408.75 kWDC; 360 kWAC
 BESS SYSTEM SIZE : 300.00 kWAC; 778.24 kWh
 PV MODULE : (654) RUNERGY HY-DH156N8(625W)
 PV INVERTER TYPE : (06) CPS SCA60KTL-DO/US-480 (60kW)
 BATTERY TYPE : (01) GRIDSCAPE GSX100 (102.4kWh TOTAL)
 : (03) GRIDSCAPE GSX225 (675.84kWh TOTAL)
 BATTERY INVERTER : (01) GRIDSCAPE GS30X (30kW)
 : (03) GRIDSCAPE GS90X (90kW)

All PV/BESS system related electrical equipment shall be located at the site mutually agreed by the city at the later date.

GENERAL NOTES
 1. FIELD VERIFY ALL MEASUREMENTS
 2. SEE SHEET T-001 FOR LEGEND OF SYMBOLS



GRIDSCAPE
 GRIDSCAPE SOLUTIONS
 46711 FREMONT BLVD.
 FREMONT, CA 94538

PHONE: 510-894-6030
GRIDSCAPE ENERGY
 GRIDSCAPE ENERGY
 46711 FREMONT BLVD.
 FREMONT, CA 94539

COMPANY NAME: GRIDSCAPE ENERGY
 CSLB#: #1121493
 CONTACT INFO: 510-89-6030

REVISION / SUBMITTAL

NO.	DESCRIPTION	DATE

PROJECT
 NEW PV SYSTEM: 408.75 kWDC / 360.00 kWAC
 NEW BES SYSTEM : 300.00 kWAC/778.24 kWh
SAN LEANDRO COMMUNITY LIBRARY
 300 ESTUDILLO AVE, SAN LEANDRO, CA 94577

ENGINEER OF RECORD

PAPER SIZE: 30" x 24" (ARCH D)

SHEET TITLE:
ARRAY ELECTRICAL PLAN
 (SHEET 2 OF 2)

DATE: 11.15.2024
 DESIGN BY: RES
 CHECKED BY: GS
 SHEET NUMBER:
A-102

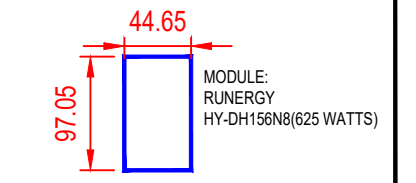


Exhibit II-6

Attachment A: Project Site Safety & Security Requirements

[City to provide, if applicable]

Exhibit II-7

PSA for San Leandro Marina Community Center

[See following pages]

Exhibit II-7 - Project Site Addendum

Project Name	Project Type (Generating, Storage, Both)	Project PV Description (e.g., carport, rooftop, etc.)	City / Site Owner	Project Address
San Leandro Marina Community Center	Both	Carport	San Leandro	15301 Wicks Blvd San Leandro, CA 94579

Tranche	Tranche A
----------------	-----------

Milestone Schedule			
Estimated Construction Start Date	Construction Start Deadline	Estimated Commercial Operation Date	Commercial Operation Deadline
7/3/2025	7/19/2025	2/28/2026	2/28/2026

Generating Project Terms
Guaranteed Nameplate Capacity (kW)
75.00kW

Storage Project Terms	
Storage Inverter Power (kW)	Storage Contract Capacity (kWh)
61.92kW	154.80kWh

Project Site Information
<p>Project Site Description: The Project Site is the Marina Community Center. The Generating Project will include PV panels located on a carport in the southeast parking lot, and the Storage Project will include a battery energy storage system located on the north side of the building along Liberty Way. The Project shall be built as documented within the enclosed design plans, which are subject to further modification with City's approval.</p> <p>Access Points: [City to advise, as applicable]</p> <p>Construction Assumptions: Not applicable</p> <p>Electrical Diagram: [See attached]</p>

Exhibit II-7

**Site Plan, Electrical Diagrams, and Metering Information for
San Leandro Marina Community Center**

[See following pages]

SYSTEM INFO
 SYSTEM SIZE : 75.00 kW DC; 75.00 kW AC
 BESS SYSTEM SIZE : 60.00 kWAC; 163.84 kWh
 PV MODULE : (120) RUNERGY HY-DH156N8 (625W)
 PV INVERTER TYPE : (03) CPS SCA25KTL-DO/US-208 (25kW)
 BATTERY TYPE : (01) GRIDSCAPE GSX160 (163.84 kWh TOTAL)
 BATTERY INVERTER : (01) GRIDSCAPE GS60X (60kW)

All PV/BESS system related electrical equipment shall be located at the site mutually agreed by the city at the later date.



