

**LEASE AGREEMENT**

Dated as of August 16, 2016

between

NEVADA COUNTY FINANCE AUTHORITY,  
*as lessor,*

and

COUNTY OF NEVADA, CALIFORNIA,  
*as lessee*

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## LEASE AGREEMENT

This LEASE AGREEMENT (this "*Agreement*"), dated as of \_\_\_\_\_ 1, 2016, between the NEVADA COUNTY FINANCE AUTHORITY, a joint exercise of powers authority organized and existing under the laws of the State of California (the "*Authority*"), as lessor, and the COUNTY OF NEVADA, a county and political subdivision of the State of California organized and existing under and by virtue of the laws of the State of California (the "*County*"), as lessee,

### *WITNESSETH:*

WHEREAS, all capitalized terms used, but not defined, in these Recitals shall have the respective meanings set forth in Section 1.1 hereof; and

WHEREAS, the County wishes to finance (a) the acquisition, construction, rehabilitation and installation of certain lighting, mechanical, utility, water and other energy conservation measures on and to certain of the County's public buildings and other facilities and (b) the acquisition, installation and equipping of certain solar systems and photovoltaic power generating systems and related improvements on and to certain of the County's public buildings and other facilities; and

WHEREAS, the Authority has been organized for the purpose of acquiring, constructing and financing various public capital improvements, including by leasing certain public capital improvements, for the use, benefit and enjoyment of the public served by the County and is authorized to enter into financing and lease documents for that purpose; and

WHEREAS, in order to obtain funds to finance the Tax-Exempt Project, the County has agreed to lease the Tax-Exempt Real Property to the Authority by entering into the Site Lease (which has been recorded concurrently with the Tax-Exempt Project Lease), and the Authority will lease the Tax-Exempt Real Property back to the County in consideration for the payment of Tax-Exempt Lease Payments as provided in the Tax-Exempt Project Lease; and

WHEREAS, in order to obtain funds to finance the acquisition and installation of the NCREBs Solar Equipment, the County has agreed to lease the NCREBs Real Property to the Authority by entering into the Site Lease (which has been recorded concurrently with the NCREBs Equipment Lease), and the Authority will lease the NCREBs Real Property back to the County and the Authority has agreed to arrange for and lease the NCREBs Solar Equipment to the County and the County has agreed to lease the NCREBs Solar Equipment from the Authority, in consideration for the payment of NCREBs Lease Payments as provided in the NCREBs Equipment Lease; and

WHEREAS, in order to raise the funds needed for financing the Tax-Exempt Project and the NCREBs Solar Equipment, the Authority has assigned and transferred (a) the Assigned Tax-Exempt Lease Rights to the initial Tax-Exempt Lease Assignee pursuant to the Tax-Exempt Lease Assignment, which has been recorded concurrently herewith; and (b) the Assigned NCREBs Lease Rights to the initial NCREBs Lease Assignee pursuant to the NCREBs Lease Assignment; and

WHEREAS, the County is authorized to enter into a lease-leaseback arrangement and a lease arrangement with the Authority to provide financing for the Tax-Exempt Project and the NCREBs Solar Equipment under the Marks-Roos Local Bond Pooling Act of 1985, as amended (Section 6584 *et seq.* of the California Government Code);

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements and covenants herein contained, the County and the Authority formally covenant, agree and bind themselves as follows:

## ARTICLE I

### DEFINITIONS; RULES OF INTERPRETATION

*Section 1.1. Definitions.* All terms defined in this Section 1.1 have the meanings herein specified for all purposes of this Agreement (including the Recitals hereto) and each Lease.

“*Agreement*” means this Lease Agreement, dated as of August 16, 2016, between the Authority (as lessor) and the County (as lessee), as originally executed or as hereafter amended under any duly authorized and executed amendments hereto.

“*Applicable Leased Property*” means, as applicable: (i) the Tax-Exempt Real Property, (ii) prior to the County Jail Release Date, the NCREBs Real Property or (iii) on and/or after the County Jail Release Date, the NCREBs Solar Equipment.

