



DEPARTMENT OF AVIATION

AGREEMENT FOR GROUND LEASE

**REDWOOD COAST ENERGY AUTHORITY
(RCEA)**

**CALIFORNIA REDWOOD COAST-HUMBOLDT COUNTY
AIRPORT (ACV)**

**AGREEMENT FOR GROUND LEASE
CALIFORNIA REDWOOD COAST-HUMBOLDT COUNTY AIRPORT**

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AGREEMENT FOR GROUND LEASE CALIFORNIA REDWOOD COAST HUMBOLDT COUNTY AIRPORT

PREAMBLE

THIS AGREEMENT FOR GROUND LEASE ("Agreement") is made and entered into this _____ day of _____, 2020, by and between the County of Humboldt, ("County") a political subdivision of the State of California and the Redwood Coast Energy Authority ("RCEA" and "Lessee"), a local government Joint Powers Authority, whose members include the County of Humboldt; the Cities of Arcata, Blue Lake, Eureka, Ferndale, Fortuna, Rio Dell, and Trinidad; and the Humboldt Bay Municipal Water District. County and Lessee are referred to herein each individually as a "Party" and collectively as the "Parties".

WHEREAS, RCEA acts as the default regional electricity generation service provider through a community choice aggregation ("CCA") program that currently serves over 60,000 customers in Humboldt County (approximately 93% of the eligible electric customers living in the unincorporated and incorporated parts of Humboldt County), and has as its core CCA program goal maximizing the use of local renewable energy resources while providing competitive rates to customers; and

WHEREAS, as a member of the RCEA, the County serves in a leadership capacity on the RCEA Board of Directors, and both its residents as well as the County are direct beneficiaries of the RCEA CCA program and other RCEA renewable energy programs; and

WHEREAS, County as owner thereof operates and maintains the California Redwood Coast-Humboldt County Airport, ("Airport") located in Humboldt County, California, and has the right to lease portions of such Airport, subject to the terms and conditions hereinafter set forth; and

WHEREAS, County desires to reduce its Airport operating costs, promote Airport operations reliability and resiliency, and support the use of local green energy resources, by entering into an agreement with RCEA to partner in the designing, constructing and operating of a solar-based system that will provide local, renewably generated electrical power for extended periods without the need for operation of the larger electrical grid and without the need for fuel deliveries ("Microgrid"), to be located on County property at the Airport and thus ensuring the Airport can operate during emergencies; and

WHEREAS, Humboldt State University Sponsored Programs Foundation/Schatz Energy Research Center (HSUSPF/SERC) is the prime recipient of a \$5 million grant from the California Energy Commission (CEC) to develop a renewable energy Microgrid at the Airport, and has demonstrated experience and expertise in developing other Microgrid projects; and

WHEREAS, RCEA is a sub-recipient to said CEC grant awarded to HSUSPF/SERC, and has incurred debt in the amount of \$6 million through a loan from the United States Department of

Agriculture's Rural Utilities Service to provide cost share toward the Microgrid project at the Airport; and

WHEREAS, the County, RCEA, and HSUSPF/SERC entered into a Memorandum of Understanding (MOU) on March 19, 2019 setting forth the terms and understanding between the Parties to design, construct and operate the Microgrid project, attached hereto as Exhibit E; and

WHEREAS, this Agreement is to specify the obligations of the County and RCEA as the County's tenant of the real property located at the Airport on which the Microgrid will be constructed consistent with to the intent of the MOU.

NOW, THEREFORE, in consideration of the promises, terms, conditions, and covenants set forth herein, County and RCEA hereby mutually agree as follows:

Article 1

Definitions

As used herein, the following words and phrases shall have the meanings set forth below:

1.01 Airport

"Airport" shall mean the California Redwood Coast-Humboldt County Airport (ACV) operated by the County as a public airport.

1.02 Aviation Director

"Aviation Director" shall mean the Director of Aviation of the Humboldt County Department of Aviation, or his/her designee.

1.03 Commercial Operation Date

"Commercial Operation Date" means the date when (i) a certificate of substantial completion (or equivalent certificate) issued by the contractor constructing the Facility has been accepted by Lessee, and (ii) delivery of commercial energy (as opposed to energy produced for Facility testing purposes) is delivered through the Facility's meter and to the Airport's electrical system.

1.04 Completion Date

"Completion Date" shall mean the date construction is complete as described in Section 2.03 J.

1.05 Construction Timeline

"Construction Timeline" means the timeline for completing the Project, attached hereto as Exhibit A.

1.06 County Airport System

"County Airport System" shall mean California Redwood Coast-Humboldt County Airport (ACV), Murray Field Airport (EKA), Rohnerville Airport (FOT), Garberville Airport (O16), Kneeland Airport (O19), Dinsmore Airport (D63) and any other aviation facility as may be from time to time owned or operated by County and designated by the County to be part of the Airport System.

1.07 DOT

"DOT" shall mean the United States Department of Transportation, and any federal agency succeeding to its jurisdiction.

1.08 FAA

"FAA" shall mean the Federal Aviation Administration of the United States government, and any federal agency succeeding to its jurisdiction.

1.09 Facility

"Facility" means the 2.5 megawatt Microgrid consisting of a photovoltaic (PV) power generation system (including solar panels, energy storage equipment, mounting substrates or supports, wiring and connections, power inverters, service equipment and associated structures including fencing necessary to secure Facility, metering equipment, service roads, utility interconnections and any and all related equipment), and constructed on the Leased Premises, as more particularly described in the Project Site Plan, attached hereto and incorporated herein as Exhibit B.

1.10 Force Majeure Event

"Force Majeure Event" means any act, event, cause or condition that is beyond the reasonable control of the Party hereto which is affected thereby, that is not caused by such Party's fault or negligence, and that by the exercise of reasonable diligence such Party is unable to overcome or prevent, including, but not limited to: acts of God, war, civil commotion, embargoes, strikes, labor dispute, boycott, epidemic, embargo, act of a public enemy, fires, cyclones, droughts or floods, earthquakes, tsunami, emergencies (other than those caused by the negligence or willful misconduct of the Party claiming the Force Majeure Event). Common and ordinary weather events that limits the amount of sunlight available to the Microgrid such as cloudy and overcast skies are excluded from this definition.

1.11 Leased Premises

"Leased Premises" shall mean that certain portion of the Airport more particularly described in Section 2.02 and depicted in Exhibit C, attached hereto and incorporated by this reference.

1.12 Lease Year

"Lease Year" shall mean a period of twelve (12) consecutive months beginning on the first day of the month following the Commencement Date, as defined in Section 2.01 of this Agreement.

1.13 Leasehold Improvements

"Leasehold Improvements" shall include the Microgrid Facility and any modifications to, or additions on, the Leased Premises and all structures, fixtures and equipment affixed thereto in such a manner that they cannot be readily removed without damage to the remainder of the improvements and without substantially changing the character of the improvements.

1.14 Microgrid

"Microgrid" shall mean two co-located solar photovoltaic (PV) arrays totaling 2.5 MW, a lithium-ion battery energy storage system, and associated electrical conductors and equipment that supply the centralized power grid or operate autonomously in non-connected ("islanded") mode.

1.15 MOU

"MOU" means that Memorandum of Understanding entered into among the County of Humboldt, Redwood Coast Energy Authority and the Humboldt State University Sponsored Programs Foundation / Schatz Energy Research Center on March 19, 2019, setting forth the terms and understanding between the County, RCEA and HSUSP/SERC concerning the development, design, installation, operation and decommissioning of the Microgrid Facility at the Airport, and attached hereto as Exhibit E.

1.16 Project

"Project" means any improvements to the Leased Premises, including but not limited to the construction of the Leasehold Improvements as detailed herein.

1.17 RCEA Director

"RCEA Director" shall mean the Executive Director of the Redwood Coast Energy Authority.

1.18 Risk Manager

"Risk Manager" shall mean the Risk and Loss Control Division Manager of the County of Humboldt and authorized representatives.

1.19 Sign

"Sign" shall mean any advertising sign, billboard, identification sign or symbol, or other similar device, regardless of content.

1.20 State

"State" shall mean the State of California, U.S.A.

1.21 TSA

"TSA" shall mean the Transportation Security Administration, and any federal agency succeeding to its jurisdiction.

Article 2

Special Conditions

2.01 Term

A. Commencement Date

The Commencement Date shall mean the date this Agreement is fully executed as described in Section 3.57.

B. Duration of Term

The Term of this Agreement shall be twenty-five (25) years after the Commercial Operation Date, unless terminated earlier pursuant to this Agreement. Whenever the word "Term" is used hereafter in this Agreement it shall mean the Term as set forth in this Section.

2.02 Description of Leased Premises

The County hereby leases to Lessee the Leased Premises as depicted in Exhibit C. Lessee shall have exclusive ingress and egress rights, except as specifically set forth herein, as well as the right to connect to utilities necessary and reasonable to access or serve the Leased Premises using only the access routes depicted in Exhibit B, which access routes and interconnection pathways, for the avoidance of doubt, are included within the Leased Premises.

Upon completion of Lessee's Leasehold Improvements, an updated legal description of the Leased Premises will be developed by Lessee if necessary and attached to this Agreement.

2.03 Project

A. Description

The Project proposes to construct a 2.5 megawatt (MW) Microgrid Facility on the Leased Premises, to include photovoltaic (PV) solar arrays, a lithium-ion battery energy storage system, and associated controls and equipment. RCEA will purchase, install, own, and operate the Microgrid Facility. The total estimated cost of the installed hardware for the system is approximately \$9.2 million, with RCEA to fund approximately \$6 million of these costs, and the remainder funded by a grant from the California Energy Commission.

The system will provide approximately 1.8 MW of solar electricity for RCEA's wholesale market participation. Additionally, an approximately 320 kilowatt (kW) PV system will directly serve County electrical loads through aggregated net metered service. The loads to be served by the County's net metering system include the main Airport terminal and other select Airport electric accounts. The Microgrid Facility will be capable of powering the Airport, U.S. Coast Guard Sector Humboldt Bay Air Station, and other facilities during widespread, extended power outage in the region.

The solar arrays will be mounted on a racking system attached to steel piles driven into the ground. The ground beneath the solar array will remain permeable and covered with managed vegetation. Older Monterey pine and various species of trees along Airport Road will be removed. Construction activities include grading, pile-driving, shallow trenching, concrete pouring, and placement of one new utility pole. Ongoing maintenance activities include periodically washing the solar panels and managing vegetation within the Leased Premises.

As part of the estimated \$9.2 million total system cost, RCEA will install four electric vehicle (EV) charging stations in the short term parking lot near the Airport terminal. Said EV charging stations will be installed at a location not on the Leased Premises and are outside the scope of the Project controlled by this Lease. RCEA will purchase, install, own, and operate the EV charging stations pursuant to a separate memorandum of understanding to be entered into between the Parties.

B. County Collaboration

The County shall assign a Department of Aviation project manager to coordinate with Lessee on all aspects of the Project, including coordination of plan submittals to all County and other agencies necessary for Project approval. As used in this Section 2.03, the term "County" shall refer to such project manager.

As set out in the MOU, Exhibit E, County coordination shall include continuing to serve as primary point of contact for all communication with FAA to obtain project approval from the FAA, and to negotiate on behalf of Parties regarding FAA regulatory requirements, mandates, emergencies, and other matters that directly or indirectly impact the installation, operation, and maintenance of the Microgrid and other Leasehold Improvements.

In order to have power generated by the 320 kW PV Airport dedicated system credited directly to Airport electric accounts, the County shall enter into an Interconnection Agreement and a Special Facilities Agreement with Pacific Gas & Electric Company (PG&E) to interconnect the 320 kW PV Airport dedicated system into PG&E's distribution grid. Lessee shall assume all rights, responsibilities and obligations under said Interconnection and Special Facilities Agreements.

Lessee hereby warrants that County may use all plans and specifications submitted by Lessee or any other person, for purposes relevant to and consistent with this Agreement.

C. Final Plans

Final plans and specifications setting forth in all necessary detail the requirements for construction of the Project shall be submitted to County's Planning and Building Department for approval. Three (3) copies of said Final plans and specifications shall be submitted to the County of Humboldt-Department of Aviation at the time of their submittal to the Planning and Building Department.

D. Approval of Plans

Lessee has full responsibility for obtaining all required federal, State and local approvals and permits. The County of Humboldt-Department of Aviation shall be the sole point of contact with the Federal Aviation Administration (FAA) regarding this project. County will use best practices to cooperate fully and promptly with Lessee in such efforts.

E. Environmental Review and Approval

County as lead agency under the California Environmental Quality Act (Public Resources Code §§ 21000 – 211278 (CEQA)) adopted an Initial Study and Mitigated Negative Declaration for the Project on May 8, 2018. County shall, prior to the installation of the Project and as a condition of this Agreement, prepare an Environmental Assessment as required by the FAA for compliance with the National Environmental Policy Act),

F. Authorization to Proceed

The County hereby authorizes RCEA to proceed with the Project after all of the following requirements have been satisfied:

- (1) FAA's approval of those portions of the County's revised Airport Layout Plan that is relevant to the Project. RCEA shall have the right to terminate this Agreement if FAA has not approved the revised Airport Layout Plan relevant to the Project within nine (9) months of the County's submittal of said Airport Layout Plan; and
- (2) The County has filed a Notice of Proposed Construction or Alteration with the FAA as required by 14 Code of Federal Regulations, part 77 pursuant to 49 U.S.C., Section 44718; and
- (3) RCEA has delivered to the Aviation Director and Risk Manager for approval, and the Aviation Director and Risk Manager have approved, certificates of insurance and required endorsements for coverage evidencing RCEA's and RCEA's construction contractor's insurance coverage to be in compliance with the applicable insurance provisions detailed herein; and
- (4) RCEA shall submit to the Aviation Director a copy of the building permits issued to Lessee by the Humboldt County Building Inspection Division; and
- (5) RCEA shall notify the Aviation Director of Lessee's intention to commence construction of the Project at least forty-eight (48) hours before commencement of such work or delivery of any material to be used in such work at the Leased Premises; and
- (6) No less than fifteen (15) days prior to beginning construction on the Project, RCEA's construction contractor has duly executed a Payment Bond conforming to the requirements of Section 9554 of the California Civil Code, with a surety authorized to do so in the State of California, in an amount equal to Lessee's contract for construction of the Project. Lessee shall provide County with a true copy of such executed bond, upon request by the Aviation Director; and
- (7) No less than fifteen (15) days prior to beginning construction on the Project, RCEA's construction contractor has duly executed a performance bond, in a sum not less than one hundred percent (100%) of the final construction cost, to guarantee the faithful performance of all covenants and stipulations of the Agreement during the design and construction phases of the Agreement Lessee shall provide County with a true copy of such executed bond, upon request by the Aviation Director; and

G. Modification of Final Plans

RCEA shall notify the County of any modifications to the Project plans including environmental mitigation measures, modifications imposed by County of Humboldt Department of Planning and Building, or construction change orders prior to construction.

H. Project Construction

RCEA shall cause the Project to be constructed and installed in accordance with this Agreement and all applicable laws, regulations, and permit requirements, including those of the County. If any portion of the underlying required documentation for the Project is non-compliant in any way, RCEA, at its sole expense, shall modify the Project plans and specifications until compliance is achieved. County shall have the right to inspect the construction and installation of the Project for compliance with the approved Project plans and specifications and RCEA, at RCEA's sole expense, shall modify any construction or installation found by County not to be in accordance with the approved Project plans and specifications.

