

**FIRST AMENDMENT TO
COMMUNITY SOLAR GARDEN SUBSCRIBER AGREEMENT**

This First Amendment To Solar Garden Subscriber Agreement, dated as of May 31, 2018, (this "Amendment"), is entered into by and between Oak Leaf Solar XXXII LLC, a Colorado limited liability company (the "Operator") and the City of Grand Junction, Colorado, a municipal corporation (the "Subscriber") jointly referred to as (the "Parties").

BACKGROUND:

- A. Subscriber and Operator are parties to that certain Community Solar Garden Subscriber Agreement dated as of April 9, 2018 (the "Agreement"), pursuant to which Subscriber has agreed to purchase, or pay to be allocated, Subscriber's Allocated Percentage of Delivered Energy generated by the System (Xcel Energy SRC Number 053975) located in Garfield County, Colorado and commencing on the Commercial Operations Date and continuing through the Term.
- B. Operator has agreed to sell, or cause to be allocated, Subscriber's Allocated Percentage of Delivered Energy to be generated by the System to Subscriber commencing on the Commercial Operations Date and continuing through the Term.
- C. The Parties wish to enter into this Amendment to amend certain provisions of the Agreement.
- D. Capitalized terms used but not otherwise defined in this Amendment have the meanings given to them in the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and provisions herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties, intending to be legally bound, covenant and agree as follows:

AGREEMENT

- 1. Amendments. The Agreement is hereby amended as follows:

- a. Section 2.2. Section 2.2 is deleted and replaced in its entirety with the following:

Term. The term of the Agreement begins on the Effective Date and continues for 20 years from the Commercial Operation Date, unless terminated earlier under the provisions of this Agreement. Without limiting either Party's termination rights elsewhere in this Agreement, this Agreement will terminate if the Producer Agreement is otherwise terminated.

- b. Section 8.2(d). Section 8.2(d) is deleted and replaced in its entirety with the following:

Subscriber is a retail electric service customer of PSCO and the Subscriber Meters are within the same or adjacent county as the Solar System;


2. Subscriber Representation and Warranty. Subscriber represents and warrants to Operator as of the date of this Amendment that, to the Subscriber's Representative's knowledge the facilities consumption data provided to the Operator representing the Subscriber's consumption is accurate; Subscriber's Allocated Percentage as amended by this Amendment, combined with any other distributed resources serving the Subscriber Meters, represents no more than 120 percent of Subscriber's average annual consumption at the Subscriber Meters over the last twenty-four (24) months.
3. Validity. The invalidity or unenforceability of any provision of this Amendment will not affect the validity or enforceability of any other provisions of this Amendment, each of which will remain in full force and effect. If any term or other provision of this Amendment is invalid, illegal or incapable of being enforced by any law or public policy, all other terms and provisions of this Amendment will nevertheless remain in full force and effect for so long as the economic or legal substance of the transactions contemplated by this Amendment is not affected in any manner materially adverse to either party hereto.
4. Ratification of Agreement. Except as specifically provided in this Amendment, no other amendments, revisions or changes are made or have been made to the Agreement and all other terms and conditions of the Agreement remain in full force and effect.
5. Counterparts. This Amendment may be executed by in separate counterparts, each of which when so executed and delivered will be an original, but all such counterparts shall together constitute but one and the same instrument.
6. Electronic Signatures. The delivery of copies of this Amendment and of the signature page by facsimile transmission, by electronic mail in "portable document format" (".pdf") form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, or by combination of such means, will constitute effective execution and delivery of this Amendment and may be used in lieu of the original Amendment for all purposes. A Party's signature transmitted by facsimile or other electronic means will be deemed to be its original signatures for all purposes.

[signature page follows]

IN WITNESS WHEREOF, each of the undersigned has duly executed this and Amendment as of the date first above written.


SUBSCRIBER:

The City of Grand Junction, Colorado, a municipal corporation acting by and through its City Council.

By: 
Name: Greg Caton
Title: City Manager

OPERATOR:

Oak Leaf Solar XXXII LLC,
a Colorado limited liability company

By: 
Name: Michael McCabe
Title: President

SRC SUBSCRIBER AGENCY AGREEMENT

FOR XCEL ENERGY SOLAR*REWARDS COMMUNITY PROGRAM

SRC Subscriber Name: **GRAND JUNCTION CITY OF**

SRC Subscriber Retail Customer Account Number: **698912**

SRC Subscriber Service Address: **555 UTE AVE**

SRC Subscriber E-mail Address: gregc@gjcity.org

SRC Subscriber Mailing Address: 250 N. 5th St. Grand Junction, CO 81501

SRC Subscriber Phone Number: 970-244-1502

SRC Producer (Subscriber Organization) Name: Oak Leaf Solar XXXII LLC

Solar Garden ID: **SRC053975**

Location of Solar Garden: **2585 W. Centennial Parkway, Rifle**

SRC Subscriber's Initial Subscription Share: **69.899 kW**

The undersigned SRC Subscriber hereby authorizes Oak Leaf Solar XXXII LLC ("SRC Producer"), and SRC Producer hereby accepts the responsibility, to act as SRC Subscriber's agent for purposes of selling to Public Service Company of Colorado ("Public Service") all of SRC Subscriber's beneficial interest in and to the Photovoltaic Energy and associated Renewable Energy Credits generated by, and delivered to Public Service from, the Photovoltaic Energy System ("PV System") identified above, including full authority for SRC Producer to enter into a long-term contract on behalf of SRC Subscriber for such sale and to administer such contract, all pursuant to Public Service's Solar*Rewards Community Program and Rate Schedule SRC of Public Service's electric tariff on file with the Colorado Public Utilities Commission ("Commission") and in effect from time to time.

1. **Duties of SRC Producer Generally.** SRC Producer shall be responsible for issuing and managing the subscriptions of all SRC subscribers in the PV System and for selling to Public Service the subscribed and unsubscribed portions of the Photovoltaic Energy and associated Renewable Energy Credits generated by the PV System and delivered to Public Service at the production meter located at the PV System site. In performing such functions, SRC Producer shall be solely responsible for communicating directly to Public Service SRC Subscriber's information concerning its subscription in the PV System, including its beneficial interest in the Photovoltaic Energy and associated Renewable Energy Credits generated and produced by the PV System. SRC Subscriber acknowledges and agrees that Public Service shall exclusively rely on such information as regularly and timely communicated from the SRC Producer for the purpose of calculating the SRC Credit that will be applied by Public Service and reflected on SRC Subscriber's subsequent electric service bills as compensation for Public Service's receipt of SRC Subscriber's share of the Photovoltaic Energy and associated Renewable Energy Credits generated and produced by the PV System, in accordance with Rate Schedule SRC of Public Service's Colorado Public Utilities Commission electric tariff.

2. **Adjustments of Prior Period SRC Bill Credits.** To the extent the subscription information communicated by SRC Producer to Public Service and used by Public Service for purposes of calculating the SRC Credit applied on SRC Subscriber's electric service bill was incorrect, SRC Producer shall be responsible for processing all corrections or other adjustments of SRC Credits previously applied by Public Service to SRC Subscriber's electric service bills and to collect any overpayments and remit any underpayments for all such SRC Credits, as necessary, among SRC Subscriber and other SRC subscribers owning subscriptions in the PV System. SRC Subscriber acknowledges and agrees that any such corrections in amounts previously applied by Public Service as an SRC Credit on any of SRC Subscriber's electric service bills for prior periods shall be administered exclusively by SRC Producer, and that Public Service shall not be required to increase or reduce any SRC Credit previously applied to SRC Subscriber's electric service bill in any prior period to the extent such corrections are the result of incorrect subscription information for the PV System communicated to Public Service by SRC Producer. In connection with SRC Producer's execution of its responsibilities to process any such adjustments to SRC Credits previously applied by Public Service with respect to the PV System, SRC Subscriber hereby authorizes Public Service to disclose and release to SRC Producer any and all information reflected on SRC Subscriber's bills for retail electric service for all relevant periods, as may be necessary for SRC Producer to fully and properly administer such prior period adjustments among all SRC subscribers in the PV System.