01 SITE PLAN
 1" = 30'
 N
 W E S

GRIDSCAPE
 GRIDSCAPE SOLUTIONS
 46711 FREMONT BLVD.
 FREMONT, CA 94538

PHONE: 510-884-6030
GRIDSCAPE ENERGY
 GRIDSCAPE ENERGY
 46711 FREMONT BLVD.
 FREMONT, CA 94539

COMPANY NAME: GRIDSCAPE ENERGY
 CSLB#: #1121493
 CONTACT INFO: 510-884-6030

REVISION / SUBMITTAL		
NO.	DESCRIPTION	DATE

PROJECT
 NEW PV SYSTEM: 75.00 kWDC / 75.00 kWAC
 NEW BESS SYSTEM: 60.00 kWAC / 163.84 kWh

MARINA COMMUNITY CENTER
 15301 WICKS BLVD, SAN LEANDRO, CA 94579

ENGINEER OF RECORD

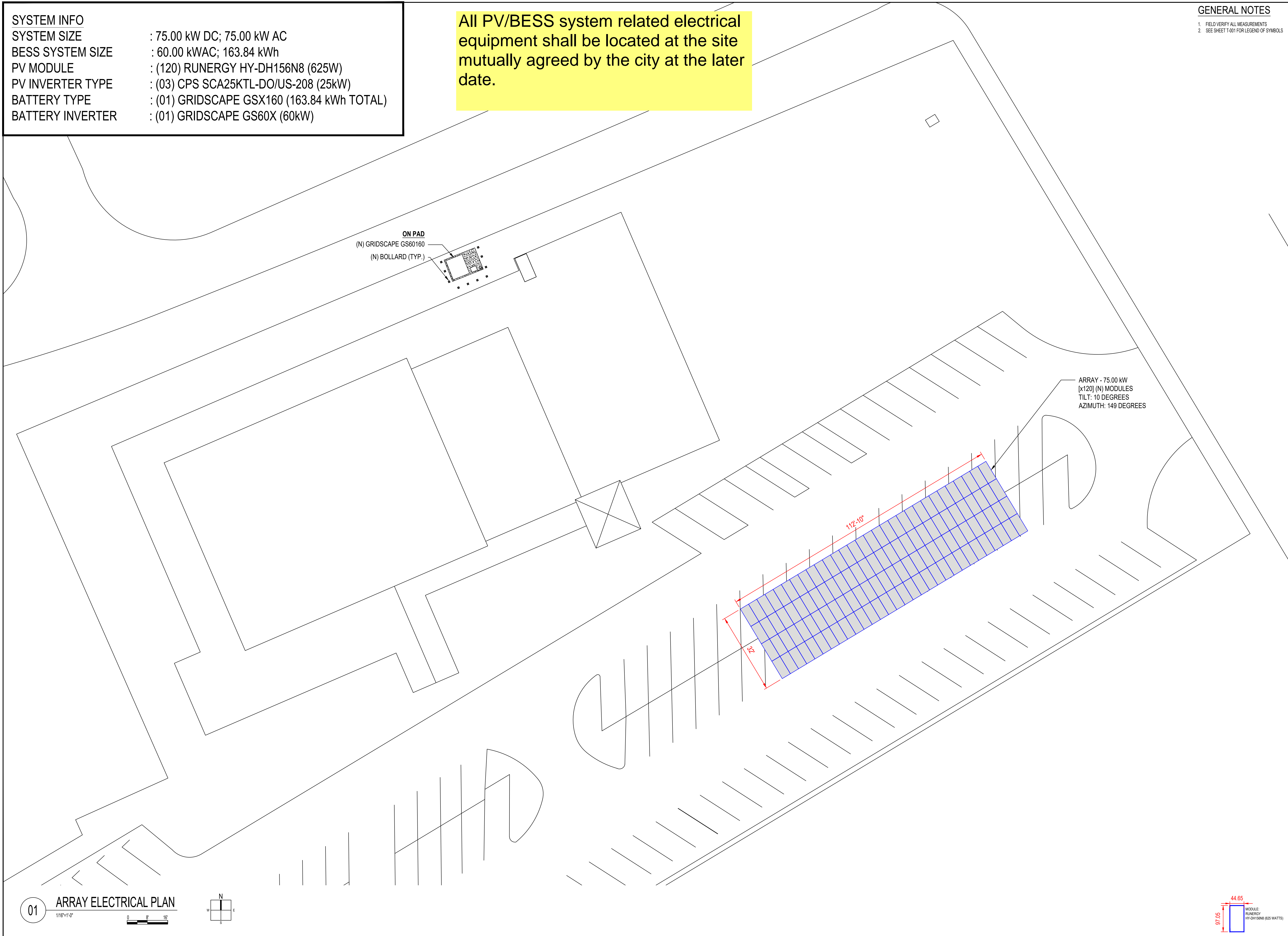
PAPER SIZE: 36" x 24" (ARCH D)
 SHEET TITLE: SITE PLAN
 (SHEET 1 OF 2)
 DATE: 11.15.2024
 DESIGN BY: RES
 CHECKED BY: GS
 SHEET NUMBER:

A-101

SYSTEM INFO	
SYSTEM SIZE	: 75.00 kW DC; 75.00 kW AC
BESS SYSTEM SIZE	: 60.00 kWAC; 163.84 kWh
PV MODULE	: (120) RUNERGY HY-DH156N8 (625W)
PV INVERTER TYPE	: (03) CPS SCA25KTL-DO/US-208 (25kW)
BATTERY TYPE	: (01) GRIDSCAPE GSX160 (163.84 kWh TOTAL)
BATTERY INVERTER	: (01) GRIDSCAPE GS60X (60kW)

All PV/BESS system related electrical equipment shall be located at the site mutually agreed by the city at the later date.

GENERAL NOTES
 1. FIELD VERIFY ALL MEASUREMENTS
 2. SEE SHEET T-001 FOR LEGEND OF SYMBOLS



GRIDSCAPE
 GRIDSCAPE SOLUTIONS
 46711 FREMONT BLVD.
 FREMONT, CA 94538

PHONE: 510-894-6030
GRIDSCAPE ENERGY
 GRIDSCAPE ENERGY
 46711 FREMONT BLVD.
 FREMONT, CA 94539

COMPANY NAME: GRIDSCAPE ENERGY
 CSLB#: #1121493
 CONTACT INFO: 510-894-6030

REVISION / SUBMITTAL		
NO.	DESCRIPTION	DATE

PROJECT
 NEW PV SYSTEM: 75.00 kWDC / 75.00 kWAC
 NEW BESS SYSTEM: 60.00 kWAC / 163.84 kWh
MARINA COMMUNITY CENTER
 15301 WICKS BLVD, SAN LEANDRO, CA 94579

ENGINEER OF RECORD
 PAPER SIZE: 30" x 24" (ARCH D)

SHEET TITLE:
 ARRAY ELECTRICAL PLAN
 (SHEET 2 OF 2)
 DATE: 11.15.2024
 DESIGN BY: RES
 CHECKED BY: GS
 SHEET NUMBER:
 A-102

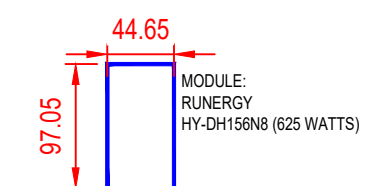


Exhibit II-7

Attachment A: Project Site Safety & Security Requirements

[City to provide, if applicable]

PSA-Specific Terms:²

1. *Buyout Option.*

(a) Generally. Upon the occurrence of any Buyout Date, City shall have the right, but not the obligation, to exercise its option to purchase the Project (the “**Buyout Option**”) for a purchase price equal to the Fair Market Value of the Project (the “**Buyout Option Price**”). To exercise such Buyout Option, City shall, not less than one hundred eighty (180) days and not more than two hundred forty (240) days prior to the proposed Buyout Date, provide written notice to Ava of City’s intent to exercise the Buyout Option with respect to the Project on such Buyout Date. Within ninety (90) days of receipt of City’s notice, Ava shall send written notice to City that sets forth the Buyout Option Price for the Project, which notice shall also include Ava’s determination of Fair Market Value and reasonably detailed documentation supporting such determination. City shall then have a period of forty five (45) days after receipt of such notice from Ava to confirm its decision to either (a) exercise the Buyout Option, (b) decline the Buyout Option or (c) dispute Ava’s determination of Fair Market Value in accordance with Section 1(c) of this PSA below.

(b) Confirmation of Buyout Option. If City confirms its exercise of the Buyout Option in writing to Ava (whether without or after an appraisal rendered in accordance with Section 1(c) below), the Parties shall perform the following actions (together, the “**Buyout Option Conditions Precedent**”): (1) the Parties shall execute all documents necessary to (A) transfer title to the Project to City on the Buyout Date, as-is, where-is, free and clear of all Liens arising by, through or under Ava, and (B) assign to City any manufacturer warranties, permits, interconnection agreements, as-built designs, and any other documentation reasonably requested by City for the Projects, which are in effect as of the Buyout Date, and (2) City shall pay the Buyout Option Price to Ava. Upon satisfaction of the Buyout Option Conditions Precedent, the applicable provisions of this PSA shall terminate automatically and the Project shall be withdrawn from the Agreement.