Any review or approval by the Aviation Director of RCEA's plans and specifications and construction schedule, or any inspection by County of the Project work or materials, shall not be deemed to constitute a waiver or release by County of any obligation or responsibility of RCEA under this Agreement, or assumption of any risk or liability by County with respect thereto, and RCEA shall make no claim against County on account of such review, approval, or inspection. County reviews, approvals and inspections shall not constitute assumption by County of any responsibility for the adequacy of the design or the construction. Such responsibility shall remain totally with RCEA and RCEA's architects, engineers and contractors.

RCEA shall cause the Project and any other repair, alteration or improvement authorized herein to be constructed only by a contractor licensed for such work by the State of California. Lessee shall be solely responsible for payment to such contractor for all elements of such construction.

If RCEA desires non-electric utility service connections at the Leased Premises, RCEA shall be responsible for providing any necessary materials to connect with such non-electric utilities at a location designated by County or at a location that will not interfere with other tenants of the Airport.

I. Damages Caused During Construction

In the event that RCEA caused an unplanned disruption with Airport operations during construction including but not limited to unreasonable extension or complete termination of electrical services, RCEA agrees to and shall pay liquidated damages in the amount of \$10,000 per day because the actual damages incurred by the County and the tenants of the Airport are difficult to determine.

J. Construction Timeline

The Completion Date of the Project shall occur on or before the date set forth in Exhibit A. The RCEA Director and/or HSUSPF/SERC may update the construction timeline and completion date as may be necessary.

K. Notice of Completion

Within ten (10) days of completion of Project construction, Lessee shall submit a Notice of Completion to County (Notice of Completion). Within ten (10) days of receipt of Notice of Completion, County may schedule an inspection of the Project and Leasehold Improvements to be accompanied by Lessee for purposes of confirming compliance with the final plans and any subsequent modifications to the final plans. Such inspection may be scheduled at the same time Lessee schedules a final inspection in accordance with any requirements imposed by the County of Humboldt Department of Planning and Building.

L. As-Constructed/Record Drawings

Within sixty (60) days after filing the Notice of Completion, Lessee shall furnish to County one set of original, reproducible record drawings showing the "as-constructed" improvements, and one set of first-generation plain bond photo copy. Record Drawings shall be dated and stamped by the engineer or architect of record. A complete set of electronic CAD drawings, reflecting the same information as the record drawings shall be delivered to County at the same time. Delivery of electronic CAD drawings shall be on compact disc (CD) along with necessary printing or plotting information to allow County to reproduce drawings as originally designed.

M. Removal of Unapproved Improvements; Permitted Alterations

Improvements made on the Leased Premises without the approval of final plans as outlined herein for said improvements are hereby determined to be unapproved improvements constructed or installed in violation of the conditions, restrictions and requirements of this Agreement. Unapproved improvements shall, at the option of the Aviation Director, be immediately removed at Lessee's

sole expense. Portions of improvements that are not constructed as indicated and specified on approved plans are also hereby determined to be unapproved improvements and shall be immediately removed or corrected at Lessee's sole expense.

Notwithstanding any contrary provision in this Section, however, Lessee may, without the necessity of obtaining the County's approval, but must still procure the necessary permits, make the following alterations and improvements to the Leased Premises: (i) alterations not visible from outside the Leased Premises that do not affect the structural integrity of the Facility; and (ii) repairs, maintenance, and replacements which, by the terms of Section 2.10, are required to be made by Lessee, or which are otherwise reasonably necessary to operate and/or maintain the Leased Premises in good condition and repair.

N. Decommission

- (1) County shall have no financial responsibility for the removal and/or modification of the Microgrid including above ground infrastructure and buried conduits and wires after the 25-year operating life has elapsed or upon earlier termination pursuant to Section 3.15, 3.16, or 3.17. The disturbed ground surface will be restored to match adjacent surfaces. A Final Decommissioning and Restoration Plan will be completed by Lessee and approved for permitting no later than one year prior to decommissioning.
- (2) Lessee shall be financially responsible for decommissioning the Microgrid Facility and restoration of the Leased Premises at the termination of this Agreement consistent with the Initial or Final Decommissioning and Restoration Plan. The obligations of Lessee under this Section shall survive the termination of this Agreement.
- (3) RCEA agrees that at the time of Commercial Operation it will reserve funds in a designated account in the amount of One Hundred Ninety-Six Thousand Dollars (\$196,000) and agrees to contribute 2.5 percent of the current reserve fund total per year for the duration of this Agreement for a total of Three Hundred Sixty-Three Thousand Three Hundred Seventy Three Dollars (\$363,373) at the end of this Agreement ("Reserve Account"). Said amount represents RCEA's best estimate made at the time of Project construction of the cost of decommissioning the Microgrid. The Reserve Account shall be dedicated to completing the Microgrid decommissioning.

It is the intent of this Section that the Reserve Account along with the salvage value of installed improvements will provide sufficient financial assurances for the County with respect to the decommissioning of the Microgrid and restoration of the Leased Premises. Lessee, its

successors or assigns shall properly decommission the Microgrid and restore the Leased Premises to the agreed restoration condition described in the Final Decommissioning and Restoration Plan within twelve (12) months following (1) the termination of this Agreement; (2) the termination or expiration of any permit; or (3) the abandonment of the Microgrid for whatever reason.

2.04 Use of the Leased Premises

A. Authorized Use(s)

Subject to the limitations set forth in Section 2.04 B, and elsewhere in this Agreement, Lessee may use the Leased Premises for any or all of the following purposes, but for no other purposes:

- (1) County authorizes Lessee to use the Leased Premises in support of Lessee's Project, including the development, construction, installation, operation, maintenance, repair, replacement, management, and/or removal of the Microgrid Facility, and any ancillary or incidental uses pursuant to this Agreement. Any expansion, improvements, or alterations shall be pursuant to Section 2.10.
- (2) Lessee, its employees, agents, sub-contractors, guests, invitees, trainees, suppliers of materials, furnishers of services and any authorized representatives shall have rights of ingress and egress with respect to the Leased Premises.
- (3) Lessee's use of the Leased Premises shall at all times be in accordance with and comply with all applicable federal, State, and local laws, regulations, and ordinances.

B. Limitations

Lessee shall use the Leased Premises in accordance with the following limitations and all other applicable terms, promises, conditions, and covenants contained herein. Lessee shall not:

- (1) In any way obstruct or interfere with the rights or injure, or annoy others at the Airport;
- (2) Use or allow the Airport to be used for any improper, or unlawful purpose;
- (3) Obstruct the sidewalks, roadways or passageways adjacent to the Leased Premises or elsewhere on the Airport unless approved in advance, in writing, by the Aviation Director;

- (4) Use retardants of any kind, other than fire retardants except commercially available retardants for weed control, at any time, for any reason, anywhere on the landscape or ground area;
- (5) Solicit or distribute materials on the Airport in any manner;
- (6) Store pallets on the loading docks or paved driveways unless approved in writing, in advance, by the Aviation Director;
- (7) Allow the paved driveways or ground area to be used for storing vehicles not associated with Lessee's authorized use.

2.05 Consideration

The Consideration for Lessee's use of the Leased Premises is the provision of solar electricity to the Airport main terminal and other select Airport electric accounts, the County's reduced operating costs associated with the County's consumption of electricity at Airport, and the installation and energizing of four electric vehicle charging stations near the Airport terminal. As additional Consideration, RCEA's use of the Leased Premises to install, own and operate the Microgrid Facility adds operational resiliency and reliability to the Airport, and demonstrates a commitment to sustainable development. The monetary value of electric energy to be provided to the County through electric energy cost savings realized by the Project as well as the additional benefits accruing to the County, is estimated and set forth in Exhibit D.

2.06 Airport Response Charges

RCEA shall pay to the County, within thirty (30) days of receipt of invoice, charges for services and/or response provided by Airport staff including Airport Maintenance and Airport Rescue and Fire Fighting (ARFF)/Airport Police to a fire, explosion, or other immediate catastrophe pertaining to the Microgrid Facility. RCEA will be charged for actual cost, material, equipment, contractor invoices plus 10% for Airport administration and overhead charges if Airport services or response is needed.

2.07 Liquidated Damages from Short Fall of Electric Power Delivery

As set forth in Exhibit D, if the PV array produces less than 350,000 kWh in any given year regardless of the cause except for a Force Majeure Event as stated in Section 3.20, RCEA will reimburse the County for the value of the lost energy and actual administrative costs. The parties acknowledge that additional clerical, accounting and other work will be performed which would not otherwise be needed absent the electric power shortfall. In addition, because the actual costs incurred by the County as a result of an electric power shortfall are difficult to identify, the parties hereby agree that said reimbursement for the value of lost energy shall be as and for liquidated damages.

2.08 Utilities

- A. RCEA at Lessee's sole cost and expense, shall bring to Leased Premises all utilities necessary for the operation of the Microgrid at the Airport. County shall collaborate with RCEA to establish a new water service in RCEA's name to provide water to the Leased Premises site for panel washing, site management, or similar Microgrid operation and maintenance activities, if HSUSPF/SERC determines that the project budget supports the estimated construction cost of a new water service.
- B. County shall provide necessary documents to authorize Lessee to submit the necessary interconnection applications to Pacific Gas & Electric (PG&E) for interconnecting the generation resources.
- C. County shall collaborate with RCEA and HSUSPF/SERC to set up the aggregated net energy metering account that will allow the County to benefit from the 320 kW solar array to be owned and operated by RCEA on the County's behalf.

2.09 Maintenance of the Leased Premises

Lessee shall, at its sole cost and expense, maintain the Leased Premises in accordance with all applicable laws and regulations, whether now or hereafter enacted, and the terms of this Agreement, including, but not limited to the following:

- A. The Leased Premises shall at all times be kept in a clean, safe, and orderly condition and appearance, including all fixtures, equipment and personal property of Lessee thereon;
- B. Lessee shall be solely responsible for provision of all landscaping, pest control, and janitorial and cleaning services at the Leased Premises;
- C. Lessee shall take good care of the Leased Premises and improvements constructed by Lessee thereon, including but not limited to, all commercially reasonable preventive maintenance and all repairs, replacements, rebuilding and painting necessary to keep such premises in the condition existing at the time of completion of construction of the Project, and shall keep any improvements, additions, and fixtures thereafter made or installed by Lessee during the Term hereof in the condition they were in when made or installed, excepting reasonable wear not adversely affecting the structural integrity, or the efficient and proper utilization, or appearance of such premises;
- D. Lessee is responsible for any costs associated with maintaining the Leased Premises in compliance with local, State, and federal laws, rules and regulations applicable to the current use of the Leased Premises at any given time during the term of this Agreement.

- E. In addition to County's right to enter pursuant to Sections 3.22 F and 3.46, Lessee acknowledges and accepts County's right and intent to conduct periodic, but not less frequently than annual, Maintenance Compliance Surveys (Surveys) on the Leased Premises. Surveys shall be scheduled at a mutually convenient time for County and Lessee, following written notice by County of its intent to conduct a Survey, provided, however that such Surveys shall not unreasonably interfere with the operation of Lessee's operation of the Leased Premises. Surveys will focus on, but not be limited to, the condition of all Leasehold Improvements for proper maintenance, building code compliance and compliance with laws. Lessee agrees to cooperate with County, or its authorized representative, during the Survey process and provide access to all areas of the Leased Premises, both interior and exterior. In the event County, or its authorized agent, is not able to access all areas of the Leased Premises during the time of the scheduled Survey, Lessee will reschedule a mutually convenient time for a follow up survey to allow access to areas inaccessible during the initial Survey appointment, and Lessee agrees to compensate County for the personnel cost of the follow up Survey for each hour of such follow up Survey. Refusal by Lessee to provide access to all areas of the Leased Premises upon reasonable notice by County shall be considered a material breach of this Agreement and grounds for termination.
- F. County shall not be required to notify Lessee to perform any of Lessee's maintenance responsibilities hereunder. However, if County gives such notice, and Lessee fails to commence and, thereafter, diligently prosecute completion of the maintenance which is called for by such notice within ten (10) days following receipt thereof, County may, at its option, itself perform, or cause to be performed, such work at Lessee's sole cost and expense. In such event, Lessee shall, upon demand, reimburse County for all costs and expense of any kind or character incurred by County in connection therewith. Such option shall be in addition to any exercise thereof and shall not be deemed to create or imply any obligation or duty whatsoever to County or to any other person.

2.10 Expansion, Improvements or Alterations

Except as provided in Section 2.03 of this Agreement, no expansion, improvements or alterations of any kind, shall be erected, placed, assembled, constructed, or permitted on the Leased Premises without a prior written submittal of the proposed project to the Aviation Director. Upon review of the proposal, the Aviation Director will provide Lessee a written response and direction for the proposed project. The Aviation Director will not unreasonably withhold delay or condition its approval to any improvements or alterations reasonably requested by Lessee.

Lessee shall pay for all contractor services and all materials for any approved alteration of, or improvement to, the Leased Premises, and shall permit no lien or claim to be filed or prosecuted against County on account of such labor and materials furnished.

2.11 Insurance

- A. The respective insurance requirements for Lessee and County are set forth below, and shall be maintained throughout the term of this Agreement. The liability of each Party under this Agreement to the other Party shall not be diminished by the insurance or self-insurance limitations set forth below. All insurance policies required by this Section may not be cancelled or terminated without thirty days prior written notice to the other Party. All property and casualty insurance procured in accordance with this Section shall contain waivers of subrogation in favor of the Parties hereto.
- B. Without limiting County's indemnification provided for herein, LESSEE shall and shall require any of its subcontractors to take out and maintain, throughout the period of this Lease and any extended term thereof, the following policies of insurance placed with insurers authorized to do business in California and with a current A.M. Bests rating of no less than A:VII or its equivalent against injury/death to persons or damage to property which may arise from or in connection with the activities hereunder of LESSEE, its agents, officers, directors, employees, licensees, invitees, assignees or subcontractors.
- C. Lessee will maintain:
- (1) Workers' Compensation Insurance, as required by the Labor Code of the State of California, with statutory limits, and Employers Liability Insurance with a limit of no less than One Million Dollars (\$1,000,000.00) per accident for bodily injury or disease. Said policy shall contain, or be endorsed to contain, a waiver of subrogation against County, its agents, officers, officials, employees and volunteers;
 - (2) Comprehensive or Commercial General Liability insurance against liability for injury to or death of any Person or damage to property in connection with the use, operation or condition of the Leased Premises of not less than two million dollars (\$2,000,000) combined single limit per occurrence and four million dollars (\$4,000,000) annual aggregate. County shall be named as an additional insured under this liability insurance and the policy.
 - (3) Property Insurance. LESSEE is responsible for providing "All-Risk" Property Insurance for the contents of the property at this location.

Lessee may satisfy the insurance requirements contained in this Agreement through any combination of primary and/or excess coverage.

D. County will maintain:

- (1) Workers' Compensation Insurance, as required by the Labor Code of the State of California, with statutory limits, and Employers Liability Insurance with a limit of no less than One Million Dollars (\$1,000,000.00) per accident for bodily injury or disease. Said policy shall contain, or be endorsed to contain, a waiver of subrogation against RCEA, its agents, officers, officials, employees and volunteers;
- (2) County agrees that it shall, during the full Term of this Agreement and at its own expense, keep its own property and any structural improvements on the Airport insured in sufficient amounts against loss or damage by fire and other casualty commonly covered by standard fire and all risk coverage insurance including flood coverage. Valuation shall be on a replacement cost basis.