3. Limitation of Agency. This Agency Agreement shall only serve to authorize SRC Producer to act as SRC Subscriber's agent with respect to SRC Subscriber's beneficial interest in and to the Photovoltaic Energy and associated Renewable Energy Credits generated by the PV System and delivered to Public Service to the extent that SRC Subscriber's subscription continues from time-to-time to qualify as a valid subscription in the PV System in accordance with Section 40-2-127, C.R.S., the effective rules and regulations promulgated thereunder by the Colorado Public Utilities Commission, and Rate Schedule SRC of Public Service's Colorado Public Utilities Commission electric tariff.

4. Term of Agency and Termination. (a) This Agency Agreement shall become effective upon its execution by both SRC Subscriber and SRC Producer and shall continue in effect for so long as a valid and existing contract between Public Service and SRC Producer for the purchase and sale of such Photovoltaic Energy and associated Renewable Energy Credits shall continue in effect.

(b) This Agency Agreement may be terminated by either SRC Producer or SRC Subscriber upon Public Service's receipt of notice that SRC Subscriber's subscription in the PV System has been terminated or transferred in its entirety, or that SRC Subscriber no longer holds an interest in the beneficial use of the Photovoltaic Energy and associated Renewable Energy Credits generated by the PV System.

(c) This Agency Agreement shall automatically terminate upon: (i) the effective date of the termination of the contract between SRC Producer and Public Service for the purchase and sale of Photovoltaic Energy and associated Renewable Energy Credits generated by the PV System; or (b) in the event of an effective assignment by SRC Producer of such contract, where Public Service has consented to such assignment in writing, the effective date of a replacement agency agreement between SRC Subscriber and the new owner or subscriber organization of the PV System that has taken assignment of such contract from SRC Producer.


6. Representation and Acknowledgement. By executing this SRC Subscriber Agency Agreement, SRC Subscriber represents and warrants that the information stated herein is true and correct to the best of SRC Subscriber's knowledge and belief and that SRC Subscriber has signed up for the stated subscription share size in the PV System through SRC Producer.

7. Consent to Disclose Account Information. SRC Subscriber shall provide to Public Service a completed and signed "Consent to Disclose Utility Customer Data" form granting consent for Public Service to share information regarding SRC Subscriber's past and present electric usage at the Service Address(es) identified above in order for SRC Producer independently to verify the extent of SRC Subscriber's eligibility to hold a subscription in the PV System pursuant to Section 40-20-127, C.R.S., the effective rules and regulations promulgated thereunder by the Colorado Public Utilities Commission, and Rate Schedule SRC of Public Service's Colorado Public Utilities Commission electric tariff. The Consent to Disclose Utility Customer Data form shall be that form posted from time to time on the Xcel Energy website or the website of the Colorado Public Utilities Commission.

IN WITNESS WHEREOF, this Agency Agreement was duly executed by the undersigned authorized representatives of SRC Subscriber and SRC Producer.

SRC SUBSCRIBER: 

Print Name: Greg Caton
Date: 5-31-18

SRC PRODUCER: 

for Oak Leaf Solar XXXII LLC
Print Name: Michael McCabe
Date: 5-31-18

COMMUNITY SOLAR GARDEN SUBSCRIPTION AGREEMENT

This Community Solar Garden Subscription Agreement ("Agreement") is made and entered into by and between Oak Leaf Solar XXXII LLC ("Operator") a Colorado limited liability company with offices at 2645 E. 2nd Avenue, Suite 206, Denver, CO 80206, or its successors and assigns and the City of Grand Junction, ("Subscriber") a municipal corporation jointly referred to as the "Parties."

Recitals

WHEREAS, Operator intends to construct, install, own, operate, and maintain a solar photovoltaic System at the Premises described on Exhibit C; and

WHEREAS, the Parties intend that, pursuant to the Tariff and the Power Purchase Agreement ("Producer Agreement"), the System will qualify as a Community Solar Garden and will generate Bill Credits to be applied to Subscriber's monthly invoices from Public Service Company of Colorado for retail electric service for Subscriber Meters; and

WHEREAS, Subscriber is willing to purchase, or pay to be allocated, Subscriber's Allocated Percentage as described in Exhibit C of the Delivered Energy to be generated by the System commencing on the Commercial Operation Date and continuing through the Term, and Operator is willing to sell, or cause to be allocated, Subscriber's Allocated Percentage of the Delivered Energy to be generated by the System to Subscriber commencing on the Commercial Operation Date and continuing through the Term, as provided under the terms of this Agreement; and

WHEREAS, this Agreement is for Community Solar Garden SRC053975.

NOW THEREFORE, in consideration of the foregoing recitals, mutual promises set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. DEFINITIONS.

Capitalized terms are defined as follows:

"Affiliate" means, with respect to any specified Person, any other Person directly or indirectly controlling, controlled by or under common control with such specified Person.

"Agreement" or "Contract" means the Community Solar Garden Subscription Agreement which consists of this agreement and all exhibits.

"Applicable Law" means, with respect to any Person, any constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding, injunction, registration, permit, authorization, guideline, Governmental Approval, consent or

requirement of the federal government or the State of Colorado, enforceable at law or in equity, including the interpretation and administration thereof by such authority.

“Bankruptcy Event” means with respect to a Party, that either: (i) such Party has (A) applied for or consented to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or of all or a substantial part of its property; (B) admitted in writing its inability, or be generally unable, to pay its debts as such debts become due; (C) made a general assignment for the benefit of its creditors; (D) commenced a voluntary case under any bankruptcy law; (E) filed a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; (F) failed to controvert in a timely and appropriate manner, or acquiesced in writing to, any petition filed against such Party in an involuntary case under any bankruptcy law; or (G) taken any corporate or other action for the purpose of effecting any of the foregoing; or (ii) a proceeding or case has been commenced without the application or consent of such Party in any court of competent jurisdiction seeking (A) its liquidation, reorganization, dissolution or winding-up or the composition or readjustment of debts or, (B) the appointment of a trustee, receiver, custodian, liquidator or the like of such Party under any bankruptcy law, and such proceeding or case has continued undefended, or any order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect for a period of 60 days.

“Bill Credit” means the monetary value of the electricity generated by the Solar System commensurate with Subscriber’s Allocated Percentage, as calculated pursuant to the Producer Agreement and the Tariff, and credited to Subscriber by Public Service Company of Colorado (“PSCO”) on its monthly invoice for electric service for the Subscriber Meters in accordance with the Producer Agreement.

“Bill Credit Rate” means the rate in the PSCO community solar garden tariff assigned to the Subscriber’s meter(s).

“Billing Cycle” means the monthly billing cycle established by PSCO.

“Business Day” means any day other than Saturday, Sunday, or a legal holiday.

“Community Solar Garden” means a community solar garden that qualifies for the Solar*Rewards Community Program as set forth in C.R.S. §40-2-127, et seq., and Rule 3665, 4 CCR 723-3, related PUC orders and the Tariff.

“Construction Commencement” means the date on which the Operator issues a notice to proceed under the applicable construction contract for the System.

“Date of Commercial Operation” means the first day of the first full calendar month upon which commercial operation is achieved following completion of all Interconnection Agreement requirements and processes, as defined by the Producer Agreement executed by the Operator and PSCO.