(c) Determination of Fair Market Value. If, within forty five (45) days of receipt of the Buyout Option notice described in Section 1(a) above, City disputes Ava’s determination of Fair Market Value in writing, then each Party shall, at its own cost, select an Independent Appraiser to determine the Fair Market Value of the Project under a written valuation opinion delivered to both Parties. Such valuation opinions shall consider the price that an independent third party would be willing to pay for the Project in place and in use (but not, for clarity, including any revenues expected under this Agreement) in an arm’s length transaction, as well as the age, location, size, equipment type, and anticipated duration. The Fair Market Value of the Project shall be the simple average of the two values provided in the written valuation opinions and shall be binding on the Parties for purposes of determining the Buyout Option Price.

2. *Defined Terms.* In addition to those terms defined in Schedule I, the following defined terms shall be deemed to apply only with respect to this PSA:

² **NTD:** The PSA-Specific Terms below shall only apply to the Fremont Family Resource Center Project and shall be deleted from the PSA for all other Projects.

“**Buyout Date**” means, with respect to the Project, [July 1st] of each calendar year during the Delivery Period.

“**Fair Market Value**” means the value of the Project, as determined by an Independent Appraiser, which would be exchanged in an arms’ length transaction between an informed and willing buyer under no compulsion to buy and an informed and willing seller under no compulsion to sell; provided, however, that in such determination: (i) the Project shall be assumed to be in the condition in which it is required to be maintained and returned under this Agreement, taking into account ordinary wear and tear, and such value has not been diminished due to the existence of any damage history, which shall not include ordinary wear and tear; (ii) the Project shall be valued on an installed basis; and (iii) costs of removing the Project from the Project Site shall not be a deduction from, or addition to, such valuation.

“**Independent Appraiser**” means an individual who is a member of a national or regional accounting, engineering or energy consulting firm qualified by education, experience, and training to determine the value of renewable energy generation systems (with respect to the Generating Project) and battery energy storage systems (with respect to the Storage Project) of the size and age and with the operational characteristics of the Project. Except as may be otherwise agreed by the Parties, an Independent Appraiser shall not be (or within ten (10) years before his or her appoint have been) a director, officer, or employee of, or directly or indirectly retained as consultant or adviser to, either of the Parties.]

Attachments:

- Attachment A: Project Site Safety & Security Requirements

EXHIBIT III

CITY-SPECIFIC TERMS

Seller hereby agrees to comply with the following provisions in the performance of its obligations under this Agreement, Seller agrees as follows:

1. Access Rights. In addition to the express terms set forth in Section 8.a of this Agreement, Seller and its employees, agents, and contractors which will require access to the Facilities located at the San Leandro Police Department shall, ahead of being granted access rights, submit to a criminal history check, and provide valid photo identification, including date of birth. While on site at the San Leandro Police Department, Seller and its employees, agents, and contractors, may be escorted by Purchaser staff.

2. Developer Agreement. The parties acknowledge and agree that in connection with the execution of this Agreement, Seller shall enter into the Developer Agreement whereby the Developer shall provide the underlying Facility output and other performance obligations as set forth under the terms of this Agreement and Developer Agreement. In addition to any express terms required of this Agreement, Seller hereby agrees and confirms that Developer shall be bound to comply with the following terms, which shall be expressly provided for under the Developer Agreement:

A. Prevailing Wage Rates. Developer and its employees, subcontractors, and agents hereby agree to comply with all applicable provisions of the California Labor Code, regarding the general prevailing rate of wages applicable to the work to be done under this Agreement and Developer Agreement. Developer shall be bound to comply with the provisions of the A tabulation of the various classifications of work persons to be employed and the prevailing rate of wages applicable thereto is on file in the office of the City Clerk, City Hall, 835 East 14th Street, San Leandro, California. Seller and Developer's attention is directed to Section 7-2 of the Special Provisions.

The City Council, by Resolution No. 77-236 has adopted the general prevailing wage rates determined by the Director of Industrial Relations (DIR), State of California. The general prevailing wage rates applicable to the County of Alameda are listed in the publication entitled "General Prevailing Wage Rates." This document shall be made part of the Developer Agreement by reference. Copies of the current versions of this document are on file in the office of the City Clerk, City Hall, 835 East 14th Street, San Leandro, California.