- E. County and Lessee shall provide certificates of insurance and evidence of property insurance evidencing the coverages required herein. Such documents shall be provided upon execution of this Agreement and annually upon renewal of the required coverages thereafter. County and Lessee agree that the policies required shall not be non-renewed, cancelled or materially changed without thirty (30) days prior written notice to the other party.
- F. County and Lessee each hereby waive any claim against the other party for any loss covered by property insurance obtained by such party to the extent of proceeds recoverable thereunder. County and Lessee shall each obtain from its respective insurance company or companies consent to a waiver of right of recovery and a waiver of any right of subrogation that such company may have against County or Lessee, as applicable.
- G. Each Party hereto agrees that the insurance described above to be provided by the other Party may be provided by and through blanket coverages which may be provided in whole or in part through a policy or policies covering other liabilities and locations of the Party obligated to provide such insurance and its affiliates.
- H. Notification of Claim. If any claim for damages is filed with Lessee or if any lawsuit is instituted against Lessee, that arise out of or are in any way connected with Lessee's performance under this Agreement and that in any way, directly or indirectly, contingently or otherwise, affect or might reasonably affect the County, Lessee shall give prompt and timely notice thereof to County. Notice shall not be considered prompt and timely if not given within thirty (30) days following the date of receipt of a claim or ten (10) days following the date of service of process of a lawsuit.

2.12 Notices

- A. Notices required herein shall be in writing and served personally, sent by certified mail, return receipt requested, postage prepaid or overnight courier. Any notice

mailed pursuant to this Section shall be deemed received by the addressee five (5) business days after deposit of same in the mail. Either party shall have the right, by giving fifteen (15) days advance written notice to the other, to change the addressee or address at which its notices are to be received. Until any such change is made, notices shall be addressed and delivered as follows:

County:
Humboldt County
Department of Aviation
3561 Boeing Avenue
McKinleyville, CA 95519

Lessee:
Redwood Coast Energy Authority
Attn; Executive Director
366 3rd Street
Eureka, CA 95501

With a copy to:

Schatz Energy Research Center
1 Harpst Street
Arcata, CA 95521

- B. If notice is given in any other manner or at any other place, it will also be given at the place and in the manner specified in Section 2.12 A.
- C. All notices shall be effective upon receipt and shall be deemed received upon delivery, if personally delivered.

Article 3

General Conditions

3.01 Acceptance of Leased Premises

Lessee hereby accepts the Leased Premises in its "as-is" condition existing at the Commencement Date of the Term hereof. Taking possession of the Leased Premises by Lessee shall be conclusive evidence that the condition thereof is satisfactory to Lessee. County makes no representation or warranty that the Leased Premises are suitable for the uses to which Lessee shall be restricted pursuant to this Agreement.

3.02 Accord and Satisfaction

No payment by Lessee or receipt by County of a lesser amount than the rent, fees and/or charges due to be made by Lessee herein shall be deemed to be other than on account of the rent, fees and/or charges due, and no endorsement or statement on any check or in any letter accompanying any check or payment as rent, fees and/or charges shall be deemed an accord and satisfaction, and County may accept such check or payment without prejudice to County's right to recover the balance of such rent, fees and/or charges or to pursue any other remedy provided in this Agreement.

3.03 Airport Regulations

In the use of the Leased Premises, Lessee agrees to observe, obey and abide by all ordinances, Airport rules, and other local, State, and federal regulations applicable thereto. In addition to the foregoing, Lessee shall comply immediately with any and all directives issued by the Aviation Director.

3.04 Air Quality

Lessee recognizes that the County consistently encourages the County Airport System users to work with the County to improve air quality in the County of Humboldt region. Lessee agrees to exercise good faith and commercially reasonable efforts to minimize any negative impact on air quality resulting from Lessee's activities on the Leased Premises.

3.05 Amendment Required by FAA or TSA

This Agreement may be amended without further consideration for the purpose of satisfying TSA or FAA requirements or any federal agency succeeding to its respective jurisdictions.

3.06 Assignment and Subletting

Lessee shall have no right to assign, mortgage, pledge, or otherwise transfer this Agreement, either voluntarily or by operation of law.

3.07 Mortgages

Subject to the conditions set forth herein, Lessee may mortgage its leasehold interest created herein, solely for the purpose of obtaining financing for the construction of the Leasehold Improvements and/or operation of the Leased Premises.

As used herein, "mortgage" means any mortgage, deed of trust, security interest or other indenture consisting of a lien on Lessee's leasehold interest created herein, together with a promissory note or obligation which it secures.

Prior to entering into any such mortgage, Lessee shall submit a true and complete copy of the terms thereof, to the Aviation Director for review and approval, and shall promptly submit such supplemental information as may be requested by the Aviation Director within thirty (30) days following receipt of such data, the Aviation Director shall review the same and shall notify Lessee in writing of approval or rejection thereof, in whole or in part. In the event of such rejection, the parties shall negotiate in good faith to reach agreement respecting the terms of such mortgage; provided, however, Lessee warrants and covenants as to all mortgages, liens and Agreement-related encumbrances the following:

- A. Such mortgage shall in no way affect or diminish County's interest in the Leased Premises, or its rights under this Agreement, nor relieve Lessee of any of its obligations herein;
- B. Under no circumstances shall County's interest in the Leased Premises be subordinate to such mortgage, nor shall the term of such mortgage exceed the Term of this Agreement, as set forth in Section 2.01.
- C. The principal sum of the note or obligation which such mortgage secures shall not exceed the amount of Lessee's total cost for construction of the Leasehold Improvements and or operation of the Leased Premises.
- D. Such mortgage shall cover no interests in any real property other than Lessee's leasehold interest in the Leased Premises herein, and shall contain provisions permitting the disposition and application of insurance proceeds as provided herein; and
- E. The making of such a mortgage by Lessee shall not be deemed to constitute an assignment or transfer of this Agreement, nor shall any mortgagee, as such, be deemed an assignee or transferee of this Agreement. Lessee shall submit to the Aviation Director a fully executed, true and complete copy of any such mortgage, within forty-eight (48) hours following the execution thereof.

Breach of the aforementioned warranty and/or covenant by Lessee of this Section 3.07 shall constitute a material breach of this Agreement and the PPA by Lessee.

3.08 Assurances Required by FAA

Lessee will, at all times during this Agreement, comply with all applicable provisions of the FAA "Airport Sponsor Assurances" (Assurances) and any subsequent revisions, updates, or amendments thereto. The provisions of the Assurances may change during the term of this Agreement, and those changes will be incorporated into this Agreement without the necessity of a formal amendment. As the primary point of contact for RCEA to the FAA under this Agreement, the Aviation Director shall notify RCEA of any changes, updates or revisions to the Assurances.

3.09 Authority of Agreement

Each Party warrants and represents that it has the right, power, and legal capacity to enter into, and perform its obligations under this Agreement, and no approvals or consents of any persons are necessary in connection with it. The execution, delivery, and performance of this Agreement by the undersigned Party representatives have been duly authorized by all necessary corporate action of said Party, and this Agreement will constitute a legal, valid, and binding obligation of the Party, enforceable in accordance with its terms.

3.10 Administration of Agreement

The Aviation Director shall administer this Agreement on behalf of County. Unless otherwise provided herein or required by applicable law, the Aviation Director shall be vested with all rights, powers, and duties of County herein. With respect to matters herein subject to the approval, satisfaction, or discretion of County or the Aviation Director, the decision of the Aviation Director in such matters shall be final.

The Executive Director shall administer this Agreement on behalf of RCEA. Unless otherwise provided herein or required by applicable law, the Executive Director shall be vested with all rights, powers, and duties of RCEA herein. With respect to matters herein subject to the approval, satisfaction, or discretion of RCEA or the Executive Director, the decision of the Executive Director in such matters shall be final.

3.11 California Law

This Agreement shall be interpreted and enforced in accordance with the statutory and decisional law of the State of California. In the event of a dispute between the parties as to the language of this Agreement or the construction or meaning of any term hereof, this Agreement shall be deemed to have been drafted by the parties in equal parts so that no presumptions inferences concerning its terms or interpretation may be construed against any party to this Agreement. Any litigation filed by Lessee or County against the other regarding the terms of this Agreement, performance of a party's obligations under this Agreement, or any other reason related in any way to this Agreement, shall be filed in a federal or State court of competent jurisdiction located in Humboldt County, California.

3.12 Consent

Whenever the consent or approval of either party hereto is required or authorized hereunder, such consent or approval shall not be unreasonably withheld, unreasonably conditioned, or unreasonably delayed.

3.13 Counterparts

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, by all of which, together, shall constitute one and the same instrument.

3.14 Cumulative Remedies

No remedy or election herein shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

3.15 Damage or Destruction of Leasehold Improvements

A. Lessee Repair and Restoration

If at any time during the Term, the Project or other Leasehold Improvements constructed by Lessee upon the Leased Premises, or any part thereof, shall be damaged or destroyed by fire or other occurrence, (including an occurrence for which insurance coverage was not obtained, or unobtainable), of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, Lessee, at its sole cost and expense, and whether or not the insurance proceeds, if any, shall be sufficient for the purpose, may proceed with reasonable diligence (subject to a reasonable time allowance for the purpose of adjusting the insurance loss), to repair, alter, restore, replace or rebuild the same as nearly as possible to its value, condition and character immediately prior to such damage or destruction (including temporary repairs and work necessary to protect the Microgrid and Leasehold Improvements from further damage), subject to such changes or alterations as may be approved by County in conformity with the provisions of this Agreement (collectively referred to below as "the work").

Notwithstanding the above provisions of Section 3.15.A., if the cost of repairing, restoring, replacing, or rebuilding is not economically viable, as determined in RCEA's sole discretion, Lessee may terminate this Agreement by giving a termination notice to County within ninety (90) days after the occurrence of the damage or destruction. The Parties shall negotiate in good faith whether RCEA's decision not to repair, restore, replace or rebuild shall be accompanied by payment of liquidated damages as calculated in Exhibit D. If termination of the Agreement occurs on a date other than the first or last day of a Lease Year, consideration and fees for the partial Lease Year will be prorated.

B. Condition of Work

Except as otherwise provided in Section 3.15, the conditions under which any repair, restoration, replacement, or rebuild work is to be performed and the

method of proceeding with and performing the same shall be governed by the provisions of Section 2.03, as applicable.

C. Payment of Insurance Proceeds

All insurance money paid on account of such damage or destruction under the policies of insurance required by this Agreement, less the cost, if any, incurred in connection with the adjustment of the loss and the collection thereof (referred to below as the "insurance proceeds"), shall be applied to the payment of the cost of the work to the extent that the insurance proceeds shall be sufficient for the purpose, and shall be paid out to or for the account of Lessee from time to time as such work progresses.

D. Deficiency

If the insurance proceeds shall not be sufficient to pay the entire cost of the work and Lessee has determined to proceed with repair, restoration, replacement, or rebuild work, Lessee shall supply the amount of any such deficiency and shall apply the same to the payment of the cost of the work, unless the cause of the damage or destruction was caused by County, in which case County shall supply the amount of any such deficiency. Except as otherwise provided in this Agreement, County shall not be obligated to make any payment, reimbursement or contribution towards the cost of the work.

E. Failure to Commence Repairs

County may terminate this Agreement pursuant to Section 3.16 herein if the work shall not have been commenced within one hundred twenty (120) days after the damage or destruction has occurred or if the work, after commencement, shall not proceed expeditiously; provided, however that RCEA has provided notice of its intent to repair, restore, replace, or rebuild the Microgrid. Provided further, however, that any delay resulting from a Force Majeure Event shall extend the time for commencement or completion of the work. On such termination, the insurance proceeds received by or payable to Lessee shall first be paid to Lessee's mortgagee, if applicable, in connection with Leasehold Improvements on the Leased Premises, and then, any remaining proceeds shall be paid to Lessee, and County as their respective interests may appear.

F. Uninsurable Risk

In the event the cause of the damage or destruction is by a risk which is or was uninsurable, then Lessee shall have the same responsibility to provide the funds necessary to pay the cost of the work as set forth in this Section.

3.16 Early Termination by County

County may terminate this Agreement prior to expiration of the Term hereof upon the happening of one or more of the following events if Lessee:

- A. Fails to make any payment owed to County, as and when due herein, where such failure continues for a period of thirty (30) days following service of notice thereof upon Lessee by County;
- B. Fails to obtain or maintain any of the insurance coverage required by this Agreement and fails to cure within 10 days; in this case, the Aviation Director may immediately terminate the Agreement;
- C. Makes a general assignment for the benefit of its creditors;
- D. Files a voluntary petition, or becomes the subject of an involuntary petition, in any proceedings in Bankruptcy Court;
- E. Vacates or abandons the Leased Premises for a period of thirty (30) days or more;
- F. Breaches the covenants of Exhibit E "Airport Sponsor Assurances" and fails to cure such breach within thirty (30) days after receipt of written notice from County or other public agency;
- G. Fails to timely replace any material Leasehold Improvement which has been destroyed by fire, explosion or other catastrophe, within one hundred twenty (120) days from the date of such destruction subject to reasonable delay due to a Force Majeure Event if RCEA has provided notice of its intent to repair, restore, replace, or rebuild the Microgrid;
- H. Defaults in performance of any promise, term, condition, or covenant required of it herein (other than those expressly set forth in Subsections (a) through (h) above, wherein no further default notice is required), provided Lessee fails to cure such default within sixty (60) calendar days following receipt of written notice of such default from County. However, if the nature of such default is such that it cannot reasonably be cured within such period, Lessee shall be deemed to have cured such default if within such period Lessee commences performance thereof and thereafter diligently prosecutes the same to completion.

Early termination by County pursuant to this Section shall be upon not less than ninety (90) days, or longer as stipulated therein, advance written notice to Lessee, with the exception of 3.16 (B) and (E) herein above, which notice shall state the basis of such termination and the effective date thereof. Upon the effective date of such termination, County may take possession of the Leased Premises, without further notice or demand to Lessee.

Failure to serve notice of termination upon the happening of any of the events described in this Section shall not operate to bar or destroy County's right to thereafter declare such termination upon the subsequent happening of any such event.

3.17 Early Termination by RCEA

If RCEA is not in default of its payments or any other obligations under the Agreement to the County herein, Lessee may terminate this Agreement prior to expiration of the Term under the following terms and conditions:

- A. Permanent abandonment of Airport by County;
- B. Assumption by the United States Government, or any authorized agency thereof, of the operation, control or use of Airport, or any substantial part thereof, in such manner as to substantially restrict Lessee in its operations herein for a period of ninety (90) consecutive calendar days;
- C. Issuance by a court of competent jurisdiction of a permanent injunction which in any way prevents or restrains Lessee's use of the Airport or the Leased Premises in a manner substantially restricting Lessee's operations at Airport herein;
- D. Default by County in the performance of any material promise, term, condition or covenant ("material default") required of it to be performed herein, provided County fails to cure such material default within sixty (60) calendar days following receipt of written notice of the material default from Lessee. However, if the nature of such material default is such that it cannot reasonably be cured within such period, County shall be deemed to have cured the material default if within such period County commences performance thereof and thereafter diligently prosecutes the same to completion.
- E. A determination by RCEA not to repair or rebuild the Microgrid Facility made pursuant to Section 3.15.A of the Agreement.

3.18 Entire Agreement

This Agreement, together with all exhibits attached hereto, constitutes the entire agreement between the parties hereto, and all other representations or statements heretofore made, verbal or written, are merged herein. This Agreement may be amended only by written instrument duly executed by the parties hereto, except as stipulated in Section 3.05 herein.

3.19 Environmental Requirements

A. Lessee's Compliance with Environmental Laws

Lessee shall at all times in all respects comply with all environmental laws, and any amendments thereto affecting Lessee's use of the Leased Premises, including, but not limited to, all federal, State and local laws, ordinances and regulations relating to Hazardous Material. The meaning of the term "Hazardous Material" includes, without limitation, any hazardous or toxic substance, material or waste, which is or becomes regulated by any local governmental authority, the State of California or the United States Government. Lessee is held to the highest level of legal knowledge concerning current and applicable environmental law.