“Delivered Energy” means the amount of alternating current (AC) energy generated by the System as inverted to AC and delivered to PSCO at the Production Meter (as defined in the Producer Agreement).

“Early Termination Date” means any date the Agreement terminates other than for expiration of the Term.

“Effective Date” means the date on which the Agreement is signed by authorized representatives of both Parties in accordance with Section 2.1.

“Environmental Attributes” means, without limitation, carbon trading credits, Renewable Energy Credits or certificates, emissions reduction credits, emissions allowances, green tags, tradable renewable credits, or Green-e® products.

“Estimated Remaining Payments” means as of any date, the estimated remaining Payments to be made through the end of the Term, as reasonably determined and supported by Operator.

“Event of Non-Appropriation” means an appropriation and resulting encumbrance for this Agreement is not made for a fiscal year by the Subscriber.

“Expiration Date” means the date the Agreement terminates by reason of expiration of the Term.

“Financing Party” or “Lender” means, as applicable (i) any Person (or its agent) from whom Operator (or an affiliate of Operator) leases the System, or (ii) any Person (or its agent) who has made or will make a loan to or otherwise provide financing to Operator (or an Affiliate of Operator) with respect to the System.

“Force Majeure Event” means any act or event that prevents the affected Party from performing its obligations in accordance with the Agreement, if such act or event is beyond the reasonable control, and not the result of the fault or negligence, of the affected Party and such Party had been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums). Subject to the foregoing conditions, “Force Majeure Event” shall include the following acts or events: (i) natural phenomena, such as storms, hurricanes, floods, lightning, volcanic eruptions and earthquakes; (ii) explosions or fires arising from lightning or other causes unrelated to the acts or omissions of the Party seeking to be excused from performance; (iii) acts of war or public disorders, civil disturbances, riots, insurrection, sabotage, epidemic, terrorist acts, or rebellion; (iv) strikes or labor disputes (except strikes or labor disputes caused solely by employees of Operator or as a result of such Party’s failure to comply with a collective bargaining agreement); (v) action or inaction by a Governmental Authority (unless Subscriber is a Governmental Authority and Subscriber is the Party whose performance is affected by such action nor inaction); and (vi) any event of force majeure under the Producer Agreement. A Force Majeure Event shall not be based on the economic hardship of either Party.

“Governmental Approval” means any approval, consent, franchise, permit, certificate, resolution, concession, license, or authorization issued by or on behalf of any applicable Governmental Authority.

“Governmental Authority” means any federal, state, regional, county, town, city, watershed district, park authority, or municipal government, whether domestic or foreign, or any department, agency, bureau, or other administrative, regulatory or judicial body of any such government.

“Installation Work” means the construction and installation of the System and the start-up, testing and acceptance (but not the operation and maintenance) thereof, all performed by or for Operator at the Premises.

“Interconnection Agreement” means the Interconnection Agreement entered into or to be entered into between Operator and PSCO as required by the Producer Agreement.

“Interconnection Obligations” means all costs, fees, charges and obligations required to connect the System to the PSCO distribution system, including fees associated with system upgrades, production, and operation and maintenance carrying charges, as provided in the Interconnection Agreement.

“PSCO” means PSCO, a Colorado Corporation and any successor thereto and Xcel Energy Inc., to the extent it has control over PSCO’s business.

“Person” means an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, firm, or other entity, or a Governmental Authority.

“Producer Agreement” means the Solar*Rewards Community Producer Agreement to be entered into by and between Operator and PSCO whereby PSCO agrees to purchase all of the energy produced by the Community Solar Garden and to pay for such energy by providing Bill Credits to Subscriber (and other Subscribers). A copy of the Producer Agreement will be attached to this Agreement as Exhibit G.

“Premises” means the premises described in Exhibit C.

“PUC” means the Colorado Public Utilities Commission.

“Solar Incentives” means any accelerated depreciation, installation or production-based incentives, investment tax credits and subsidies and all other solar or renewable energy subsidies and incentives.

“Subscriber’s Allocated Percentage” means Subscriber’s allocated portion, stated as a percentage, of the Delivered Energy in a given month, as described in Exhibit C.

“Subscriber Meters” means the meters associated with specific subscriber PSCO accounts/premises listed in Exhibit I as updated from time to time by the Parties.

“Stated Rate” means a rate per annum equal to one and one-half percent per month or as otherwise established by Colorado Statute.

“System” or “Solar System” means the integrated assembly of photovoltaic panels, mounting assemblies, inverters, converters, metering, lighting fixtures, transformers, ballasts, disconnects, combiners, switches, wiring devices and wiring, more specifically described in Exhibit C.

“System Operations” means Operator’s operation, maintenance and repair of the System performed in accordance with the requirements of this Agreement.

“Tariff” means the Solar*Rewards Community Program tariff in PSCO’s rate book.

2. TERM AND TERMINATION.

2.1 Effective Date. This agreement is effective upon signature by authorized representatives of both Parties to the agreement.

2.2 Term. The term of the Agreement begins on the Effective Date and continues for 20 years from the Commercial Operation Date, unless terminated earlier under the provisions of this Agreement. Without limiting either Party’s termination rights elsewhere in this Agreement, this Agreement will terminate if (i) Subscriber has moved out of or relocated from the county in which the Solar System is located or relocated from the PSCO service territory, and has not, within 90 days after such move or relocation, assigned this Agreement in accordance with the provisions of Section 12.2, or (ii) the Producer Agreement is otherwise terminated.

2.3 Operator Termination Before Commercial Operation. If any of the following events or circumstances occur before Construction Commencement, the Operator may terminate the Agreement immediately upon written notice, in which case neither Party will have any liability to the other except for any liabilities that accrued before termination:

(a) After the performance of due diligence using industry standard methods and techniques, if there exist site conditions (including environmental conditions and ecological concerns such as presence of wildlife species) at the Premises or construction requirements that could not have been reasonably known or discovered through due diligence as of the date of this Agreement and that could reasonably be expected to materially increase the cost of Installation Work or would adversely affect the electricity production from the System as designed;

(b) There has been a material adverse change in the (i) rights of Operator to construct the System on the Premises, or (ii) financial prospects or viability of the Solar System, whether due to market conditions, cost of equipment or any other reason;

(c) After timely application to PSCO and best efforts to secure interconnection services, Operator has not received evidence that interconnection services will be available with respect to energy generated by the System;

(d) After the performance of due diligence using industry standard methods and techniques, Operator has determined and did not previously know that there are easements, other liens or encumbrances, or other facts, circumstances or developments that would materially impair or prevent, or have a material adverse effect on, the installation, operation, maintenance or removal of the System

2.4 Subscriber Termination Prior to Construction Commencement. If any of the following events or circumstances occur before Construction Commencement, Subscriber may terminate the Agreement immediately upon written notice, in which case neither Party will have any liability to the other except for any liabilities that accrued before termination:

(a) If PSCO or another party with the authority to do so, disqualifies the Operator of the System from treatment as Operator of the Community Solar Garden under Colorado Statutes or Colorado Public Utilities Commission order, directed or applicable to Operator;

2.5 Force Majeure. Upon the occurrence of a force majeure event, the Agreement may be terminated consistent with the provisions of Section 10.3 of this Agreement.

2.6 Termination for Default. If either Party defaults on their responsibilities under this Agreement, the Agreement may be terminated under Section 11.

2.7 Termination upon Mutual Agreement. This Agreement may be terminated at any time, for any reason, by mutual agreement of the Parties in writing.

3. CONSTRUCTION, INSTALLATION AND TESTING OF SYSTEM.

3.1 System Acceptance Testing.

(a) Operator must test the System in accordance with such methods, acts, guidelines, standards and criteria reasonably accepted or followed by photovoltaic solar system contractors in the United States and as otherwise required by the Producer Agreement and the PSCO Tariff.