The City will not recognize any claim for additional compensation because of payment by the Developer of any wage in excess of the prevailing wage rates set forth in the General Prevailing Wage Rates which is part of this Agreement or Developer Agreement. The possibility of wage increases is one element to be considered by the Developer in determining a bid, and will not under any circumstances be considered as a basis of claim against the City on the contract.

B. Public Contract Code Section 22300. Pursuant to Public Contract Code Section 22300, for monies earned by the Developer and withheld by the City to ensure the performance of the Contract, the Developer, may, at its option, choose to substitute securities meeting the requirements of said Public Contract Code Section 22300.

C. California Labor Code Section 1771. For purposes of Labor Code section 1781, to the extent this project is a "public work" to which Labor Code section 1771 applies, the Developer Agreement shall be subject to compliance monitoring and enforcement by the California Department of Industrial Relations pursuant to Labor Code section 1771.4. The Developer has

the responsibility for determining what is required to comply with its obligations under Labor Code section 1771. Any decision by the Developer or any listed or unlisted subcontractor not to comply with Labor Code section 1771 is at the Developer's or subcontractor's sole risk.

D. California Labor Code Section 6707. Pursuant to the provisions of California Labor Code Section 6707, when the work involves trenches with a depth of five feet or more, Developer shall maintain adequate sheeting, shoring, and bracing, or equivalent method, for the protection of life and limb in trenches and open excavation, which shall conform to applicable safety orders. Developer shall warrant that its action does not convey tort liability to the City or City employees, engineers, agents, or subAvas.

3. **Insurance.** Unless a written waiver is obtained from the City's Risk Manager, Contractor must acquire and maintain for the duration of this Agreement, the policies of insurance identified as Exhibit IIIA, attached hereto and incorporated herein.

4. **Business License.** Ava and Developer are not authorized to perform services or incur costs whatsoever under the terms of this Agreement until it applies for and has been issued a business license from the City pursuant to Article 5 of the City of San Leandro Municipal Code.

Exhibit IIIA

Before fully executing this Agreement, Ava, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Ava and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Ava shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects, and that such insurance is in effect prior to beginning work. Ava shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the compensation. Ava shall not allow any subcontractor to commence work on any subcontract until Ava has obtained all insurance required herein for the subcontractor(s) and provided evidence to City that such insurance is in effect. VERIFICATION OF THE REQUIRED INSURANCE SHALL BE SUBMITTED AND MADE PART OF THIS AGREEMENT PRIOR TO EXECUTION. Ava shall maintain all required insurance listed herein for the duration of this Agreement.

1.1 **Workers' Compensation.**

1.1.1 **General Requirements.** Ava shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Ava. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than \$1,000,000 per accident. In the alternative, Ava may rely on a self-insurance program to meet these requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the California Labor Code shall be solely in the discretion of the Contract Administrator.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the entity for all work performed by the Ava, its employees, agents, and subcontractors.

1.1.2 **Submittal Requirements.** To comply with Subsection 4.1, Ava shall submit the following:

- a. Certificate of Liability Insurance in the amounts specified in the section; and
 - 1.
- b. Waiver of Subrogation Endorsement as required by the section.

1.2 **Commercial General and Automobile Liability Insurance.**

1.2.1 **General Requirements.** Ava, at its own cost and expense, shall maintain commercial general liability insurance for the term of this Agreement in an amount not less than \$2,000,000 per occurrence and \$4,000,000 aggregate and automobile liability insurance for the term of this Agreement in an amount not less than \$1,000,000 per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting

from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

Any firm contracted with Ava to perform construction shall provide General Liability insurance as described above with \$5,000,000 per occurrence and \$10,000,000 aggregate as well as auto insurance of not less than \$5,000,000 per occurrence.

1.2.2 Minimum Scope of Coverage. Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an "occurrence" basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001, Code 1 (any auto). No endorsement shall be attached limiting the coverage.

1.2.3 Additional Requirements. Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

- a. The Insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- b. City, its officers, officials, employees, and volunteers are to be covered as additional insureds as respects: liability arising out of work or operations performed by or on behalf of the Ava; or automobiles owned, leased, hired, or borrowed by the Ava.
- c. Ava hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss. Ava agrees to obtain any endorsements that may be necessary to effect this waiver of subrogation.
- d. For any claims related to this Agreement or the work hereunder, the Ava's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Ava's insurance and shall not contribute with it.

1.2.4 Submittal Requirements. To comply with Subsection 4.2, Ava shall submit the following:

- a. Certificate of Liability Insurance in the amounts specified in the section;
- 2.
- b. Additional Insured Endorsement as required by the section;
- 3.
- c. Waiver of Subrogation Endorsement as required by the section; and
- 4.
- d. Primary Insurance Endorsement as required by the section.