B. Hazardous Material Storage Permit

Lessee shall be required to obtain all applicable Hazardous Material Storage permits from all appropriate government agencies if it, at any time, places or stores Hazardous Material, or any other regulated hazardous substances on the Airport.

C. Aviation Director's Consent Required

In addition to any permit requirement and except as provided otherwise in this Section, Lessee shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Airport by Lessee, its agents, employees, contractors or invitees without the prior written consent of the Aviation Director (which the Aviation Director shall not unreasonably withhold as long as Lessee demonstrates to the Aviation Director's reasonable satisfaction that such Hazardous Material is necessary or useful to Lessee's business and will be used, kept and stored in a manner that complies with all laws regulating any such Hazardous Material so brought upon, used or kept in or about the Airport). With respect to Hazardous Materials normally and routinely used in Lessee's operations, the Aviation Director's approval shall be a continuing approval subject to review on such periodic basis as the Aviation Director determines is appropriate.

D. Indemnification by Lessee for Hazardous Materials

Lessee shall indemnify, defend and hold County harmless from any claims, judgments, damages, penalties, fines, costs, liabilities or losses which arise during or after the Term of this Agreement as a result of its handling or transporting of Hazardous Materials or as a result of Lessee's use or storage of Hazardous Materials. This indemnification of County by Lessee includes, without limitation, costs incurred in connection with any investigation of site conditions or

any clean up, remedial, removal or restoration work required by any federal, State or local governmental agency or political subdivision due to the presence or impact of Hazardous Material. Without limiting the foregoing, if the presence of any Hazardous Material on the Airport caused or permitted by Lessee results in any contamination of the Airport, Lessee shall promptly take all actions at its sole expense as are necessary to render the Leased Premises in compliance with all applicable environmental laws; provided that County's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term or short-term effect on the Airport.

E. Notices

Each Party shall promptly notify the other Party, in writing, of: (1) any enforcement, clean up, removal or governmental or regulatory action instituted, completed or threatened pursuant to any environmental or Hazardous Materials laws; (2) any claim made by any person against such Party relating to damage, contribution, cost recovery compensation, loss or injury resulting from or claiming to result from violation of any environmental law or use of any Hazardous Materials in its operations on or about the Airport; and (3) any reports made to any environmental agency arising out of or in connection with any Hazardous Materials in or removed from the Airport, including any complaints, notices, warnings or asserted violations in connection therewith (but excluding routine manifests, records or receipts that are submitted to environmental agencies for purposes of documenting waste disposal or product receipt activities). Each Party shall also supply to other Party as promptly as possible, and in any event within ten (10) business days after such Party first receives or sends the same, copies of all claims, reports, complaints, notices or warnings or asserted violations relating in any way to such Party's operations on or at Airport thereof.

F. Right of Entry

During the Term of this Agreement the Aviation Director, or those authorized by the Aviation Director, shall have the right of entry, with prior twenty-four (24) hour notice to Lessee, to test and determine the extent of any contamination of the Leased Premises provided that any such testing shall not unreasonably disrupt or interfere with Lessee's operations. The results of such tests (including any reports, documents or test results) shall be simultaneously provided to the Aviation Director and Lessee.

G. Environmental Audit

As part of the Final Decommissioning and Restoration Plan, County shall have the right to conduct an environmental audit upon expiration or earlier termination of this Agreement. Said audit shall be conducted at RCEA's expense in association with the decommissioning of the Microgrid Facility. If contamination is

found and such contamination was caused by Lessee, Lessee shall be required to perform corrective action to remove contamination caused by Lessee or its representatives during Lessee's Term, if and to the extent required by any environmental agency, as approved by the County. Lessee shall, in consultation with County, determine the schedule, technique, method, and design of the mitigation and/or remediation, subject to the then current environmental requirements as identified in this Section.

H. Hazardous Materials Spill Release Reporting and Cleanup Policies

At all times during the Term of the Agreement, Lessee shall comply with the County's policies for the reporting and cleanup of Hazardous Materials spills or releases.

3.20 Force Majeure Event

Neither County nor Lessee shall be deemed to be in breach of this Agreement if either is prevented from performing any of its obligations herein by a Force Majeure Event.

3.21 Headings

The headings of the Articles and Sections of this Agreement are inserted only as a matter of convenience and for reference, and do not define or limit the scope or intent of any provisions of this Agreement and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

3.22 Holding Over

If Lessee remains in possession of the Leased Premises following the expiration or earlier termination of this Agreement, such holding over shall not be deemed to constitute an extension or renewal of this Agreement, but shall merely create a tenancy from month-to-month which either party hereto may terminate upon thirty (30) days advance written notice to the other. In the event of such holding over, Lessee shall perform all terms, promises, conditions and covenants required of it herein, but shall pay Consideration to County in such amount as in effect immediately prior to such expiration or earlier termination of this Agreement.

3.23 Indemnification

To the fullest extent permitted by law, each Party shall indemnify, defend, and hold harmless the other Party, its respective governing Board, officers, directors, officials, employees, and authorized volunteers and agents, (collectively "Indemnified Parties"), from and against any and all claims, demands, actions, losses, liabilities, damages, and all expenses and costs incidental thereto (collectively "Claims"), including cost of defense, settlement, arbitration, and reasonable attorneys' fees, resulting from injuries to

or death of persons, including but not limited to employees of either Party hereto, and damage to or destruction of property or loss of use thereof, including but not limited to the property of either Party hereto, arising out of, pertaining to, or resulting from the acts or omissions of the indemnifying Party, its respective officers, employees, or agents, or the acts or omissions of anyone else directly or indirectly acting on behalf of the indemnifying Party, or for which the indemnifying Party is legally liable under law excepting only such injury, death, or damage, to the extent it is caused by the negligence of an Indemnified Party. The indemnifying Party shall not be liable for any Claims arising from the sole negligence or willful misconduct of an Indemnified Party where such indemnification would be invalid under Section 2782 of the Civil Code. This indemnity shall not be limited by the types and amounts of insurance or self-insurance maintained by the either Party or by the Lessee's subcontractors. Notwithstanding anything to the contrary, in the event that both parties are held to be negligently or willfully responsible, each party will bear their proportionate share of liability as determined in any such proceeding. In such cases, each party will bear their own costs and attorney's fees. Nothing in this Indemnity shall be construed to create any duty to, any standard of care with reference to, or any liability or obligation, contractual or otherwise, to any third party. The provisions of this Indemnity shall survive the expiration or termination of the Agreement.

3.24 Independent Contractor

Lessee is not an employee or agent of County by reason of this Agreement, or otherwise. Lessee shall be solely responsible for its acts and omissions arising from or relating to its operations or activities at Airport, or lease of property herein.

3.25 Industrial Waste Disposal

All disposal of storm, sanitary sewage and industrial waste shall be in accordance with the Humboldt County Regional Sanitation District, the National Pollutant Discharge Elimination System (NPDES) and all Federal, State and Local laws. Lessee shall comply with all federal and State regulations governing the NPDES including all future amendments of said regulations, and procedures as may be adopted by Federal, State or Local agencies.

3.26 Interpretation of Agreement

Nothing herein contained shall be construed or interpreted, in any manner whatsoever, as limiting, relinquishing or waiving any of the rights of ownership enjoyed by County in and to the Airport, or in any manner waiving or limiting County's control over the operation and maintenance of the Airport or in derogation of such governmental rights as County possesses, except as is specifically provided for herein.

3.27 Invalid Provisions

In the event of any covenant, condition or provision of this Agreement or the application thereof to any person, entity, or circumstances, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this Agreement, or the application thereof to any person, entity, or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated, provided that such invalidity, voiding or unenforceability of such covenant, condition or provision does not materially prejudice either party in its respective rights and obligations contained in the then remaining valid covenants, conditions or provisions of this Agreement.

3.28 Licenses and Permits

Lessee shall obtain, at its sole cost and expense, all necessary licenses and permits required for construction or installation of equipment on the Leased Premises, and any other licenses or permits necessary for the conduct of Lessee's operations at Airport. County will use best practices to cooperate fully and promptly with Lessee in such efforts.

3.29 Negation of Partnership

County acknowledges that it is a collaborating partner to ensure the successful outcome of the Project. However, nothing in this Agreement shall be construed to render County in any way or for any purpose, a legal partner, joint venture, or associate in any legal relationship with Lessee other than that of landlord and tenant, and any other documents necessary for the Project that are duly executed by the Parties, nor shall this Agreement be construed to authorize either County or Lessee to act as an agent for the other, except as set forth herein.

3.30 Noise Control

Lessee, for itself and each of its officers, representatives, agents, employees, guests, patrons, contractors, subcontractors, licensees, subtenants, invitees, or suppliers shall not conduct any operation or activity on the Leased Premises, or elsewhere at Airport, in which the sound emitting therefrom is of such volume, frequency or intensity at such time as to constitute a nuisance. The Aviation Director shall have the sole and exclusive authority to determine what constitutes a nuisance under the provisions of this Section except that operations and activities having noise levels not in violation of federal, State, or local governmental standards shall not be deemed a nuisance.

3.31 Nondiscrimination

Lessee, for itself, its personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree that:

- A. No person on the grounds of race, color, creed, national origin, sex, age or handicap shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of Lessee's facilities pursuant to its operations hereunder;
- B. In the furnishing of services on the Airport, no person on the grounds of race, color, creed, national origin, sex, age or handicap shall be excluded from participation in, denied the benefit of, or otherwise be subjected to discrimination; and
- C. Lessee shall use the Airport in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as such Regulations may be amended.

3.32 Nonexclusive Rights

Nothing herein shall be construed to grant or authorize the granting of any exclusive right or privilege within the meaning of Section 308 of the Federal Aviation Act for the conduct of any activity on the Airport. Provided, however, subject to the terms and provisions of this Agreement, Lessee shall have the right to exclusive possession of the Leased Premises described by Section 2.02.

3.33 Nonwaiver of Rights

No failure by County to insist upon the strict performance of any covenant, term or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial rents or fees during the continuance of any such breach, shall constitute a waiver of any breach or of such covenant, term or condition.

No receipt of monies by County from Lessee after the termination of this Agreement, or after the giving of any notice of termination of this Agreement (unless such receipt cures the event of default which was the basis for the notice) shall reinstate, continue or extend the Term or effect any notice theretofore given to Lessee, or operate as a waiver of the right of County to enforce the payment of rents or fees payable by Lessee hereunder or thereafter falling due.

3.34 Notice of Claims and Suit

Lessee shall give the County prompt and timely written notice of any personal injury or other accident claims, and of any lawsuit coming to its knowledge when either such claim or lawsuit arises out of or is in any way connected with the operations of Lessee herein, or the construction or operation of Airport by County, which in any way, directly,

indirectly, contingently or otherwise, might reasonably affect the parties' relationship under this Agreement.

Such notice shall be deemed prompt and timely if given within thirty (30) calendar days following the date of receipt of such claim by an officer, agent, or employee of Lessee, and if given within ten (10) calendar days following the date of service of process upon Lessee with respect to any such lawsuit.

3.35 No Warranty

County does not warrant that Airport will continue to be used as an airport during the Term of this Agreement. In the event that such airport use is terminated, whether temporarily or permanently, Lessee shall neither claim, nor have entitlement to, any damages whatsoever from County under this Agreement. Notwithstanding the aforementioned, Lessee may be entitled to monetary or equitable relief

3.36 Nuisance and Waste

Lessee for itself and its officers, representatives, agents, employees, guests, patrons, contractors, subcontractors, licensees, subtenants, invitees, and suppliers shall not erect nor permit to be erected any nuisance on the Leased Premises, nor permit any waste thereon.

3.37 Peaceable Use and Enjoyment

Lessee shall, upon payment of the consideration as herein required, and subject to performance and compliance by Lessee of the covenants, conditions and permits on the part of Lessee to be performed and complied with herein, peaceably have and enjoy the rights, uses and privileges of the Airport, its appurtenances and facilities as granted hereby and by the airport rules and regulations.

3.38 Prohibition of Liens

Lessee shall pay promptly, as due, all persons supplying labor and materials for any alteration of, or improvement to, the Leased Premises, and shall permit no lien or claim to be filed or prosecuted against County on account of such labor and materials furnished.

3.39 Release of Liability

County shall not be liable for, and is hereby released from, all liability to Lessee, or to anyone else claiming under or through Lessee for any loss or damage whatsoever to the property or effects of Lessee resulting from the discharge of water or other substances from pipes, sprinklers, conduits, containers, appurtenances thereof or fixtures thereto or from any damage resulting from the discharge of or failure of electric current, regardless

of cause or origin, except to the extent caused by the negligence or willful misconduct of County, its employees or agents.

3.40 Reports

Lessee shall provide County with any reasonable statistical reports which the Aviation Director may from time to time request by written notice to Lessee.

3.41 Restrictions and Regulations

This Agreement, and the rights herein granted, shall be subject to any and all applicable local, federal, State, and County rules, regulations, orders and restrictions which are now in force or which may hereafter be adopted by any duly authorized governmental agency with respect to Lessee's operation at Airport.

3.42 Right of Entry

The Aviation Director shall have the right, throughout the Term of this Agreement, to enter the Leased Premises for any lawful purpose, including the purpose of determining whether Lessee is complying with its obligations herein. Lessee shall normally be given a seven (7) days notice prior to exercise of such right, except in the event entry is necessary for safety or environmental purposes. Such entry by County shall not be deemed to excuse Lessee's performance of any promise, term, condition, or covenant required of it by this Agreement, and shall not be deemed to constitute waiver thereof by County.

3.43 Risk Reduction

Lessee shall neither use nor permit the use of the Leased Premises in such a manner as to increase the County's exposure, which would affect the insurance premiums thereon in excess of that in existence at the commencement of the Term hereof, except to the extent needed to install, operate, and maintain a solar electric or photovoltaic (PV) power generation system.

3.44 Security

It is the responsibility of Lessee to maintain security of the entire Leased Premises, including the assigned vehicle parking area or other areas assigned to Lessee. Consistent with Airport Security, attached as Exhibit G, Lessee shall be responsible for the conduct and actions of Lessee's employees, volunteers, subtenants, contract employees or other personnel conducting business on the Airport.

3.45 Signs

Lessee shall not erect, maintain, or display any exterior Sign on the Leased Premises, other than signs required by law, or elsewhere at Airport, without the prior written consent of the Aviation Director. Lessee shall submit drawings, sketches, designs, and dimensions of such signs to the Aviation Director when requesting such approval. All such signs shall be consistent with County's general Sign policy for Airport.

3.46 Subordination

Lessee shall be prohibited from any act or omission that impairs or impedes the actions of the State and local environmental regulatory agencies in taking any action to remediate the Leased Premises by means of drilling monitoring wells, conducting soil borings, surveys or other methods of remediation. Lessee's right to occupancy and quiet enjoyment of the Leased Premises shall be subject to County's right to remediate, or authorize the remediation of, the Leased Premises as set forth above. Lessee shall further be prohibited from not exacerbating any remediation activity undertaken under FAA regulations. Any act or omission of the Lessee that hinders, in any material way, the remediation actions implemented under the FAA shall constitute a material breach of this Agreement.

3.47 Successors and Assigns

The provisions of this Agreement shall be binding upon and inure to the benefit of the respective successors, assigns, heirs, and personal representatives of the parties hereto.

3.48 Taxes

Lessee shall, at its sole cost and expense, pay any and all taxes for which it is responsible, or which may be assessed against it.