(b) Commercial Operation occurs when the "Date of Commercial Operation" occurs under the Producer Agreement. No more than 7 days before the Date of Commercial Operation, Operator will send a written notice to Subscriber providing the Date of Commercial Operation and the provided date will be the Commercial Operation Date for the purposes of this Agreement. Operator has the sole responsibility to notify PSCO of this date and receive necessary approvals from PSCO.

4. SYSTEM OPERATIONS.

4.1 Operator as Owner and Operator. The System will be owned by Operator or Operator's Financing Party and will be operated and maintained in accordance with the Producer Agreement and the PSCO Tariff and, as necessary, maintained and repaired by Operator at its sole cost and expense. Installation of the System, upgrades and repairs will be under the direct supervision of an NABCEP-certified solar professional. Maintenance will be performed according to industry standards, including the recommendations of the manufacturers of solar panels and other operational components.

4.2 Metering. There will be two meters installed and maintained by PSCO, which will measure the amount of electrical energy flowing to and from the Premises as further described in the Producer Agreement. The Production Meter (as defined in the Producer Agreement) will record the amount of Delivered Energy. Operator will make the raw meter data available to Subscriber upon Subscriber's request.

5. DELIVERY OF ENERGY.

5.1 Purchase Requirement. Subscriber agrees to make payments calculated as Subscriber's Allocated Percentage multiplied by Delivered Energy generated by the System

beginning on the Commercial Operation Date and continuing for each applicable month of the Term. If there is a difference between the Bill Credit by PSCO to the Subscriber on the Subscriber Meter bills, and the Delivered Energy, for any reason not the fault of the Subscriber, the Subscriber's payments will be based on the number of kWhs credited by PSCO on the Subscriber Meter bills.

5.2 Estimated Annual Delivered Energy. The total annual estimate of Delivered Energy for any given year is the "Estimated Annual Delivered Energy." The Estimated Annual Delivered Energy and the estimated amount of electricity to be allocated to Subscriber for each year of the Term starting on the Commercial Operation Date are identified in Exhibit D. The estimated amount of electricity allocated to Subscriber is Subscriber's Allocated Percentage of the Estimated Annual Delivered Energy.

5.3 Environmental Attributes and Solar Incentives.

(a) Subscriber's purchase does not include Environmental Attributes or Solar Incentives;

(b) Subscriber disclaims any right to Solar Incentives or Environmental Attributes based upon the installation of the System, and to avoid any conflicts with fair trade rules regarding claims of solar or renewable energy use and to help ensure that Environmental Attributes will be certified by Green-e® or a similar organization Subscriber will, at the request of Operator, execute documents or agreements reasonably necessary to fulfill the intent of this Section at no cost to Subscriber;

(c) When reasonably possible, Subscriber and Operator will consult with each other about press releases or public communications to help ensure that the Operator's rights to claim Environmental Attributes are not compromised while allowing both Parties to claim as much publicity as possible without compromising Operator's rights; and

(d) Without limiting the foregoing, Subscriber agrees that PSCO will acquire from Operator under the Producer Agreement all energy generated by the Solar System and all Renewable Energy Credits (as defined in the Producer Agreement) associated with the Solar System. Operator and Subscriber agree not to make any statement contrary to PSCO's ownership.

5.4 Title to System. Throughout the Term, Operator or Operator's Financing Party is the legal and beneficial owner of the System at all times, and the System will remain the personal property of Operator or Operator's Financing Party.

5.5 Obligations of Parties. The Parties will work cooperatively and in good faith to meet all Community Solar Garden program requirements under Applicable Law, the Producer Agreement and the Tariff, including applicable interconnection and metering requirements. The Parties agree that beginning on the Commercial Operation Date (a) Operator will transmit all of the Delivered Energy into the PSCO system for the benefit of Subscriber, and (b) Subscriber (or its designee) shall be entitled to any and all Bill Credits issued by PSCO resulting from such transmission and corresponding with Subscriber's Allocated Percentage.

6. PRICE AND PAYMENT.

6.1 Consideration. Subscriber shall pay to Operator a monthly payment ("Payment") for Subscriber's Allocated Percentage of Delivered Energy beginning on the Commercial Operation Date and continuing through the Term. The Subscriber will pay a price per kilowatt hour ("kWh Rate") in the first year for its Allocated Percentage of the Delivered Energy up to but limited to the amount of kWh's for which the Subscriber receives Bill Credits. The kWh Rate in the first year is defined as \$.0649/kWh. The kWh Rate will increase 1.35% per year.

6.2 Invoices. Operator shall invoice Subscriber within 30 days of the last Business Day of each calendar month (each such date on which an invoice is issued by Operator to Subscriber, an "Invoice Date") for the Payment in respect of Subscriber's Allocated Percentage of Delivered Energy during the immediately preceding calendar month. Subscriber's first invoice under this Agreement shall be for the first full calendar month after the Commercial Operation Date. For the avoidance of doubt, Subscriber shall (i) neither receive nor be entitled to any Bill Credits associated with Delivered Energy prior to the Commercial Operation Date, and (ii) have no obligation to make or any liability for Payments for Delivered Energy prior to the Commercial Operation Date. If the first month of commercial operation is less than a full calendar month, the Operator will bill Subscriber for any Delivered Energy on the invoice for the first full calendar month of operation.

6.3 Time of Payment. Subscriber will pay all undisputed amounts due hereunder within 35 days of the Invoice Date.

6.4 Method of Payment. Subscriber will make all payments under the Agreement by electronic funds transfer in immediately available funds to the account designated by Operator from time to time. If Subscriber does not have electronic funds transfer capability, or does not desire to use electronic funds transfer, payments shall be considered timely if a check is postmarked by the 30 day due date. All payments that are not paid when due shall bear interest accruing from the date becoming past due until paid in full at a rate equal to the Stated Rate. Except for billing errors or as provided in Section 6.5 below, all payments made hereunder shall be non-refundable, be made free and clear of any tax, levy, assessment, duties or other charges and not subject to reduction, withholding, set-off, or adjustment of any kind.

6.5 Disputed Payments. If a reasonable dispute arises with respect to any invoice, Subscriber shall not be deemed in default under the Agreement and the Parties shall not suspend the performance of their respective obligations hereunder, including payment of undisputed amounts owed hereunder. If an amount disputed by Subscriber is subsequently deemed to have been due pursuant to the applicable invoice, interest shall accrue at the Stated Rate on such amount from the date becoming past due under such invoice until the date paid.

6.6 Billing Adjustments Following PSCO Billing Adjustments. If, as a result of an PSCO billing adjustment, the quantity of Delivered Energy is decreased (the "Electricity Deficiency Quantity") and PSCO reduces the amount of Bill Credits allocated to Subscriber for such period, Operator will reimburse Subscriber for the amount paid by Subscriber in consideration for the Electricity Deficiency Quantity. If as a result of such adjustment the quantity of Delivered Energy allocated to Subscriber is increased (the "Electricity Surplus

Quantity”) and PSCO increases the amount of Bill Credits allocated to Subscriber for such period, Subscriber will pay for the Electricity Surplus Quantity at the kWh Rate applicable during such period. All payments made under this Section 6.6 shall be paid thirty (30) business days after both Parties have been made aware of the PSCO billing adjustment.

6.7 Non-Appropriation. It is expressly understood and agreed that the obligation of the Subscriber to make any payment to the Operator shall only extend to monies annually appropriated by the Subscriber’s governing authority and encumbered for the purposes of this Agreement. The Operator acknowledges that (i) the Subscriber does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and (ii) this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the Subscriber. If an appropriation and resulting encumbrance for this Agreement is not made for a fiscal year by the Subscriber (a “Non-Appropriation Event”), Operator, in its sole and absolute discretion, may terminate this Agreement or waive the City’s payment obligation.