1.3 Professional Liability Insurance.

- 1.3.1 General Requirements.** Ava, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than \$2,000,000 covering the licensed professionals' errors and omissions. Any deductible or self-insured retention shall not exceed \$150,000 per claim.
- 1.3.2 Claims-Made Limitations.** The following provisions shall apply if the professional liability coverage is written on a claims-made form:
- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
 - b. Insurance must be maintained and evidence of insurance must be provided for at least 5 years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
 - c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Ava shall purchase an extended period coverage for a minimum of 5 years after completion of work under this Agreement.
 - d. A copy of the claim reporting requirements must be submitted to the City for review prior to the commencement of any work under this Agreement.
- 1.3.3 Submittal Requirements.** To comply with Subsection 4.3, Ava shall submit the Certificate of Liability Insurance in the amounts specified in the section.

1.5 All Policies Requirements.

- 1.5.1 Acceptability of Insurers.** All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.
- 1.5.2 Verification of Coverage.** Prior to beginning any work under this Agreement, Ava shall furnish City with complete copies of all Certificates of Liability Insurance delivered to Ava by the insurer, including complete copies of all endorsements attached to the policies. All copies of Certificates of Liability Insurance and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf. If the City does not receive the required insurance documents prior to the Ava beginning work, it shall not waive the Ava's obligation to provide them. The City reserves the right to require complete copies of all required insurance policies at any time.
- 1.5.3 Deductibles and Self-Insured Retentions.** Ava shall disclose to and obtain the written approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, employees, and volunteers; or the Ava shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

1.5.4 Wasting Policies. No policy required by this Section 4 shall include a “wasting” policy limit (i.e. limit that is eroded by the cost of defense).

1.5.5 Endorsement Requirements. Each insurance policy required by Section 4 shall be endorsed to state that coverage shall not be canceled by either party, except after 30 days’ prior written notice has been provided to the City.

1.5.6 Subcontractors. Ava shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

1.6 Submittal of Proof of Insurance Coverage. All certificates of insurance and original endorsements effecting coverage required in this Section 4 must be electronically submitted through the City’s online insurance document management program. Contractor shall comply with all requirements provided by City related to the online insurance document management program.

1.7 Remedies. In addition to any other remedies City may have if Ava fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Ava’s breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Ava to stop work under this Agreement or withhold any payment that becomes due to Ava hereunder, or both stop work and withhold any payment, until Ava demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

EXHIBIT IV
INSURANCE REQUIREMENTS

A. ENDORSEMENTS AND CONDITIONS APPLYING TO ALL PHASES INSURANCE

Without limiting the Ava's indemnification of the City, the Ava shall provide and maintain at its own expense, during the term of this Agreement, or phase of this Agreement if coverage is phase-specific, or as may be further required herein, the following insurance coverages and provisions:

1. **REDUCTION OR LIMIT OF OBLIGATION:** All insurance policies, including excess and umbrella insurance policies, shall include an endorsement and be primary and non-contributory and will not seek contribution from any other insurance (or self-insurance) available to the City. The primary and non-contributory endorsement shall be at least as broad as ISO Form 20 01 04 13. Pursuant to the provisions of this Agreement insurance effected or procured by the Ava shall not reduce or limit Ava's contractual obligation to indemnify and defend the Indemnified Parties.
2. **EVIDENCE OF COVERAGE:** Before commencing operations under this Agreement, Ava shall provide Certificate(s) of Insurance and applicable insurance endorsements, in form and satisfactory to City, evidencing that all required insurance coverage is in effect. The required certificate(s) and endorsements must be sent as set forth in the notices.

The Ava shall not receive a notice to proceed with the work under this Agreement until it has obtained all insurance required and such insurance has been approved by the City. This approval of insurance shall neither relieve nor decrease the liability of the Ava.

3. **DURATION OF COVERAGE:** All required insurance shall be maintained during the entire term of this Agreement or phase of this Agreement to which it applies. In addition, insurance policies and coverage(s) written on a claims-made basis:
 - Shall be maintained during the entire term of this Agreement or phase of this Agreement to which it applies and until 5 years following the letter of termination of this Agreement/phase of this Agreement and acceptance of all work provided under this Agreement.
 - The retroactive date must be before the execution date of the contract or the beginning of contract work.
 - If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective, or start of work date, the Ava must purchase extended reporting period coverage for a minimum of five (5) years after completion of work.
4. **ADDITIONAL INSURED:** All insurance required herein with the exception of Personal Automobile Liability, Workers' Compensation and Employers Liability, shall be endorsed to name as additional insured: City or, its elected officials, officers, agents, employees,

volunteers, and representatives. The Additional Insured endorsement shall be at least as broad as ISO Form Number CG 20 38 04 13.