A. Possessory Interest and Property Taxation

Under this Agreement a possessory interest subject to property taxation may be created. Pursuant to California Revenue and Taxation Code Section 107.6 and Government Code Section 53340.1, notice is hereby given that such possessory interest may be subject to property taxation and special taxation pursuant to Chapter 25, Division 2 of the Government Code (Mello Roos Community Facilities Act of 1982), and that the party in whom the possessory interest is vested may be subject to the payment of property taxes and special taxes levied on such interest. Lessee shall pay any and all taxes, assessments, and other charges of whatsoever character that may be levied or charged upon Lessee's interest as herein may be created, improvements, operations, or right to use of the Leased Premises.

B. Right to Contest Taxes

Lessee shall have the right to contest in its own name, or, to the extent reasonably necessary, in County's name, in good faith and by all appropriate proceedings, the amount, applicability, or validity of any tax assessment pertaining to the surface of Airport property and Lessee's operations thereon.

In the event Lessee initiates such contest, County shall reasonably cooperate with Lessee, provided that such contest will not subject any part of the surface of Airport property to forfeiture or loss; and provided, further, that if Lessee contests any assessment made by the Assessor of County, such contest shall not be initiated in the name of County, and County shall not be obligated to cooperate therewith. If at any time payment of any tax or assessment becomes necessary to prevent any forfeiture or loss, Lessee shall timely pay such tax or assessment to prevent such forfeiture or loss.

3.49 Time is of the Essence

Time shall be of the essence in complying with the terms, conditions and provisions of this Agreement.

3.50 Title to the Leased Premises

Title to the Leased Premises is and shall remain vested in the County.

3.51 Title to Leasehold Improvements

Title to all Leasehold Improvements made by Lessee shall at all times during the Term remain in Lessee.

3.52 Trash and Garbage

Lessee, at its sole cost and expense, shall provide a complete and proper arrangement for the adequate sanitary handling and disposal away from the Airport of all other trash, garbage, and other refuse resulting from, or in any way associated with, Lessee's use of the Leased Premises.

3.53 Vehicular and Equipment Parking

Vehicular and equipment parking in areas other than the Leased Premises by Lessee, its officers, representatives, agents, employees, guests, patrons, volunteers, contractors, subcontractors, licensees, suppliers or other invitees shall be restricted to such areas at Airport as are designated by the Aviation Director.

Parking in areas other than on the Leased Premises shall be subject to the payment of such parking fees and charges, as well as any time limitation or other legal restriction, which may from time to time be in effect for such designated areas.

3.54 Nuclear Free Humboldt County Ordinance Compliance

Neither the Lessee, its Subcontractors or their suppliers are Nuclear Weapons Contractors, and are not knowingly or intentionally engaged in the research, development, production, or testing of nuclear warheads, nuclear weapons systems, or nuclear weapons components, as defined by the Nuclear Free Humboldt County Ordinance. Lessee, its Subcontractors and/or their suppliers agree to notify County immediately if they become a nuclear weapons contractor as defined above. County may immediately terminate this Agreement if it determines that the foregoing certification is false or if Lessee, its Subcontractors or their suppliers subsequently becomes a Nuclear Weapons Contractor.

3.55 Execution of Agreement

IN WITNESS WHEREOF, the parties hereto have caused this Agreement at the Airport to be duly executed as of the day and year fully executed by all parties.

REDWOOD COAST ENERGY AUTHORITY:

By: _____

Date: _____

Name: _____

Title: _____

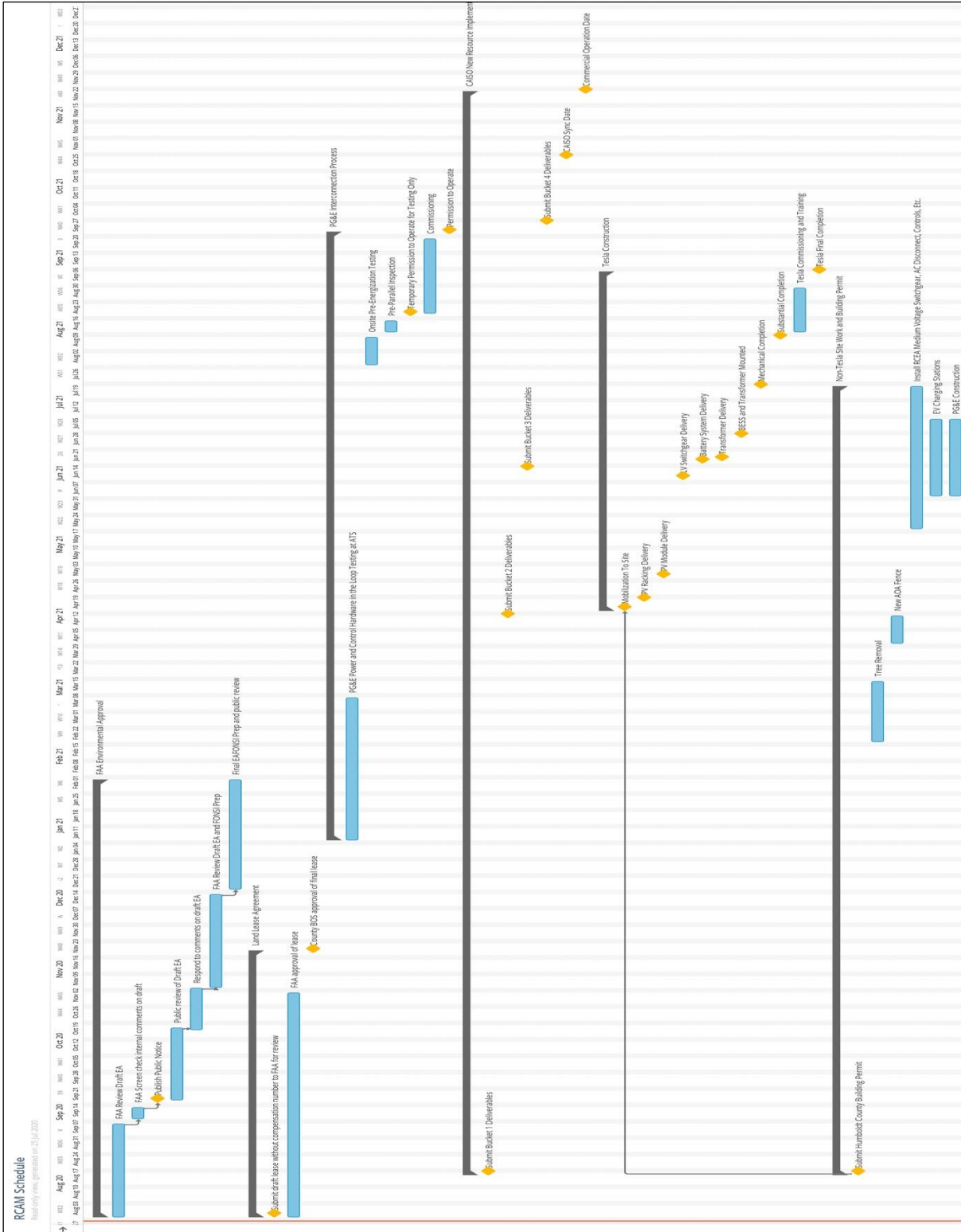
COUNTY OF HUMBOLDT:

By: _____

Date: _____

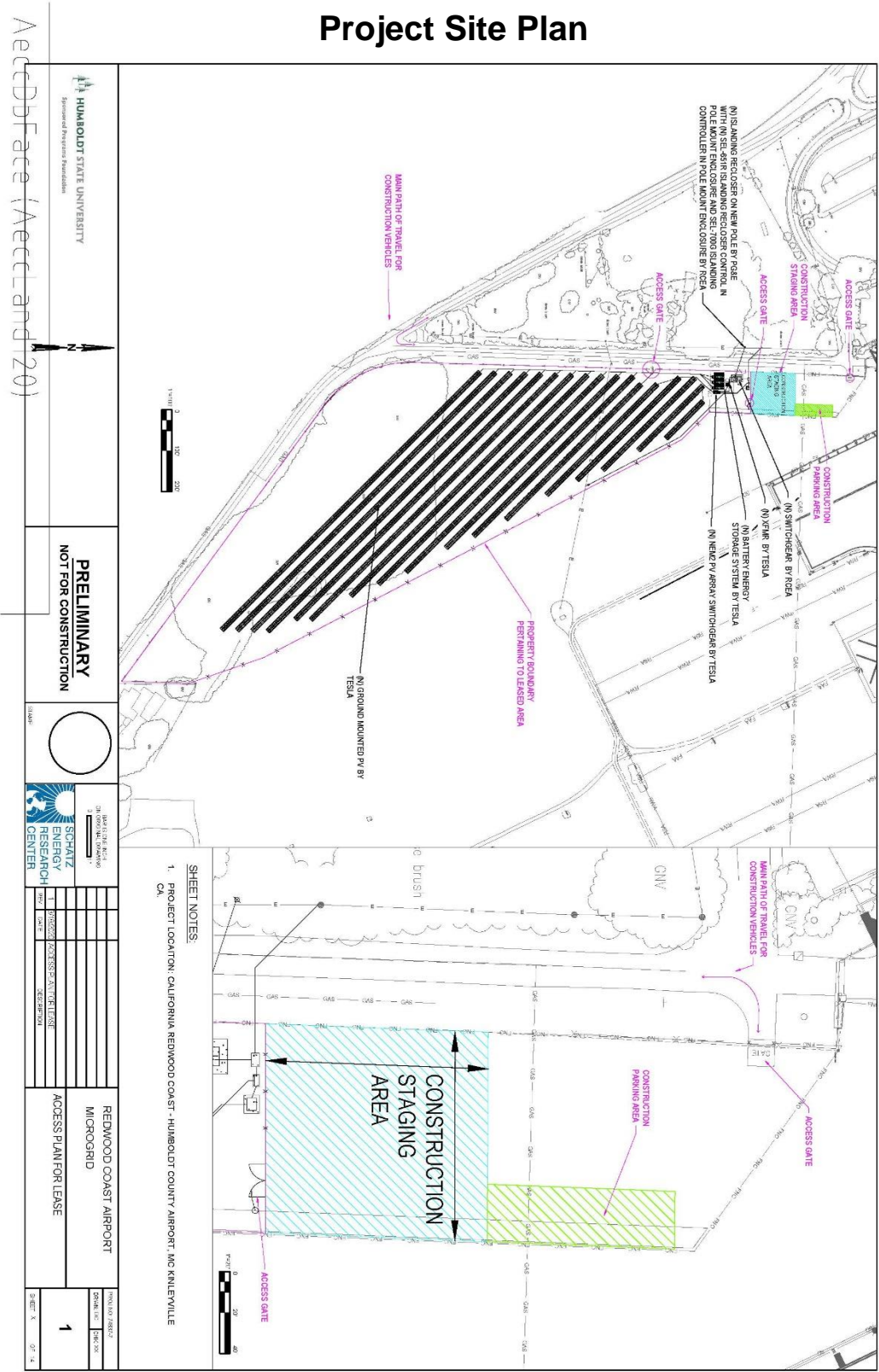
Cody Roggatz, Director of Aviation
Humboldt County-Department of Aviation

Exhibit A Construction Timeline



Agreement for Ground Lease
Redwood Coast Energy Authority
California Redwood Coast-Humboldt County Airport

Exhibit B Project Site Plan



SHEET NOTES
1. PROJECT LOCATION: CALIFORNIA REDWOOD COAST - HUMBOLDT COUNTY AIRPORT, MC KNILEVILLE CA.

HUMBOLDT STATE UNIVERSITY
Division of Professional Programs

PRELIMINARY
NOT FOR CONSTRUCTION

SCHWARZ ENERGY RESEARCH CENTER

DATE	REVISION	
1	PROJECT LOCATION: CALIFORNIA REDWOOD COAST - HUMBOLDT COUNTY AIRPORT, MC KNILEVILLE CA.	
2	PROJECT LOCATION: CALIFORNIA REDWOOD COAST - HUMBOLDT COUNTY AIRPORT, MC KNILEVILLE CA.	
3	PROJECT LOCATION: CALIFORNIA REDWOOD COAST - HUMBOLDT COUNTY AIRPORT, MC KNILEVILLE CA.	
4	PROJECT LOCATION: CALIFORNIA REDWOOD COAST - HUMBOLDT COUNTY AIRPORT, MC KNILEVILLE CA.	
5	PROJECT LOCATION: CALIFORNIA REDWOOD COAST - HUMBOLDT COUNTY AIRPORT, MC KNILEVILLE CA.	
6	PROJECT LOCATION: CALIFORNIA REDWOOD COAST - HUMBOLDT COUNTY AIRPORT, MC KNILEVILLE CA.	
7	PROJECT LOCATION: CALIFORNIA REDWOOD COAST - HUMBOLDT COUNTY AIRPORT, MC KNILEVILLE CA.	
8	PROJECT LOCATION: CALIFORNIA REDWOOD COAST - HUMBOLDT COUNTY AIRPORT, MC KNILEVILLE CA.	
9	PROJECT LOCATION: CALIFORNIA REDWOOD COAST - HUMBOLDT COUNTY AIRPORT, MC KNILEVILLE CA.	
10	PROJECT LOCATION: CALIFORNIA REDWOOD COAST - HUMBOLDT COUNTY AIRPORT, MC KNILEVILLE CA.	

PROJECT LOCATION: CALIFORNIA REDWOOD COAST - HUMBOLDT COUNTY AIRPORT, MC KNILEVILLE CA.

PROJECT LOCATION: CALIFORNIA REDWOOD COAST - HUMBOLDT COUNTY AIRPORT, MC KNILEVILLE CA.