7. GENERAL COVENANTS.

7.1 Operator Covenants. Operator covenants and agrees to the following:

(a) Notice of Damage or Emergency. Operator will within 3 business days notify Subscriber if it becomes aware of any significant damage to or loss of the use of the System or that could reasonably be expected to adversely affect the System.

(b) System Condition. Operator shall make commercially reasonable efforts to ensure that the System is capable of operating at a commercially reasonable continuous rate.

(c) Governmental Approvals. While providing the Installation Work and System Operations, Operator shall obtain and maintain and secure all Governmental Approvals required to be obtained and maintained and secured by Operator and to enable Operator to perform such obligations.

(d) Interconnection Fees. Operator is responsible for all costs, fees, charges and obligations required to connect the System to the PSCO distribution system, including fees associated with system upgrades, production, and operation and maintenance carrying charges, as provided in the Interconnection Agreement (“Interconnection Obligations”). In no event shall Subscriber be responsible for any Interconnection Obligations and/or terms of the Interconnection Agreement.

(e) Compliance with Producer Agreement, Tariff and Interconnection Agreement. Operator shall cause the System to be designed, installed and operated at all times in compliance with the Producer Agreement, the Tariff and the Interconnection Agreement.

(f) Communications. The Producer Agreement requires that Operator (as opposed to PSCO) is responsible for answering all questions from Subscriber regarding its participation in the Solar System. Operator is solely responsible for resolving disputes with PSCO or Subscriber regarding the accuracy of Subscriber’s Allocated Percentage and the Delivered Energy allocated to Subscriber in connection therewith. Notwithstanding the foregoing, Subscriber acknowledges that PSCO is responsible for resolving disputes with Subscriber regarding the applicable rate used to determine the Bill Credit.

(h) Good Standing. The Operator is duly organized and validly existing and in good standing in the jurisdiction of its organization, and authorized to do business in the State of Colorado.

7.2 Subscriber's Covenants. Subscriber covenants and agrees as follows:

(a) Consents and Approvals. Subscriber will ensure that any authorizations required of Subscriber under this Agreement are provided in a timely manner. To the extent that only Subscriber is authorized to request, obtain or issue any necessary approvals, permits, rebates or other financial incentives, Subscriber will cooperate with Operator to obtain such approvals, permits, rebates or other financial incentives.

(b) Subscriber Agency and Consent Form. On the Effective Date, Subscriber will execute and deliver to Operator a Subscriber Agency Agreement and Consent Form in the form attached hereto as Exhibit A. Subscriber acknowledges that such agreement is required of Subscriber pursuant to the Producer Agreement.

8. REPRESENTATIONS & WARRANTIES.

8.1 Representations and Warranties Relating to Agreement Validity. In addition to any other representations and warranties contained in the Agreement, each Party represents and warrants to the other as of the date of this Agreement and on the Effective Date that:

(a) it is duly organized and validly existing and in good standing in the jurisdiction of its organization;

(b) it has the full right and authority to enter into, execute, deliver, and perform its obligations under the Agreement;

(c) it has taken all requisite corporate or other action to approve the execution, delivery, and performance of the Agreement;

(d) the Agreement constitutes its legal, valid and binding obligation enforceable against such Party in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, and other similar laws now or hereafter in effect relating to creditors' rights generally;

(e) there is no litigation, action, proceeding or investigation pending or, to the best of its knowledge, threatened before any court or other Governmental Authority by, against, affecting or involving any of its business or assets that could reasonably be expected to adversely affect its ability to carry out the transactions contemplated herein; and

(f) its execution and performance of the Agreement and the transactions contemplated hereby do not constitute a breach of any term or provision of, or a default under, (i) any contract or agreement to which it or any of its Affiliates is a party or by which it or any of its Affiliates or its or their property is bound, (ii) its organizational documents, or (iii) any Applicable Laws.

8.2 Specific Representations and Warranties of Subscriber. Subscriber represents and warrants to Operator as of the date of this Agreement and on the Effective Date that:

(a) Subscriber is the sole party in interest agreeing to purchase Subscriber's Allocated Percentage and is acquiring Subscriber's Allocated Percentage for its own account, and not with a view to the resale or other distribution thereof, in whole or in part, and agrees that it will not transfer, sell or otherwise dispose of Subscriber's Allocated Percentage in any manner in violation of applicable securities laws;

(b) Subscriber is not relying on (i) Operator, or (ii) other subscribers, or any of the employees, members of boards of directors (or equivalent body) or officers, of those parties, or this Agreement with respect to tax and other economic considerations involved in the Agreement

(c) Subscriber's Allocated Percentage, combined with any other distributed resources serving the Subscriber Meters, represents no more than 120 percent of Subscriber's average annual consumption at the Subscriber Meters over the last twenty-four (24) months;

(d) Subscriber is a retail electric service customer of PSCO and the Subscriber Meters are within the same county as the Solar System;

8.3 Exclusion of Warranties. EXCEPT AS EXPRESSLY PROVIDED IN SECTIONS 3.1, 4.1, 7.1, THIS SECTION 8, THE SYSTEM OPERATIONS AND PERFORMANCE PROVIDED BY OPERATOR TO SUBSCRIBER UNDER THIS AGREEMENT SHALL BE "AS-IS WHERE-IS." NO OTHER WARRANTY TO SUBSCRIBER OR ANY OTHER PERSON, WHETHER EXPRESS, IMPLIED OR STATUTORY, IS MADE AS TO THE INSTALLATION, DESIGN, DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS, USEFUL LIFE, FUTURE ECONOMIC VIABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE OF THE SYSTEM OR ANY OTHER SERVICE PROVIDED HEREUNDER OR DESCRIBED HEREIN, OR AS TO ANY OTHER MATTER, ALL OF WHICH ARE EXPRESSLY DISCLAIMED BY OPERATOR.

9. TAXES AND GOVERNMENTAL FEES. Operator is responsible for all income, gross receipts, ad valorem, personal property or real property or other similar taxes and any and all franchise fees or similar fees assessed against it due to its ownership of the System.

10. FORCE MAJEURE.

10.1 Definition. "Force Majeure Event" means any act or event that prevents the affected Party from performing its obligations in accordance with the Agreement, if such act or event is beyond the reasonable control, and not the result of the fault or negligence, of the affected Party and such Party had been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums). Subject to the foregoing conditions, "Force Majeure Event" shall include the following acts or events: (i) natural phenomena, such as storms, hurricanes, floods, lightning, volcanic eruptions and earthquakes; (ii) explosions or fires arising from lightning or other causes unrelated to the acts or omissions of the Party seeking to be excused from performance; (iii) acts of war or public disorders, civil disturbances, riots, insurrection, sabotage, epidemic, terrorist acts, or rebellion; (iv) strikes or

labor disputes (except strikes or labor disputes caused solely by employees of Operator or as a result of such Party's failure to comply with a collective bargaining agreement); (v) action or inaction by a Governmental Authority (unless Subscriber is a Governmental Authority and Subscriber is the Party whose performance is affected by such action nor inaction); and (vi) any event of force majeure under the Producer Agreement. A Force Majeure Event shall not be based on the economic hardship of either Party.

10.2 Excused Performance. Except as otherwise specifically provided in the Agreement, neither Party shall be considered in breach of the Agreement or liable for any delay or failure to comply with the Agreement (other than the failure to pay amounts due hereunder), if and to the extent that such delay or failure is attributable to the occurrence of a Force Majeure Event; provided that the Party claiming relief under this Article 10 shall immediately (i) notify the other Party in writing of the existence of the Force Majeure Event, (ii) exercise all reasonable efforts necessary to minimize delay caused by such Force Majeure Event, (iii) notify the other Party in writing of the cessation or termination of said Force Majeure Event and (iv) resume performance of its obligations hereunder as soon as practicable thereafter; provided, however, that Subscriber shall not be excused from making any payments and paying any unpaid amounts due in respect of Subscriber's Allocated Percentage of Delivered Energy prior to any performance interruption due to a Force Majeure Event.