In all cases, the additional insured endorsement shall be at least as broad as ISO Form CG 20 38 04 13.

All private property owners granting “Rights of Entry” for construction of the work shall be covered as insureds under the same coverage as provided the City as respects their ownership of the property and the work to be done thereon.

5. **INSURER FINANCIAL RATING:** Insurance shall be maintained through an insurer with an A.M. Best Rating of no less than A: VII or equivalent shall be admitted to the State of California unless otherwise waived by Risk Management, and with deductible amounts acceptable to the City. Acceptance of Ava’s insurance by City shall not relieve or decrease the liability of Ava hereunder. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Ava.
6. **SUBCONTRACTORS:** Ava shall include all subcontractors as an insured (covered party) under its policies or shall verify that the subcontractor, under its own policies and endorsements, has complied with the insurance requirements in this Agreement, including this **Exhibit V**. Additional Insured endorsement shall be at least as broad as ISO Form Number CG 20 38 04 13.
7. **JOINT VENTURES:** If Ava is an association, partnership or other joint business venture, required insurance shall be provided by one of the following methods:
 - Separate insurance policies issued for each individual entity, with each entity included as a “Named Insured” (covered party), or at minimum named as an “Additional Insured” on the other’s policies.
 - Coverage shall be at least as broad as in the ISO forms named above. Joint insurance program with the association, partnership or other joint business venture included as a “Named Insured”.
8. **NOTICE OF CANCELLATION:**

All coverage as required herein shall not be canceled or changed so as to no longer meet the specified City insurance requirements without 30 days’ prior written notice of such cancellation or change being delivered to the City or their designated agent.
9. **SELF-INSURANCE:**

City acknowledges that some insurance requirements contained in this Agreement may be fulfilled by self-insurance on the part of the Ava. However, this shall not in any way limit liabilities assumed by the Ava under this Agreement. Any self-insurance shall be approved in writing by City upon satisfactory evidence of financial capacity. Ava’s obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance programs or self-insurance retentions. City acknowledges that some insurance

requirements contained in this Agreement may be fulfilled by a combination of primary and excess liability policies. However, this shall not in any way limit liabilities assumed by Ava under this Agreement.

B. DESIGN PHASE INSURANCE REQUIREMENTS

Insurance required during the design phase will include:

1. Commercial General Liability Insurance for bodily injury (including death) and property damage which provides limits as follows:
 - a. Each occurrence -\$2,000,000
 - b. General aggregate -\$2,000,000
 - c. Personal Injury -\$2,000,000
2. General liability coverage shall include:
 - a. Project Site and Operations
 - b. Personal Injury liability
 - c. Severability of interest
3. Automobile Liability Insurance

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non owned and hired vehicles.
4. Workers' Compensation and Employer's Liability Insurance
 - a. Statutory California Workers' Compensation coverage including broad form all states coverage.
 - b. Employer's Liability coverage for not less than one million dollars (\$1,000,000) per occurrence.
5. Professional Errors and Omissions Liability Insurance
 - a. Coverage shall be in an amount of not less than two million dollars (\$2,000,000) per occurrence/aggregate.
 - b. If coverage contains a deductible or self-retention, it shall not be greater than two hundred fifty thousand dollars (\$250,000) per occurrence/event.
 - c. Coverage as required herein shall be maintained for a minimum of three years following termination or completion of this Agreement.

6. Claims Made Coverage

If coverage is written on a claims' made basis, the Certificate of Insurance shall clearly state so. In addition to coverage requirements above, such policy shall provide that:

a. Policy retroactive date coincides with or precedes the consultant's start of work

(including subsequent policies purchased as renewals or replacements).

b. Policy allows for reporting of circumstances or incidents that might give rise to future claims.

C. CONSTRUCTION PHASE INSURANCE REQUIREMENTS

The following limits shall apply:

1. Commercial General Liability Insurance for bodily injury (including death) and property damage which provides limits as follows:

a. Each occurrence -\$2,000,000

b. General aggregate -\$4,000,000

c. Products/Completed Operations aggregate ** - \$4,000,000

d. Personal Injury -\$2,000,000

A minimum of 50% of each of the aggregate limits must remain available at all times unless coverage is project specific.