Agreement for Ground Lease
Redwood Coast Energy Authority
California Redwood Coast-Humboldt County Airport

Exhibit C

Leased Premises Legal Description



EXHIBIT C LEASE AREA

July 9, 2020

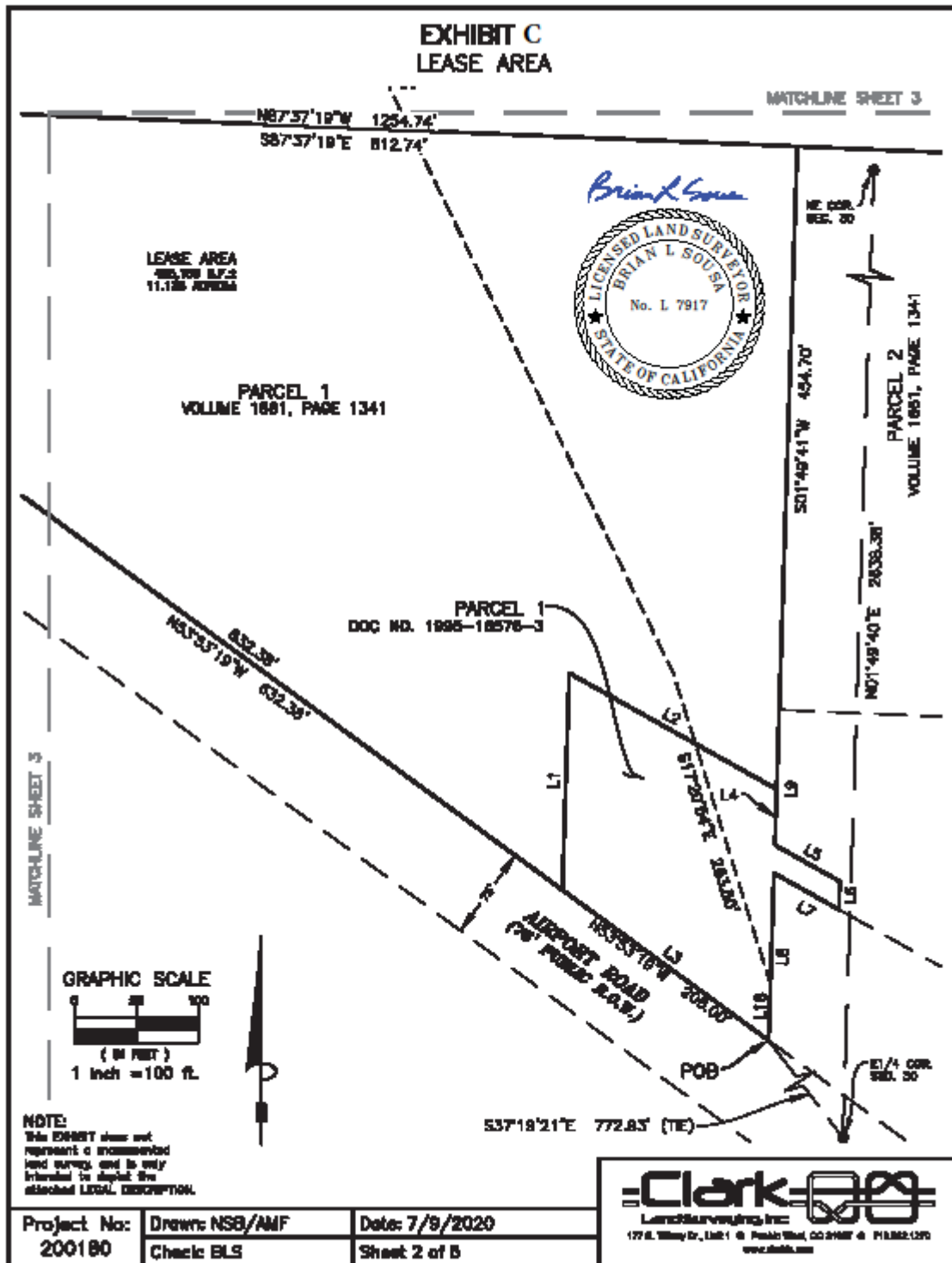
A portion of that parcel as described in the Grant Deed recorded under Document No. 1995-16576-3, along with a portion of Parcel 1, as described in the Grant Deed recorded under Volume 1661, Page 1341, along with a portion of Parcel 1, as described in the Quit Claim Deed recorded under Book 441, Page 467 of the Official Records of Humboldt County, State of California, lying within the NE1/4 of the NE1/4 of Section 30, Township 7 North, Range 1 East of the Humboldt Meridian, being more particularly described as follows:

BEGINNING at the most Southerly corner of Parcel 1, as described in said Grant Deed recorded under Document No. 1995-16576-3; thence along the Southwesterly line of said Parcel 1, N53°53'19"W (Bearings are based upon NAD83 – California State Plane - Zone 1, and are relative to the those shown upon the record of survey filed in Book 28 of Surveys, at Page 128 if rotated 01°22'54" counter-clockwise), a distance of 206.00, to the most Westerly corner of said Parcel 1; thence along the Southwesterly line of Parcel 1, as described is said Grant Deed recorded under Volume 1661, Page 1341, N53°53'19"W, a distance of 632.38 feet; thence continuing along said Southwesterly line, along the arc of a curve to the right, having a radius of 275.00 feet, a central angle of 03°54'16", a distance of 18.74 feet; thence leaving said Southwesterly line, along a compound curve to the right, whose center bears N41°22'15"E, having a radius of 262.89 feet, a central angle of 53°10'02", a distance of 243.95 feet; thence N01°38'08"E, a distance of 550.69 feet; thence N40°18'32"E, a distance of 19.43 feet; thence N44°38'02"W, a distance of 17.09 feet; thence N01°34'51"E, a distance of 231.16 feet; thence S89°57'31"E, a distance of 102.19 feet; thence S02°13'40"W, a distance of 100.75 feet; thence S45°00'02"E, a distance of 87.39 feet; thence S25°52'45"E, a distance of 1192.53 feet; thence S17°20'54"E, a distance of 263.50 feet; thence S01°49'41"W, a distance of 45.29 feet to the **POINT OF BEGINNING**.

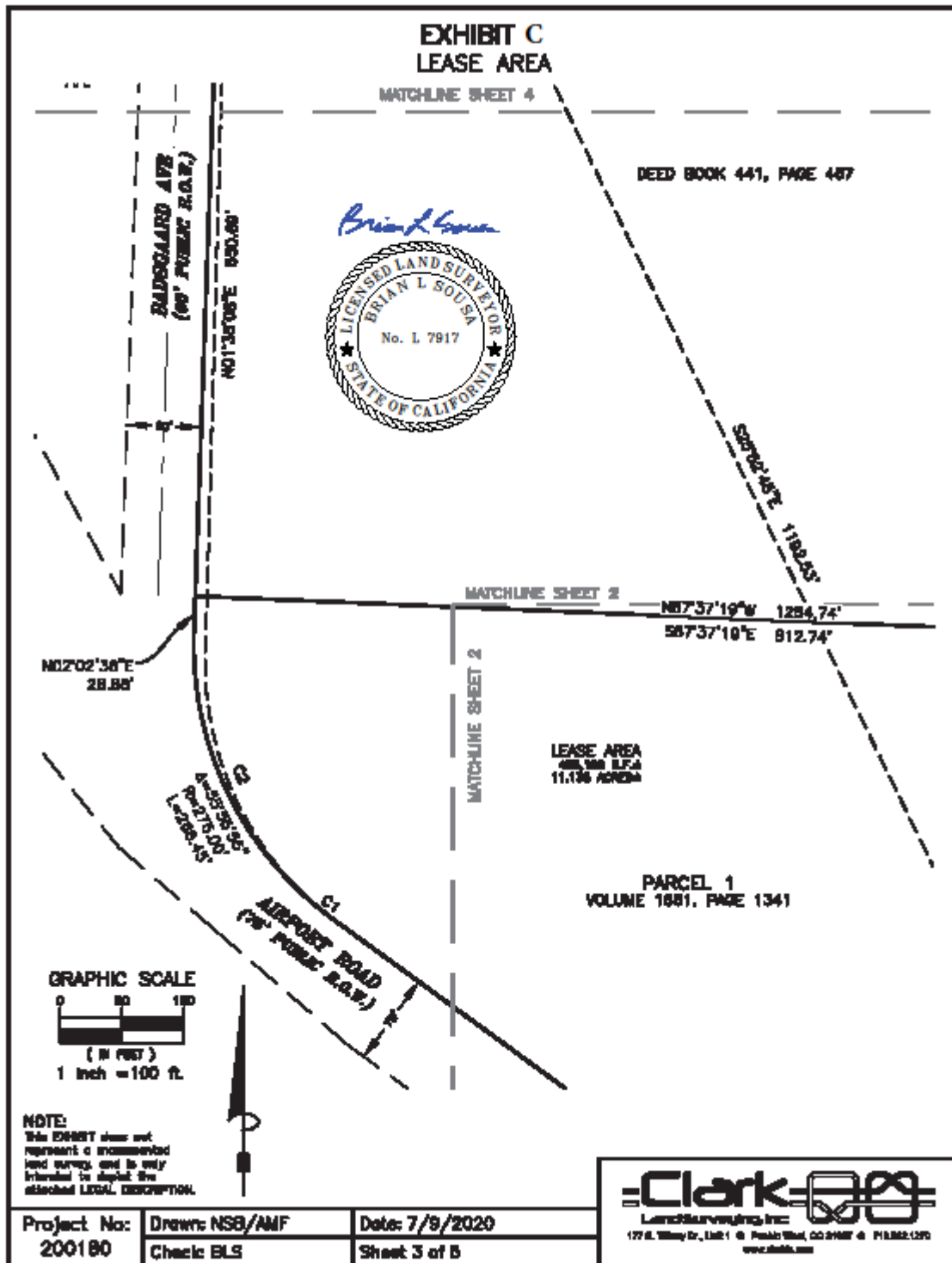
Containing 485,156 Sq. Ft. or 11.138 acres, more or less.

Brian L. Sousa
California Professional Land Surveyor No. 7917
For and on behalf of Clark Land Surveying, Inc.



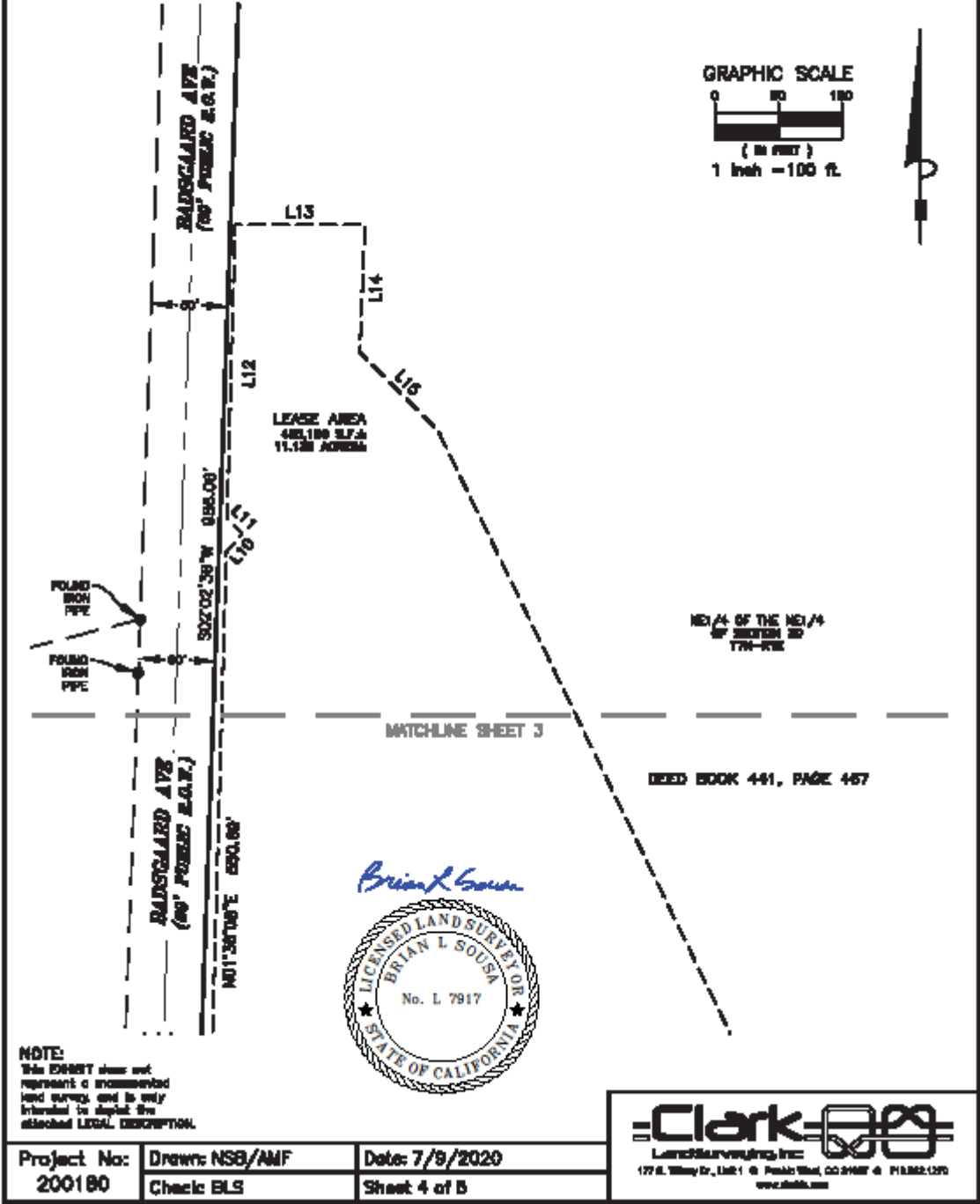


Agreement for Ground Lease
 Redwood Coast Energy Authority
 California Redwood Coast-Humboldt County Airport



Agreement for Ground Lease
 Redwood Coast Energy Authority
 California Redwood Coast-Humboldt County Airport

**EXHIBIT C
LEASE AREA**



Agreement for Ground Lease
 Redwood Coast Energy Authority
 California Redwood Coast-Humboldt County Airport

**EXHIBIT C
LEASE AREA**

LEGEND

POB POINT OF BEGINNING

LINE	BEARING	DISTANCE
L1	S07°48'41" W	175.00'
L2	N80°45'18" W	181.75'
L3	S57°53'19" E	208.00'
L4	N01°48'41" E	45.00'
L5	N80°45'18" W	80.00'
L6	N01°48'41" E	22.73'
L7	S90°45'19" E	80.00'
L8	N01°48'41" E	138.00'
L9	S07°48'41" W	108.15'
L10	N40°18'32" E	18.43'
L11	N44°38'02" W	17.08'
L12	N01°34'51" E	231.18'
L13	S89°57'31" E	102.18'
L14	S02°13'40" W	100.75'
L15	S48°00'02" E	87.38'
L16	S07°48'41" W	48.28'

CURVE	RADIUS	ARC LENGTH	DELTA ANGLE	RADIAL BEARING
C1	275.00'	18.74'	3°54'18"	N38°08'41" E
C2	282.89'	243.88'	83°10'02"	N47°22'18" E

Brian L Sousa



NOTE:
This EXHIBIT does not represent a recommended land survey and is only intended to depict the attached LEGAL DESCRIPTION.

Project No: 200180	Drawn: NSB/AMF Checked: ELS	Date: 7/9/2020 Sheet B of B
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Agreement for Ground Lease
Redwood Coast Energy Authority
California Redwood Coast-Humboldt County Airport

Exhibit D

Lease Compensation

The Microgrid Project will provide direct savings to the County through avoided electricity costs. In addition, ancillary benefits will result in further cost savings for the County. Avoided costs will serve as compensation for the leasing of the Leased Premises by the County to RCEA. This Exhibit explains how the electric cost savings are determined.

Overview

Power from the 320 kW PV solar array dedicated to the County accounts (“Dedicated Array”) will directly serve the Airport terminal and other select aggregated Airport electric accounts as specified in the County’s Net Energy Metering Agreement with PG&E, on file with the County. The Dedicated Array connects to the grid through its own electrical service and PG&E account, and the power it produces will be aggregated to serve the multiple electric accounts at the Airport (“aggregated net metering”).

Power from the Non-Dedicated portion of array will be reserved for RCEA wholesale CAISO market participation to serve the RCEA CCA customer load and Humboldt County community. This portion of the array will also provide backup power at times of grid power shutdown for the Airport, U.S. Coast Guard Air Station, and other electric accounts that are included on the Microgrid electric circuit.

Solar Electricity Production and Cost Savings Estimates

Cost savings estimates attributable to the Dedicated Array will be determined using standard, industry accepted software and methodologies. PV production estimates will be generated from the National Renewable Energy Laboratory’s System Advisor Model. This model incorporates equipment characteristics and estimated weather files for the Airport and produces hourly estimates of solar electricity generation. The value of electricity generation can then be determined based on the time varying cost of electricity, which is defined by the rate tariff for the facility (for example, the main Airport terminal is on PG&E’s E19S rate tariff). As described below, RCEA will provide a guarantee for “Minimum Electricity Generation.” The initial Minimum Electricity Generation is 350,000 kWh per year. Using the current cost of electricity as of May 1, 2020 as specified in the RCEA and PG&E E19S rate tariff, the calculated value of the initial Minimum Electricity Generation is \$44,643 per year.

Minimum Electricity Generation values for the Dedicated Array will be reevaluated every five (5) years to ensure that the lease compensation complies with FAA Assurances No. 24 as stated in Exhibit F in order to make the airport as self-sustaining as possible under the circumstances existing at the Airport. The costs of this appraisal shall be equally shared by the Parties. The appraiser selected by the Parties shall be experienced and qualified in providing airport property appraisals.