10.3 Termination for Force Majeure. Either Party may terminate this Agreement upon 15 days written notice to the other Party if any Force Majeure Event affecting such other Party has been in existence for a period of 180 consecutive days or longer, unless such Force Majeure Event expires before the end of the 15 day notice period.

11. DEFAULT.

11.1 Operator Defaults and Subscriber Remedies.

(a) Operator Defaults. The following events are defaults with respect to Operator (each, an "Operator Default"):

- (i) A Bankruptcy Event occurs with respect to Operator;
- (ii) Operator fails to pay Subscriber any undisputed amount owed under the Agreement within 30 days from receipt of notice from Subscriber of such past due amount;
- (iii) Operator breaches any material term of this Agreement and (A) if operator can cure the breach within 30 days after Subscriber's written notice of such breach and Operator fails to so cure, or (B) Operator fails to commence and pursue a cure within such 30 day period if a longer cure period is needed;
- (iv) The Producer Agreement is terminated for any reason; or

(b) Subscriber's Remedies. If an Operator Default described in Section 11.1(a) has occurred and is continuing, in addition to other remedies expressly provided herein, Subscriber may terminate the Agreement and exercise any other remedy it may have at law and equity or

under the Agreement. In the event of such termination, Subscriber shall use reasonable efforts to mitigate its damages.

11.2 Subscriber Defaults and Operator's Remedies.

(a) Subscriber Default. The following events shall be defaults with respect to Subscriber (each, a "Subscriber Default"):

- (i) A Bankruptcy Event occurs with respect to Subscriber;
- (ii) Subscriber fails to pay Operator any undisputed amount due Operator under the Agreement within 30 days from receipt of notice from Operator of such past due amount; and
- (iii) Subscriber breaches any material term of this Agreement and (A) if such breach can be cured within 30 days after Operator's written notice of such breach and Subscriber fails to so cure, or (B) Subscriber fails to commence and pursue said cure within such 30 day period if a longer cure period is needed.
- (iv) A Non-Appropriation event as described in Section 6.7.

(b) Operator's Remedies. If a Subscriber Default described in Section 11.2(a) has occurred and is continuing, in addition to other remedies expressly provided herein, Operator may terminate this Agreement, sell Subscriber's Allocated Percentage to one or more persons other than Subscriber, recover from Subscriber the actual, reasonable and verifiable damages related to lost Community Solar Garden subscription and REC revenues, and Operator may exercise any other remedy it may have at law and equity or under the Agreement. In the event of such termination, Operator shall use reasonable efforts to mitigate its damages.

12. ASSIGNMENT.

12.1 Assignment by Operator. Operator may not assign this Agreement or any interest therein, without the prior written consent of Subscriber, except as part of a Permitted Assignment as defined in Section 12.1(a). Operator shall provide Subscriber with such information concerning the proposed transferee (including any person or entity liable for the performance of the terms and conditions of this Agreement) as may be reasonably required to ascertain whether the conditions upon Subscriber's approval to such proposed assignment have been met.

(a) Permitted Assignment. Operator may, without the consent of Subscriber, (1) transfer, pledge or assign all or substantially all of its rights and obligations hereunder as security for any financing and/or sale-leaseback transaction or to an affiliated special purpose entity created for the financing or tax credit purposes related to System, (2) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets of Operator; provided, however, that any such assignee shall agree to be bound by the terms and conditions hereof, (3) assign this Agreement to one or more affiliates; provided, however, that any such assignee shall agree to be bound by the terms and conditions hereof or (4) assign its rights under this Agreement to a successor entity in a merger or acquisition transaction; provided, however, that any such assignee shall agree to be bound by the terms and conditions hereof. Subscriber agrees

to provide acknowledgments, consents or certifications reasonably requested by any Lender in conjunction with any financing of the System.

(b) In the event of a Permitted Assignment by Operator of its interest in this Agreement to a person who has assumed, in writing, all of Operator's obligations under this Agreement, Operator, without the necessity of any further document signed or actions taken by any party, shall be released from any and all further obligations hereunder, and Subscriber agrees to look solely to such successor-in-interest of the Operator for performance of such obligations.

Any Financing Party is an intended third-party beneficiary of this Section 12.1.

12.2 Assignment by Subscriber.

(a) Subscriber will not assign this Agreement or any interest herein, without the prior written consent of Operator; provided however that Operator shall not unreasonably withhold, condition or delay its consent; and provided, further, that Operator's consent shall not be required to the assignment by Subscriber to another governmental entity in the event the State of Colorado or the City as a home rule municipality reassigns responsibility to such other governmental entity for providing the services currently undertaken by Subscriber at the facilities associated with the Subscriber Meters, or to another governmental entity with comparable investment credit rating, and that otherwise meets the requirements of the Community Solar Garden program.

(b) Subscriber does not need Operator's consent to change the Subscriber Meters for the same amount of subscription as long as all the Subscriber Meters are owned by the Subscriber and meet the requirements of the Community Solar Garden program. For such changes, Subscriber will notify Operator in writing and Operator will inform PSCO of the change as soon as practicable.

(c) Subscriber's request for Operator's consent to any proposed change or assignment as contemplated in Section 12.2 (a) must be in writing and provided to Operator at least 30 days before the proposed effective date of such change or assignment, which request must include: (i) Subscriber's name and mailing address; (ii) the current Subscriber Meter(s); (iii) the assignee's meters; (iv) the name of the individual or entity to whom Subscriber is requesting to assign this Agreement (if applicable) and the consideration (if any) proposed to be provided to Subscriber for such assignment; and (v) the proposed effective date of such proposed change or assignment. In the case of any assignment of this Agreement in whole or in part to another individual or entity, (i) such assignee's meters shall be located within PSCO's service territory and within the same county as the Solar System or a contiguous county, (ii) such assignee shall execute a new Colorado Community Solar Program Subscription Agreement substantially in the same form as this Agreement, specifically including the representations and warranties in Section 8.2; and (iii) the value of any consideration to be provided to Subscriber for assignment of this Agreement may not exceed the aggregate amount of Bill Credits that have accrued to Subscriber, but have not yet been applied to Subscriber's monthly invoice(s) from PSCO.

(d) Upon any assignment of this Agreement by Subscriber pursuant to this Section 12.2, Subscriber will surrender all right, title and interest in and to this Agreement. Any purported assignment in contravention of this Section 12.2 shall be of no force and effect and null and void ab initio. No assignment will extend the Term of this Agreement.

13. NOTICES.

13.1 Notice Addresses. Unless otherwise provided in the Agreement, all notices and communications concerning the Agreement shall be in writing and addressed to the other Party (or Financing Party, as the case may be) at the addresses below, or at such other address as may be designated in writing to the other Party from time to time.

Subscriber:

City of Grand Junction
250 N. 5th Street
Grand Junction, CO 81501
Attn: City Manager

Operator:

Oak Leaf Solar XXXII LLC
2645 E. 2nd Avenue, Suite 206
Denver, CO 80206
Attn: Counsel
Email: contracts@oakleafep.com

With a copy to

Lender:

13.2 Notice. Unless otherwise provided herein, any notice provided for in the Agreement shall be hand delivered, sent by registered or certified U.S. Mail, postage prepaid, or by commercial overnight delivery service, or transmitted by email and shall be deemed delivered to the addressee or its office when received at the address for notice specified above when hand delivered, upon confirmation of sending when sent by email (if sent during normal business hours or the next Business Day if sent at any other time), on the Business Day after being sent when sent by overnight delivery service, or 5 Business Days after deposit in the mail when sent by U.S. mail.