2. General liability coverage shall include:

a. Project Site and Operations

b. **Products/Completed Operations with limits of four million dollars (\$4,000,000) per aggregate to be maintained for three (3) years following acceptance of the work by City.

c. Contractual Liability expressly including liability assumed under this Agreement. If the Ava is working within fifty (50) feet of a railroad or light rail operation, any exclusion as to performance of operations within the vicinity of any railroad bridge, trestle, track, roadbed, tunnel, underpass or crossway shall be deleted, or a railroad protective policy provided.

d. Personal Injury liability

e. City's and Ava's protective liability

f. Severability of interest

- g. Explosion, Collapse, and Underground Hazards (X, C and U)
 - h. Broad Form Property Damage liability
3. General liability coverage shall include the following endorsements, copies of which shall be provided to City:
- a. Contractual Liability Endorsement:
Insurance afforded by this policy shall apply to liability assumed by the insured under written contract with City.
 - b. X C & U (Explosion, Collapse and Underground) Endorsement:
Insurance afforded by this policy shall provide X, C and U Hazards coverage.
4. Automobile Liability Insurance
- For bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired vehicles.
5. Workers' Compensation and Employer's Liability Insurance
- a. Statutory California Workers' Compensation coverage including broad form all states coverage.
 - b. Employer's Liability coverage for not less than one million dollars (\$1,000,000) per occurrence.
6. Property Installation floater:
- The property installation floater shall provide property damage coverage for any building, structure, machinery or equipment damaged, impaired, broken, or destroyed during the performance of the work, including during transit, installation and testing at the entity's site. The coverage shall be in the amount of the value of the completed Project and materials.

D. OPERATIONS AND MAINTENANCE PHASE INSURANCE REQUIREMENTS

The following limits shall apply:

- 1. Commercial General Liability Insurance - for bodily injury (including death) and property damage which provides limits as follows:
 - a. Each occurrence -\$2,000,000
 - b. General aggregate -\$4,000,000

c. Personal Injury -\$2,000,000

2. General liability coverage shall include:

- Project Site and Operations
- Personal Injury liability
- Severability of interest

3. Automobile Liability Insurance

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired vehicles.

4. Workers' Compensation and Employer's Liability Insurance

- Statutory California Workers' Compensation coverage including broad form all-states coverage.
- Employer's Liability coverage for not less than one million dollars (\$1,000,000) per occurrence.

EXHIBIT V
NOTICES³

City of San Leandro	Ava
All Notices: Street: 835 East 14 th Street City: San Leandro Attn: City Clerk Phone: 510-577-3366 Email:	All Notices: 1999 Harrison Street, Suite 800 Oakland, CA 94612 Attn: Ava CMF Phone: (833) 699-3223 Email: avacmf@avaenergy.org
Reference Numbers: Duns: Federal Tax ID Number:	Reference Numbers: Duns: 081103072 Federal Tax ID Number: 82-2262960
Invoices: Attn: Accounts Payable Phone: 510-577-3384 Email:	Invoices: Attn: Ava CMF Phone: (833) 699-3223 Email: finance@avaenergy.org With an additional copy to: structuredfinance@avaenergy.org
Payments: Attn: Accounts Receivable Phone: 510-577-3382 Email:	Payments: Attn: Ava CMF Phone: (833) 699-3223 Email: finance@avaenergy.org With an additional copy to: structuredfinance@avaenergy.org
Wire Transfer: BNK: ABA: ACCT:	Wire Transfer: BNK: River City Bank 2485 Natomas Park Drive, Suite 100, Sacramento, CA 95833 ABA: 121133416
Credit and Collections: Attn: Finance Director Phone: 510-577-3376 Email:	Credit and Collections: Attn: Ava CMF Phone: (833) 699-3223 Email: finance@avaenergy.org With an additional copy to: structuredfinance@avaenergy.org

³ **NTD:** Please note that we plan to redact financial information prior to submitting this PPA to the public record.

City of San Leandro	Ava
<p>Emergency Contact: Attn: Public Works Director Phone: 510-577-3440 Email: SLPublicWorks@sanleandro.org</p>	<p>Emergency Contact: Attn: Ava CMF Phone: (833) 699-3223 Email: avacmf@avaenergy.org</p>
<p>With additional Notices of an Event of Default to: Attn: Phone: Email:</p>	<p>With additional Notices of an Event of Default to: Attn: Ava CMF Phone: (833) 699-3223 Email: finance@avaenergy.org</p> <p>With an additional copy to: structuredfinance@avaenergy.org</p>

EXHIBIT VI

AVA TERMINATION PAYMENT SCHEDULE

EXHIBIT VII

CITY TERMINATION PAYMENT SCHEDULE