Performance Guarantee

RCEA agrees to provide an annual energy generation report and financially compensate the County for energy shortfalls. If the Dedicated Array produces less than Minimum Electricity Generation expected in any given year, RCEA will reimburse the County, within 60 calendar days of the end of the true-up period, an amount calculated as the average electrical price for

Agreement for Ground Lease
Redwood Coast Energy Authority
California Redwood Coast-Humboldt County Airport

the year in question times the generating shortfall below the Minimum Electricity Generation estimate. The true-up period will be a one-year period marking the anniversary of the system's interconnection. The average rate will be calculated by dividing all per-kWh electrical generation, transmission, and distribution charges for the aggregated benefitting accounts during the year in question by the total billed kWh consumption for these accounts.

Additional Benefits

In addition to direct energy cost savings from energy production, the following benefits will accrue to the County, some of which provide directly measurable economic return:

- Resiliency and reliability during outages caused by winter storms and planned grid shut downs by the utility due to extreme fire danger. Use of stored and solar microgrid power during shut off events can be monetized into direct cost avoidance.
- Added resilience for the Airport and U. S. Coast Guard Air Station during longer term disasters. These facilities will have a more secure supply of electrical power that does not rely on outside sources of energy or fuel. This is particularly important in times of a natural disaster when Humboldt County could be isolated for weeks from the outside world and the only method to get supplies in and out of the County would be via aircraft. In addition, aircraft will be critical to distributing supplies around the County and could result in saving lives. High costs of disaster response avoided by the Microgrid can be estimated using disaster preparedness models.
- Electric vehicle charging at the Airport will serve to attract customers, improve the service level that customers receive, and decrease the airport's environmental footprint. It will also accelerate and support a business case to electrify airport ground support equipment.
- Increased production of local renewable energy. The RCEA has established a Community Choice Energy ("CCE") program that provides the generation component of electricity service to 93% of eligible electricity customers in Humboldt County. As part of the CCE program, RCEA has goals to develop local renewable power resources and is required to meet requirements of the State of California's Renewable Portfolio Standard. This microgrid project will help RCEA meet its local renewable energy goals, improve regional energy security, create local jobs, keep energy dollars flowing in the local economy, and lessen the climate change impacts of our energy use.
- Greenhouse gas mitigation. The Microgrid will offset approximately 910 metric tons of CO₂ per year for the Humboldt County region.
- Improved marketing. The Microgrid project will support the County's marketing of the Airport as a "green" facility.
- Job creation. Conservative estimates of job creation benefits indicate that implementing the Microgrid project will result in an estimated 37 FTE during the construction phase with \$1.5M in earnings and \$3.4M in economic output. Approximately 0.2 FTE jobs per year will be supported during sustained operations with \$10,000 per year in earnings and \$14,600 per year in economic output.

Exhibit E
Memorandum of Understanding Among County of Humboldt,
Redwood Coast Energy Authority and the Humboldt State
University Sponsored Programs Foundation / Schatz Energy
Research Center

Agreement for Ground Lease
Redwood Coast Energy Authority
California Redwood Coast-Humboldt County Airport

**Redwood Coast Airport Renewable Energy Microgrid
Memorandum of Understanding**

among

County of Humboldt,
Redwood Coast Energy Authority
and

the Humboldt State University Sponsored Programs Foundation /
Schatz Energy Research Center

This Memorandum of Understanding (“MOU”) sets forth the terms and understanding between the County of Humboldt (“County”), the Redwood Coast Energy Authority (“RCEA”), and the Humboldt State University Sponsored Programs Foundation/Schatz Energy Research Center (“HSUSPF/SERC”), from here on referred to as the Parties to this MOU (“Parties”), concerning the Redwood Coast Airport Renewable Energy Microgrid (“Microgrid”). The Parties intend to develop, design, install and operate the Microgrid at the California Redwood Coast - Humboldt County Airport (“Airport”).

1. Background

The following facts describe and form the rationale for the Microgrid project:

- The Airport and adjacent Coast Guard Sector Humboldt Bay Air Station provide critical disaster relief services to Humboldt County and surrounding region.
- Availability of electrical power for these facilities is critical to the provision of emergency services.
- The Microgrid is a solar-based system that will provide local, renewably generated electrical power for extended periods without the need for operation of the larger electrical grid and without the need for fuel deliveries, thus ensuring the Airport can operate during emergencies.
- The HSUSPF/SERC has received a \$5M grant from the California Energy Commission (“CEC”) to design, install, operate, monitor and evaluate the performance of the Microgrid at the Airport.
- The Microgrid’s primary electrical circuit will be owned by the Pacific Gas & Electric Company (“PG&E”) and will be located at the end of their Janes Creek 1103 distribution circuit.
- The proposed Microgrid will include the installation of a ~2 MW solar electric array coupled with a ~2 MW/8 MWh battery storage system for wholesale market participation, a ~300 kW solar electric array for net metered service, and four electric vehicle charging stations.¹
- The County is seeking ways to generate additional revenue and/or reduce operating costs at the Airport; it is expected that the Microgrid will generate an average of approximately 430 MWh/yr, which will offset the Airport’s energy usage.²

¹ Equipment capacities are approximate based on the preliminary system design and are subject to change.

² Approximate energy savings, greenhouse gas emission savings and project costs are stated throughout this MOU. These estimates are based on the stated approximate system capacities and other assumptions. Actual savings and costs may vary.

- Solar electric arrays are incorporated into the Airport Layout Plan which has received conditional approval from the Federal Aviation Administration (“FAA”).
- The County is seeking ways to improve the marketing image of the Airport. The Microgrid project will serve this purpose by installing solar power to “green” the Airport and adding resiliency benefits by installing microgrid technology.
- The RCEA has established a Community Choice Energy (“CCE”) program that provides the generation component of electricity service to 93% of eligible electricity customers in Humboldt County.
- RCEA, as part of the CCE program, has goals to develop local renewable power resources, is required to meet requirements of the State of California’s Renewable Portfolio Standard, and is required to provide energy storage $\geq 1\%$ of the peak load for RCEA customers. RCEA aims to develop local renewable power sources as a way to improve regional energy security, create local jobs, keep energy dollars flowing in the local economy, and lessen the climate change impacts of our energy use.
- RCEA is procuring a \$6M loan from the United States Department of Agriculture’s Rural Utilities Service to provide cost share to implement the project.
- By leading the Microgrid project, the HSUSPF/SERC furthers its mission to promote the use of clean and renewable energy and furthers its efforts to move Humboldt County toward a more energy secure future.
- The HSUSPF/SERC has demonstrated expertise and competence to carry out a project such as the Microgrid by recently completing the award-winning Blue Lake Rancheria Renewable Energy Microgrid Project.
- The HSUSPF/SERC has assembled an expert team to carry out the Microgrid project, including the substantial involvement of PG&E, the utility responsible for local electricity grid infrastructure.
- The RCEA is a local government Joint Powers Authority, comprised of the County of Humboldt; Cities of Arcata, Blue Lake, Eureka, Ferndale, Fortuna, Rio Dell, and Trinidad; and the Humboldt Bay Municipal Water District. RCEA administers CCE program in Humboldt County for the benefit of its customers. Power from the 2 MW solar electric array and coupled battery storage system will be utilized to serve RCEA CCE customers. RCEA will sell dispatchable renewable electricity from the Microgrid on the wholesale power market and financial gain realized from this market participation will benefit all CCE customers, including the County of Humboldt.
- The estimated operating life of the Microgrid is 25 years; it is assumed that the salvage value will be sufficient to pay for decommissioning and removal.
- At the present time, there is no foreseeable aeronautical use planned for the land area proposed for the Microgrid project and the County considers the Microgrid project to be a vital non-aeronautical land use at the Airport.
- The Microgrid project will generate Renewable Energy Certificates (RECs) through registration in the Western Renewable Energy Generation Information System (WREGIS).
- The RECs generated by the 300 kW solar system will accrue to the County.
- The RECs generated by the 2 MW solar plus battery system will accrue to RCEA.

Because of these facts, the Parties agree to work collaboratively to complete the Microgrid project for their mutual benefit and for the benefit of the residents of Humboldt County.

Page 2

Final Airport Microgrid MOU
February 21, 2019

Agreement for Ground Lease
Redwood Coast Energy Authority
California Redwood Coast-Humboldt County Airport

2. Purpose

The purpose of this MOU is to describe how the roles and responsibilities are allocated and how the costs and benefits associated with the Microgrid project are shared among the Parties. The intention is to establish a clear framework for the Parties that leads to successful execution of the Microgrid project. This MOU embodies the understanding among the Parties for the project development period (as described in Section 7 below) and will be supplemented by subsequent agreement(s) such as, for example, a Lease and/or an Operational Agreement.

3. Division of Responsibilities

This section describes the Microgrid project responsibilities assigned to each of the Parties.

County of Humboldt Responsibilities:

- Prepare an Initial Study and subsequent Mitigated Negative Declaration for compliance with the California Environmental Quality Act³
- Work with HSUSPF/SERC to obtain project approval from the FAA
- Prepare an Environmental Assessment as required by the FAA for compliance with the National Environmental Policy Act
- Provide the land necessary for the RCEA owned solar electric and energy storage assets (County and RCEA will negotiate and enter into a Land Lease Agreement)
- Host the four electric vehicle charging stations in the short term parking lot at the airport (~~see preliminary EV Charging Site Plan, Attachment 2, and EV Charging Station MOU, Attachment 3~~)
- Review preliminary EV charging station site plan for compliance with ADA requirements for EV charging station installations
- With advance notice, allow access to the Microgrid project site to RCEA and HSUSPF/SERC personnel and subcontractors for project development purposes.
- Provide readily available data such as geotechnical reports, topographical survey data, electricity consumption data, as-built engineering plans for onsite electrical and water systems for Microgrid project development purposes
- Participate in construction sequencing, commissioning, and onsite test planning to ensure that airport security standards are maintained during construction and that planned power outages are scheduled for times when impacts can be minimized
- Serve as primary point of contact for all communication with FAA, and negotiate on behalf of Parties regarding FAA regulatory requirements, mandates, emergencies, and other matters that directly or indirectly impact the installation, operation, and maintenance of the Microgrid
- Obtain bids for removing designated trees that border the Microgrid project site along Airport Road


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³ This was required by the California Energy Commission before funding this project. This task was completed when the Notice of Determination was recorded May 8, 2018.

- Work with HSUSPF/SERC, RCEA, and PG&E to set up the aggregated net energy metering account that will allow the County to benefit from the 300 kW solar array that will be owned and operated by RCEA on the County's behalf
- Work with HSUSPF/SERC and RCEA to establish a new water service in RCEA's name to provide water to the Microgrid project site for panel washing, site management, or similar Microgrid operation and maintenance activities, if HSUSPF/SERC determines that the project budget supports the estimated construction cost of a new water service. If a new water service is not installed, RCEA will truck water in to the site as needed for maintenance activities.
- Agree to negotiate in good faith with RCEA to determine the fate of and financial impacts of decommissioning the Microgrid project before its 25-year operating life has elapsed, in the event that the County determines that the project site is needed for an aeronautical use. This will occur if decommissioning is required by the FAA and only as a last resort and after other options are explored.
- Shall have no financial responsibility for the removal and/or modification of the Microgrid after the 25-year operating life has elapsed.
- Provide necessary documents to authorize RCEA to submit the necessary interconnection applications Pacific Gas & Electric (PG&E) for interconnecting the generation resources. The applicant to PG&E will be RCEA and there will be no cost to the County

RCEA Responsibilities:

- to PG&E
of New PL
- Submit the necessary interconnection applications, Pacific Gas & Electric (PG&E) for interconnecting the generation resources. The applicant to PG&E will be RCEA and there will be no cost to the County.
 - Purchase and install the solar electric systems, including a 2 MW PV array for wholesale market participation and a 300 kW PV array for net metered service¹
 - Purchase and install a battery energy storage system (approximately 2 MW and 8 MWh)¹
 - Purchase and install a microgrid protection and control system, most of which will be deeded to PG&E when the project becomes operational
 - Purchase and install four electric vehicle charging stations in the short term parking lot at the airport (~~see preliminary EV Charging Site Plan, Attachment 2), and EV Charging Station MOU, Attachment 3)~~ of New PL
 - Work with HSUSPF/SERC to establish a new water service to provide water to the Microgrid project site for panel washing and site management, or similar Microgrid operation and maintenance activities, if HSUSPF/SERC determines that the project budget supports the estimated construction cost of a new water service. If a new water service is not installed, RCEA will truck water in to the site as needed for maintenance activities.
 - Own, operate, and maintain the above listed assets and maintain the grounds of the project site for 25 years
 - Mitigate the effect of the photovoltaic array with the FAA, if glint or glare from the solar panels is later found to have an impact on the air traffic controllers/tower and/or air navigation.
 - Decommission the above listed assets at the end of the 25-year project period

- Operate the 300 kW solar array when the PG&E grid is energized so that all electricity produced will be credited to County electrical accounts at the airport
- Provide assurance to the County that the PV NEM array will deliver no less than 350,000 kWh/yr in any year to the airport facility meter to be installed for the generating account as part of the planned aggregated NEM service. The projected average annual output from the PV NEM array is 428,000 kWh/yr, with year-to-year variations in output due to weather conditions and solar panel degradation.
- Provide an annual energy generation report and financially compensate the County for energy shortfalls below the minimum specified amount (350,000 kWh) within 60 calendar days of the end of the true-up period, calculated as the average electrical price of the rate for the year in question times the generating shortfall below 350,000 kWh. The true-up period will be a one-year period marking the anniversary of the system's interconnection. The average rate will be calculated by dividing all per-kWh electrical generation, transmission, and distribution charges for the aggregated benefitting accounts during the year in question by the total billed kWh consumption for these accounts. This assurance is subject to terms and conditions within the pending lease agreement between the County and RCEA, including force majeure and other factors that may affect total energy delivered.
- Operate the 2 MW solar array and the battery when the PG&E grid is energized so that the electricity produced is exported through trading in the California Independent System Operator ("CAISO") markets and to the benefit ^{of} local CCE customers *ca. 200 PL* 
- Operate the Microgrid in the event of a power outage on the PG&E distribution feeder serving the Airport to maintain backup power for the Airport and Coast Guard for as long as possible within acceptable operating specifications for all Microgrid equipment
- Reconnect the Microgrid to the main PG&E grid after the PG&E grid has been restored following a power outage affecting the microgrid
- Agree to negotiate in good faith with the County to determine the fate of and financial impacts of decommissioning the Microgrid project in the event that the County determines that the project site is needed for an aeronautical use before its 25-year operating life has elapsed

HSUSPF/SERC Responsibilities:

- Execute the prime contract (EPC-17-055) with the CEC, taking responsibility to facilitate delivery of the project as per the intent of the contract Scope of Work (See grant Scope of Work, Attachment 4)⁴
- Serve as owner's engineer for the RCEA to facilitate and manage system design, testing, construction, interconnection, documentation, and commissioning
- Serve as technology and system integrator including facilitating necessary approvals for interconnection to the PG&E distribution grid and participation in CAISO wholesale energy markets
- Manage the overall project, including the participation of all subcontractors and project partners
- Support the County in obtaining FAA approval to construct the Microgrid project

⁴ EPC-17-005 was fully executed on 8/8/2018.