13.3 Address for Invoices. All invoices under the Agreement shall be sent to the address provided by Subscriber. Invoices shall be sent by regular first class mail postage prepaid.

14. INDEMNIFICATION, LIABILITY AND INSURANCE

14.01 Indemnification. Operator shall defend, indemnify, and hold harmless Subscriber, its present and former council members, officials, officers, agents, volunteers and employees from

any liability, claims, causes of action, judgments, damages, losses, costs, or expenses, including reasonable attorney's fees, resulting from any act or omission of Operator, a subcontractor, anyone directly or indirectly employed by them, and/or anyone for whose acts and/or omissions they may be liable in the performance of the services required by this Agreement, and against all loss by reason of the failure of Operator to perform any obligation under this Agreement.

14.02 Insurance. With respect to the services provided pursuant to this Agreement, Operator shall at all times during the term of this Agreement and beyond such term when so required have and keep in force the following insurance coverages:

Limits

1. Commercial General Liability on an occurrence basis with contractual liability coverage:

General Liability

General Aggregate Limit	\$2,000,000
Products/Completed Operations Aggregate Limit	\$2,000,000
Advertising Injury and Personal Injury Aggregate Limit	\$1,000,000
Each Occurrence Limit	\$1,000,000
Damage to Premises Rented to You Limit	\$1,000,000

2. Workers' Compensation and Employer's Liability:

Workers' Compensation Statutory

If Operator is based outside the state of Colorado, coverage must comply with Colorado law.

Employer's Liability. Bodily injury by:

Accident—Each Accident	500,000
Disease—Policy Limit	500,000
Disease—Each Employee	500,000

An umbrella or excess policy over primary liability insurance coverages is an acceptable method to provide the required insurance limits.

The above establishes minimum insurance requirements. It is the sole responsibility of Operator to determine the need for and to procure additional insurance which may be needed in connection with this Agreement. Upon written request, Operator shall promptly submit copies of insurance policies to Subscriber.

Operator shall not commence work until it has obtained required insurance and filed with Subscriber a properly executed Certificate of Insurance establishing compliance. The certificate(s) must name Subscriber as the certificate holder and as an additional insured for the liability coverage(s) for all operations covered under the Agreement. Operator shall furnish to Subscriber updated certificates during the term of this Agreement as insurance policies expire.

14.03 Liability. Without Subscriber waiving any statutory immunities, each Party agrees that it will be responsible for its own acts and omissions and the results thereof, to the extent authorized by the law, and shall not be responsible for the acts and omissions of another Party and the results thereof. Subscriber warrants that it has an insurance or self-insurance program with minimum coverage consistent with the liability limits in Colorado Statutes. Subscriber may assert the Governmental Immunity Act pursuant to C.R.S. 24-10-101.

15. COMPLIANCE

15.01 The Operator must comply with all applicable federal, state, and local laws, rules, and regulations, including any ruling of the Colorado Public Utilities Commission (PUC).

16. DISCONTINUATION OF COMMUNITY SOLAR GARDEN PROGRAM.

Notwithstanding anything herein to the contrary, this Agreement shall terminate immediately, without notice, if PSCO terminates the Producer Agreement associated with the Community Solar Garden identified by the PSCO unique garden identified in Exhibit C. In addition, this Agreement shall terminate immediately if the Community Solar Garden program is limited or materially adversely changed prior to Operator executing a Producer Agreement with PSCO, so long as the Operator has used its best efforts to secure the Producer Agreement up to the point of program change.

17. MISCELLANEOUS.

17.1 Integration; Exhibits. This Agreement, together with the attached Exhibits, constitute the entire agreement and understanding between Operator and Subscriber with respect to the subject matter thereof and supersedes all prior agreements relating to the subject matter hereof. The Exhibits attached hereto are integral parts of the Agreement and are made a part of the Agreement by reference.

17.2 Amendments. This Agreement may only be amended, modified or supplemented by an instrument in writing executed by duly authorized representatives of Operator and Subscriber. To the extent any amendment changes Subscriber's Allocated Percentage, such amendment shall include the representation by Subscriber set forth in Section 8.2(c).

17.3 Cumulative Remedies. Except as set forth to the contrary herein, any right or remedy of Operator or Subscriber shall be cumulative and without prejudice to any other right or remedy, whether contained herein or not.

17.4 Limited Effect of Waiver. The failure of Operator or Subscriber to enforce any of the provisions of the Agreement, or the waiver thereof, shall not be construed as a general waiver

or relinquishment on its part of any such provision, in any other instance or of any other provision in any instance.

17.5 Survival. The obligations under Section 8.3 (Exclusion of Warranties), Section 9 (Taxes and Governmental Fees), Section 13 (Notices), Section 14 (Indemnification, Liability and Insurance), Section 17 (Miscellaneous), or pursuant to other provisions of this Agreement that, by their sense and context, are intended to survive termination of this Agreement, shall survive the expiration or termination of this Agreement for any reason.

17.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado without reference to any choice of law principles. The Parties agree that the courts of Colorado and the federal Courts sitting therein shall have jurisdiction over any action or proceeding arising under the Agreement to the fullest extent permitted by Applicable Law.

17.7 Severability. If any term, covenant or condition in the Agreement shall, to any extent, be invalid or unenforceable in any respect under Applicable Law, the remainder of the Agreement shall not be affected thereby, and each term, covenant or condition of the Agreement shall be valid and enforceable to the fullest extent permitted by Applicable Law and, if appropriate, such invalid or unenforceable provision shall be modified or replaced to give effect to the underlying intent of the Parties and to the intended economic benefits of the Parties.

17.8 Relation of the Parties. The relationship between Operator and Subscriber shall not be that of partners, agents, or joint ventures for one another, and nothing contained in the Agreement shall be deemed to constitute a partnership or agency agreement between them for any purposes, including federal income tax purposes. Operator and Subscriber, in performing any of their obligations hereunder, shall be independent contractors or independent parties and shall discharge their contractual obligations at their own risk.

17.9 Successors and Assigns. This Agreement and the rights and obligations under the Agreement are binding upon and shall inure to the benefit of Operator and Subscriber and their respective successors and permitted assigns.

17.10 Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument

17.12 No Reliance. Subscriber is not relying on any representation, warranty or promise with respect to the Solar*Rewards Community Solar Program or the Solar System made by or on behalf of PSCO or Operator, except to the extent specifically stated in this Agreement.

17.13 Record Keeping. Operator will maintain books, records, documents and other evidence directly pertinent to performance of the work under this Agreement in accordance with generally accepted accounting and utility metering principles and practices, including all meter production records and adjustments thereto. Operator will also maintain the financial information and data used in preparation or support of the cost submission for any negotiated Agreement amendment and provide electronic, printed or copied documentation to the Subscriber as requested. These books, records, documents, and data must be retained for at least 6 years after the term of the Agreement, except in the event of litigation or settlement of claims arising from

the performance of this Agreement, in which case the Operator agrees to maintain them until the Subscriber and any of its duly authorized representatives have disposed of the litigation or claims.

17.14 Audit. The records, books, documents, and accounting procedures and practices of the Operator and of any subcontractor relating to work performed pursuant to this Agreement shall be subject to audit and examination by the Subscriber. The Operator and any subcontractor shall permit the Subscriber or its designee to inspect, copy, and audit its accounts, records, and business documents at any time during regular business hours, as they may relate to the performance under this Agreement. Audits conducted by the Subscriber under this provision shall be in accordance with generally accepted auditing standards. Financial adjustments resulting from any audit by the Subscriber shall be paid in full within thirty (30) days of the Operator's receipt of audit.

18.15 Dispute Resolution. Disputes must be submitted in writing by the disputing party to the non-disputing party any dispute regarding the meaning and intent of this Agreement or arising from performance of this Agreement within 60 days after the dispute arises. The non-disputing party or his/her designee must respond to the disputing party in writing with a decision within 60 calendar days following receipt of the disputing party's dispute. Submission of a dispute to Dispute Resolution is a condition precedent to the disputing party initiating any litigation relating to this Agreement.

Pending final decision of a dispute, the Parties will proceed diligently with the performance of the Agreement. Failure by the disputing party to comply precisely with the time deadlines under this paragraph as to any claim shall operate as a release of that claim and a presumption of prejudice to the non-disputing party.

19. LENDER PROVISIONS

19.1 Lender Collateral Assignment. Subscriber hereby:

(a) Acknowledges and consents to the sale, assignment or conveyance or pledge or the collateral assignment by Operator to the Lender, of Operator's right, title and interest in, to and under this Agreement, as consented to under Section 12.1 of this Agreement;

(b) Acknowledges that any Lender as such collateral assignee shall be entitled to exercise any and all rights of lenders generally with respect to Operator's interests in this Agreement;

(c) Acknowledges that it has been advised that Operator has granted a security interest in the System to the Lender and that the Lender has relied upon the characterization of the System as personal property, as agreed in this Agreement, in accepting such security interest as collateral for its financing of the System; and

(d) Acknowledges that any Lender shall be an intended third-party beneficiary of this Section 19.1.

19.2 Lender Cure Rights Upon System Owner Default. Upon any Event of Default by Operator, a copy of any notice delivered under Article 11 shall be delivered concurrently by Subscriber to any Lender at the addresses provided in writing by Operator to Subscriber. Following receipt by any Lender of any notice that Operator is in default in its obligations under this Agreement, such Lender shall have the right but not the obligation to cure any such default, and Subscriber agrees to accept any cure tendered by the Lenders on behalf of Operator in accordance with the following: (a) a Lender shall have the same period after receipt of a notice of default to remedy an Event of Default by Operator, or cause the same to be remedied, as is given to Operator after Operator's receipt of a notice of default hereunder; provided, however, that any such cure periods shall be extended for the time reasonably required by the Lender to complete such cure, including the time required for the Lender to obtain possession of the System (including possession by a receiver), institute foreclosure proceedings or otherwise perfect its right to effect such cure, but in no event longer than 180 days; and (b) the Lender shall not be required to cure those Events of Default that are not reasonably susceptible of being cured or performed by Lender. The Lender shall have the absolute right to substitute itself or an Affiliate for Operator and perform the duties of Operator hereunder for purposes of curing such Event of Default. Subscriber expressly consents to such substitution, and authorizes the Lender, its affiliates (or either of their employees, agents, representatives or contractors) to enter upon the Premises to complete such performance with all of the rights and privileges of Operator, but subject to the terms and conditions of this Agreement .

19.3 Upon any rejection or other termination of this Agreement pursuant to any process undertaken with respect to Operator under the United States Bankruptcy Code, at the request of the Lender made within ninety (90) days of such termination or rejection, Subscriber shall enter into a new agreement with the Lender or its assignee having the same terms and conditions as this Agreement.

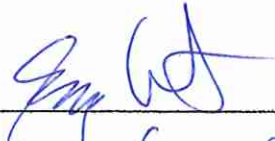
19.4 Except as otherwise set forth in this Article 19, the Parties' respective obligations will remain in effect during any cure period.

19.5 If the Lender (including any purchaser or transferee), pursuant to an exercise of remedies by the Lender, shall acquire title to or control of Operator's assets and shall, within the time periods described in Section 19.3 above, cure all defaults under this Agreement existing as of the date of such change in title or control in the manner required by this Agreement and which are capable of cure by a third person or entity, then such person or entity shall no longer be in default under this Agreement and this Agreement shall continue in full force and effect.

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IN WITNESS WHEREOF, the Parties have caused this Contract to be executed by their duly authorized officers on the dates below:

SUBSCRIBER: CITY OF GRAND JUNCTION, COLORADO, a municipal corporation, acting by and through its City Council.

By: 
Printed Name: Greg Caton
Title: City Manager
Date: 4/9/2018

ATTEST:

City Clerk

Operator:

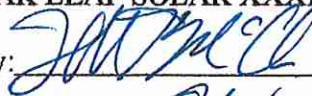
OAK LEAF SOLAR XXXI LLC
By: 
Printed Name: Michael McCabe
Title: President
Date: April 9, 2018

Exhibit A

[Insert form of Subscriber Agency Agreement and Consent Form as required by Producer Agreement]

Exhibit B – Reserved

Exhibit C Description of Premises and System

Solar System Location: _Garfield County or adjacent county

Solar System Size: Up to 2000 kW (DC) (representing an initial estimate, which may vary depending on the final design of the System)

Subscriber's Allocated Percentage: Allocated Percentage: 3.5%

Anticipated Commercial Operation Date: [To be inserted once PSCO completes its interconnection study.]

PSCO Unique Garden Identifier: SRC053975

Exhibit D Estimated Annual Energy.

Estimated Annual Delivered Energy commencing on the Commercial Operation Date, and continuing through the Term, with respect to System under the Agreement shall be based on the kWh Rate described in Section 6.1. Estimated production (which will be updated upon final completion) and allocation to Subscriber is listed below:

Year	Total Garden Output (kWh)	Subscriber Percentage (%)	Estimated Annual Delivered Energy (kWh)
1	3,960,249	3.50%	138,609
2	3,940,448	3.50%	137,916
3	3,920,746	3.50%	137,226
4	3,901,142	3.50%	136,540
5	3,881,636	3.50%	135,857
6	3,862,228	3.50%	135,178
7	3,842,917	3.50%	134,502
8	3,823,702	3.50%	133,830
9	3,804,584	3.50%	133,160
10	3,785,561	3.50%	132,495
11	3,766,633	3.50%	131,832
12	3,747,800	3.50%	131,173
13	3,729,061	3.50%	130,517
14	3,710,416	3.50%	129,865
15	3,691,864	3.50%	129,215
16	3,673,404	3.50%	128,569
17	3,655,037	3.50%	127,926
18	3,636,762	3.50%	127,287
19	3,618,578	3.50%	126,650
20	3,600,485	3.50%	126,017
Total	75,553,256		2,644,364

* For the purposes of the table Term year 1 begins on the Commercial Operation Date

The values in the table above are estimates of (i) the kWhs of Delivered Energy expected to be generated annually by the System and (ii) the portion of the Estimated Annual Delivered Energy that is to be allocated to Subscriber pursuant to Subscriber's Allocated Percentage, which amount is derived by multiplying the estimated Delivered Energy by the Subscriber's Allocated Percentage in each year. The table will be updated upon final design of the System; provided, however, any such updated values are also estimates.

Estimated Delivered Energy may be reduced if the system size is reduced due to square footage limitations on the leased land.

Operators used the following methodology to develop the above production projections: National Renewable Energy Laboratory's PVWatts and SAM software tools.

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Exhibit E - Reserved

Exhibit F Commercial Operation Date Notification

[To be added when the Commercial Operation Date is Finalized]

Exhibit G Producer Agreement between Operator and PSCO

To be inserted prior to Commercial Operation Date

Exhibit H – Reserved

Exhibit I – Subscriber Meters

Subscriber will provide Operator with the Subscriber Meters and the relevant detail below prior to Construction Commencement.

Account address	Account number	Premise number	Tariff	Percentage of Subscription
555 Ute Ave	0698912	304254294	SG	100%