- Coordinate the design and testing of the microgrid controls to meet PG&E requirements
- Design, bid, and oversee construction of the EV charging stations to be installed in the short-term parking lot at the airport
- Design, bid, and oversee construction of a new water service to serve the RCEA and provide water to the Microgrid project site for panel washing and site management, if HSUSPF/SERC determines that the project budget supports the estimated construction cost of a new water service. If a new water service is not installed, RCEA will truck water in to the site as needed for maintenance activities.
- Design, bid, and oversee construction of the balance of systems between the battery energy storage system and the microgrid circuit, including the physical infrastructure to support the microgrid controls

4. Distribution of Costs and Benefits

Table 1 outlines how the costs and benefits associated with the Microgrid project are distributed among the Parties. Table 2 outlines how the costs and energy benefits associated with the 300 kW PV array for net metered service are distributed among the Parties.

Table 1. Microgrid Project – Costs and Benefits for Total Project⁵

	Costs	Benefits
RCEA	<ul style="list-style-type: none"> ● Proposal/pre-award phase <ul style="list-style-type: none"> ○ Internal labor costs (\$20,000) ○ Technical assistance contract with HSUSPF/ SERC (\$20,000) ● Project labor costs (\$150,000) ● RCEA share of battery storage system (\$1,371,358) ● PV systems - 2.3 MW total (\$4,600,000) ● Electric vehicle charging system (\$25,000) ● EV charging operation and maintenance (\$5,700/yr) ● PV O&M (\$47,000/yr) ● Battery O&M (\$30,000) 	<ul style="list-style-type: none"> ● In the proposal phase of the project it was estimated that the wholesale power system could generate about \$250,000/yr in revenue.
County	<ul style="list-style-type: none"> ● CEQA Initial Study & Mitigated Negative Declaration (\$20,000) ● Environmental Assessment for NEPA (\$60,000) ● FAA approval process (\$15,000) 	<ul style="list-style-type: none"> ● Estimated production of an average of 430 MWh/yr of electricity by the 300 kW PV array, with a minimum of ~360 MWh/yr and a maximum of ~470 MWh/yr.
HSUSPF/ SERC	<ul style="list-style-type: none"> ● Proposal preparation (\$50,509) ● Indirect project costs counted as match for CEC grant (\$326,370) 	
Costs covered by CA Energy Commission Grant	<ul style="list-style-type: none"> ● Electricity distribution infrastructure (\$657,441) ● CEC share of battery storage system (\$960,607) ● Microgrid control system (\$596,805) ● Coordinated electrical house (\$454,197) ● Transformer (\$66,794) ● Balance of system materials & services (\$250,175) ● Electrical engineering services (\$99,592) ● Prime contractor labor (\$1,222,682) ● Additional subcontractors (\$219,749) ● Travel, indirect, misc. (\$471,958) 	

⁵ The majority of stated costs and benefits are best estimates at the outset of the project; actual costs and benefits will vary. Costs specified to a high level of significant figures were specifically stated as such in the CEC contract, but are still subject to change.

Table 2. Microgrid Project – Costs and Benefits for 300 kW PV array *5 CR PL*

	Costs	Benefits
RCEA	<ul style="list-style-type: none"> ● PV system– 300 kW NEM array (Approximately \$600,000) ● PV O&M (\$6,640/yr for 25 years) 	<ul style="list-style-type: none"> ● Land lease of 9 acres for the combined PV system (2.3 MW total), valued at about \$3,400/yr based on the Bureau of Land Management Instruction Memorandum No. 2017-096
County	<ul style="list-style-type: none"> ● CEQA Initial Study & Mitigated Negative Declaration (\$20,000) ● Environmental Assessment for NEPA (\$60,000) ● FAA approval process (\$15,000) 	<ul style="list-style-type: none"> ● Estimated production of an average of 430 MWh/yr of electricity by the 300 kW PV array, with a minimum of ~360 MWh/yr and a maximum of ~470 MWh/yr.

5. Additional Benefits

There are significant benefits to the County and the Airport that are difficult to quantify in simple direct monetary terms. These include the following: *5 CR PL*

- Added resilience for the Airport and Coast Guard Air Station. These facilities will have a more secure supply of electrical power that does not rely on outside sources of energy or fuel. This is particularly important in times of a natural disaster when Humboldt County could be isolated for weeks from the outside world and the only method to get supplies in and out of the County would be via aircraft. In addition, aircraft would be critical to distributing supplies around the County and could result in saving lives.
- Added resiliency and reliability in the electrical power will also buffer against short-term outages. It is not uncommon for power outages to occur during winter storms, and utilities may shut off parts of the grid due to extreme fire danger. The estimated value of these short-term resiliency benefits is \$52,000 per year. A task under the Microgrid project is to further refine this estimate and this data will be shared when the results are available.
- The Airport will offset approximately 130 metric tons of CO₂ per year as a result of the electricity provided by the 300 kW solar array, helping to achieve regional greenhouse gas reduction targets.
- Helping to mitigate climate change is an important benefit, especially in a coastal community that will be adversely affected by sea level rise.
- Adding electric vehicle charging at the airport will serve to attract customers, will improve the service level that customers receive, and will decrease the airport’s environmental footprint. It may also accelerate and support a business case to electrify airport ground support equipment.
- Conservative estimates of job creation benefits indicate that implementing the Microgrid project will result in an estimated 37 FTE during the construction phase with \$1.5M in earnings and \$3.4M in economic output. Approximately 0.2 FTE jobs per year will be supported during sustained operations with \$10,000 per year in earnings and \$14,600 per year in economic output.

6. Funding

The responsibilities between the Parties for covering various costs associated with this project are articulated in Section 4. If significant additional and unforeseen costs arise (for example tree removal and accessibility improvements) during the term of this MOU, the Parties agree to negotiate in good faith to decide how the costs will be covered. Section 8 of this MOU will be used to modify the MOU in such cases.

7. Duration/Timeframe

This MOU represents the Parties' current understanding of their respective responsibilities in developing, operating and maintaining the Microgrid project and may be revised by mutual consent of authorized officials from the Parties, including through the adoption of implementing agreements between any of the Parties. This MOU shall become effective upon signature by authorized officials from all three the Parties and will remain in effect until modified or terminated by the Parties by mutual consent. In the absence of mutual agreement by the authorized officials from the Parties, this MOU shall terminate at the end of the CEC grant period on March 31, 2023. Following the end of the CEC grant period, additional agreements may continue to dictate roles and responsibilities associated with the Microgrid project (e.g., the land lease between the County and RCEA).

8. Amendments

This MOU may be amended by mutual agreement among the Parties to address circumstances that cause or may cause unforeseen impacts to any Party, or as otherwise deemed necessary by the Parties.

9. Notices

Any and all notices required to be given pursuant to the terms of this MOU shall be in writing and either served personally or sent by certified mail, return receipt requested, to the respective addresses set forth in Section 10. Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

10. Signatories

County of Humboldt

Cody Roggatz
Director of Aviation
Address: 3561 Boeing Ave., McKinleyville, CA 95519
Telephone: (707) 839-5401
E-mail: croggatz@co.humboldt.ca.us

Date: 03.19.2019

Signature: 

Redwood Coast Energy Authority
Matthew Marshall
Executive Director
Address: 633 3rd Street, Eureka, CA 95501
Telephone: (707) 269-1700
E-mail: mmarshall@redwoodenergy.org

Date: 3/19/19

Signature:



Humboldt State University Sponsored Programs Foundation
Kacie Flynn
Executive Director, HSU Sponsored Programs Foundation
Address: 1 Harpst Street, Arcata, CA 95521
Telephone: (707) 826-4189
E-mail: Kacie.Flynn@humboldt.edu

Date: 3/19/19

Signature:



Schatz Energy Research Center
Peter Lehman
Founding Director
Address: 1 Harpst Street, Arcata, CA 95521
Telephone: (707) 826-4345
E-mail: Peter.Lehman@humboldt.edu

Date: 3/13/19

Signature:



Exhibit F FAA Assurances



FAA
Airports

ASSURANCES

Airport Sponsors

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this grant agreement.

B. Duration and Applicability.

1. Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.

The terms, conditions and assurances of this grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.

The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project

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shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. Airport Planning Undertaken by a Sponsor.

Unless otherwise specified in this grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 25, 30, 32, 33, and 34 in Section C apply to planning projects. The terms, conditions, and assurances of this grant agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Airport Revenue so long as the airport is used as an airport.

C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

1. General Federal Requirements.

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

Federal Legislation

- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.1
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- d. Hatch Act-5 U.S.C. 1501, et seq.2
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.1 2
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).1
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.1
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.1
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f))
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.), prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968 -42 U.S.C. 4151, et seq.1
- s. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.1

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- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.1
- u. Copeland Anti-kickback Act - 18 U.S.C. 874.1
- v. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.1
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- x. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.2
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252).

Executive Orders

- a. Executive Order 11246 - Equal Employment Opportunity¹
- b. Executive Order 11990 - Protection of Wetlands
- c. Executive Order 11998 - Flood Plain Management
- d. Executive Order 12372 - Intergovernmental Review of Federal Programs
- e. Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction 1
- f. Executive Order 12898 - Environmental Justice

Federal Regulations

- a. 2 CFR Part 180 - OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. [OMB Circular A-87 Cost Principles Applicable to Grants and Contracts with State and Local Governments, and OMB Circular A-133 - Audits of States, Local Governments, and Non-Profit Organizations].⁴ s, 6
- c. 2 CFR Part 1200-Nonprocurement Suspension and Debarment
- d. 14 CFR Part 13 - Investigative and Enforcement Procedures¹⁴ CFR Part 16 - Rules of Practice for Federally Assisted Airport Enforcement Proceedings.
- e. 14 CFR Part 150 - Airport noise compatibility planning.
- f. 28 CFR Part 35- Discrimination on the Basis of Disability in State and Local Government Services.
- g. 28 CFR § 50.3 - U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964.
- h. 29 CFR Part 1 - Procedures for predetermination of wage rates.¹
- i. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.¹

- j. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).¹
- k. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).¹
- l. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.³
- m. 49 CFR Part 20 - New restrictions on lobbying.
- n. 49 CFR Part 21 -Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
- o. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.
- p. 49 CFR Part 24 - Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs.^{1 2}
- q. 49 CFR Part 26 - Participation by Disadvantaged Business Enterprises in Department of Transportation Programs.
- r. 49 CFR Part 27 - Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.¹
- s. 49 CFR Part 28 -Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities conducted by the Department of Transportation.
- t. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
- u. 49 CFR Part 32-Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)
- v. 49 CFR Part 37 -Transportation Services for Individuals with Disabilities (ADA).
- w. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.

Specific Assurances

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this grant agreement.

Footnotes to Assurance C.1.

- 1. These laws do not apply to airport planning sponsors.
- 2. These laws do not apply to private sponsors.
- 3. 49 CFR Part 18 and 2 CFR Part 200 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local

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Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

4. On December 26, 2013 at 78 FR 78590, the Office of Management and Budget (OMB) issued the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200. 2 CFR Part 200 replaces and combines the former Uniform Administrative Requirements for Grants (OMB Circular A-102 and Circular A-110 or 2 CFR Part 215 or Circular) as well as the Cost Principles (Circulars A-21 or 2 CFR part 220; Circular A-87 or 2 CFR part 225; and A-122, 2 CFR part 230). Additionally, it replaces Circular A-133 guidance on the Single Annual Audit. In accordance with 2 CFR section 200.110, the standards set forth in Part 200 which affect administration of Federal awards issued by Federal agencies become effective once implemented by Federal agencies or when any future amendment to this Part becomes final. Federal agencies, including the Department of Transportation, must implement the policies and procedures applicable to Federal awards by promulgating a regulation to be effective by December 26, 2014 unless different provisions are required by statute or approved by OMB.
5. Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.
6. Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

2. Responsibility and Authority of the Sponsor.

a. Public Agency Sponsor:

It has legal authority to apply for this grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. Private Sponsor:

It has legal authority to apply for this grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. Sponsor Fund Availability.

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this grant agreement which it will own or control.

4. Good Title.

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.
- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.
- b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.
- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.

- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in this grant agreement and shall insure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

6. Consistency with Local Plans.

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. Consideration of Local Interest.

It has given fair consideration to the interest of communities in or near where the project may be located.

8. Consultation with Users.

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. Public Hearings.

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. Metropolitan Planning Organization.

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to

depict the project and a copy of any airport master plan in which the project is described or depicted.

11. Pavement Preventive Maintenance.

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. Terminal Development Prerequisites.

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. Accounting System, Audit, and Record Keeping Requirements.

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this grant, the total cost of the project in connection with which this grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. Minimum Wage Rates.

It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

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15. Veteran's Preference.

It shall include in all contracts for work on any project funded under this grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. Conformity to Plans and Specifications.

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this grant agreement.

17. Construction Inspection and Approval.

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. Planning Projects.

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.

- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. Operation and Maintenance.

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for-
 - i. Operating the airport's aeronautical facilities whenever required;
 - ii. Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
 - iii. Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.
- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. Hazard Removal and Mitigation.

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. Compatible Land Use.

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. Economic Nondiscrimination.

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-
 - i. furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
 - ii. charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
- d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
- e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
- f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its

own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.

- g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.
- h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
- i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. Exclusive Rights.

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure.

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
 - i. If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.
 - ii. If the Secretary approves the sale of a privately-owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
 - iii. Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at Section 47102 of title 49 United States Code), if the FAA determines the airport sponsor meets the requirements set forth in Sec. 813 of Public Law 112-95.
- b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.
- c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

26. Reports and Inspections.

It will:

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- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and
- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
 - i. all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
 - ii. all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. Use by Government Aircraft.

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that –

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. Land for Federal Facilities.

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the

sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. Airport Layout Plan.

- a. It will keep up to date at all times an airport layout plan of the airport showing
 - i. boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
 - ii. the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities;
 - iii. the location of all existing and proposed nonaviation areas and of all existing improvements thereon; and
 - iv. all proposed and existing access points used to taxi aircraft across the airport's property boundary. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.
- b. If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

30. Civil Rights.

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any activity conducted with, or benefiting from, funds received from this grant.

- a. Using the definitions of activity, facility and program as found and defined in §§ 21.23 (b) and 21.23 (e) of 49 CFR § 21, the sponsor will facilitate all programs, operate all

facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by, or pursuant to these assurances.

b. Applicability

- i. Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
- ii. Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.
- iii. Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.

c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

- i. So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
- ii. So long as the sponsor retains ownership or possession of the property.

d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this grant agreement and in all proposals for agreements, including airport concessions, regardless of funding source: "The (Name of Sponsor). in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises and airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

e. Required Contract Provisions.

- i. It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally- assisted programs of the DOT, and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non- discrimination in Federally-assisted programs of the DOT acts and regulations.
- ii. It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
- iii. It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real

property, structures, use, or improvements thereon or interest therein to a sponsor.

- iv. It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin, creed, sex, age, or handicap as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:
 - a) For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b) For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.
- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

31. Disposal of Land.

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order, (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund. If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.
- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion

of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order: (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund.

- c. Land shall be considered to be needed for airport purposes under this assurance if it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.
- d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right there in necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. Engineering and Design Services.

It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

33. Foreign Market Restrictions.

It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. Policies, Standards, and Specifications.

It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated (the latest approved version as of

this grant offer) and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.

35. Relocation and Real Property Acquisition.

- a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- b. It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.
- c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. Access by Intercity Buses.

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

37. Disadvantaged Business Enterprises.

The sponsor shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its DBE and ACDBE programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1936 (31 U.S.C. 3801).

38. Hangar Construction.

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. Competitive Access.

- a. If the airport owner or operator of a medium or large hub airport (as defined in section 47102 of title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that-
 - i. Describes the requests;
 - ii. Provides an explanation as to why the requests could not be accommodated; and
 - iii. Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six-month period prior to the applicable due date.

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