“*Assigned NCREBs Lease Rights*” means all of the Authority’s rights under the NCREBs Equipment Lease as sublessor of the NCREBs Real Property and lessor of the NCREBs Solar Equipment (excepting only the Authority’s rights under Sections 5.10, 7.3 and 8.4 of this Agreement) and as lessee of the NCREBs Real Property under the Site Lease, as more particularly described in the NCREBs Lease Assignment, that are assigned and transferred by the Authority to the initial NCREBs Lease Assignee pursuant to the NCREBs Lease Assignment.

“*Assigned Tax-Exempt Lease Rights*” means all of the Authority’s rights under the Tax-Exempt Project Lease as sublessor of the Tax-Exempt Real Property (excepting only the Authority’s rights under Sections 5.10, 7.3 and 8.4 of this Agreement) and as lessee of the Tax-Exempt Real Property under the Site Lease, as more particularly described in the Tax-Exempt Lease Assignment, that are assigned and transferred by the Authority to the initial Tax-Exempt Lease Assignee pursuant to the Tax-Exempt Lease Assignment.

“*Assigned Rights*” means either Assigned NCREBs Lease Rights or Assigned Tax-Exempt Lease Rights, as applicable.

“*Assignee*” means either the NCREBs Lease Assignee or the Tax-Exempt Lease Assignee, as applicable.

“*Assignment*” means each of, and “*Assignments*” means both of, the NCREBs Lease Assignment and the Tax-Exempt Lease Assignment.

*“Assignment Proceeds”* means the NCREBs Lease Assignment Proceeds and the Tax-Exempt Lease Assignment Proceeds, collectively.

*“Authority”* means the Nevada County Finance Authority, a joint exercise of powers authority duly organized and existing under the laws of the State of California.

*“Available Project Proceeds (NCREBs)”* means (a) the NCREBs Lease Assignment Proceeds, *plus* (b) investment earnings thereon.

*“Business Day”* means a day other than a Saturday, Sunday or legal holiday, on which banking institutions are not closed in the State of California.

*“Climatec”* means Climatec LLC, a Limited Liability Company with its principal place of business at 18002 Cowan, Irvine, California 92614-6812.

*“Climatec Agreement”* means the Energy Performance Agreement by and between the County and Climatec dated April 26, 2016 for the procurement and installation of energy efficiency improvements at various Nevada County facilities, as originally executed or as hereafter amended under any duly authorized and executed amendments and supplements thereto.

*“Code”* means the Internal Revenue Code of 1986, as amended. Each reference to a Section of the Code herein shall be deemed to include the United States Treasury Regulations proposed or in effect thereunder.

*“County”* means the County of Nevada, California, a county and political subdivision of the State of California organized and existing under and by virtue of the laws of the State of California.

*“County Jail Release Date”* has the meaning set forth in Section 4.7 hereof.

*“Default Rate”* means a rate of interest equal to the lesser of (a) Tax-Exempt Rate or the NCREBs Rate, as applicable, *plus* 5% per annum or (b) the maximum rate permitted by law.

*“Delivery Costs”* means (a) with respect to the NCREBs Equipment Lease, the costs incurred in connection with the execution and delivery of this Agreement, the NCREBs Equipment Lease, the NCREBs Lease Assignment and the financing of the acquisition and installation of the NCREBs Solar Equipment, including the initial NCREBs Lease Assignee’s origination fee, fees and expenses of the financial advisor and the placement agent, fees and expenses of the Special Counsel, fees of the initial NCREBs Lease Assignee’s counsel, the title insurance premium and other costs related to obtaining the title insurance policy, filing and recording costs and other similar fees and costs; and (b) with respect to the Tax-Exempt Project Lease, the costs incurred in connection with the execution and delivery of this Agreement, the Site Lease, the Tax-Exempt Project Lease, the Tax-Exempt Lease Assignment and the financing of the Tax-Exempt Project, including the initial Tax-Exempt Lease Assignee’s origination fee, fees and expenses of the financial advisor and the placement agent, fees and expenses of the

Special Counsel, fees of the initial Tax-Exempt Lease Assignee's counsel, the title insurance premium and other costs related to obtaining the title insurance policy, filing and recording costs and other similar fees and costs; *provided* that the sum of the Assignees' origination fees and the fees of their counsel shall not exceed \$15,000.

*"Escrow Account"* means the separately segregated escrow account established, held and administered by the County under Section 3.3(d) hereof in connection with the Leases, including therein an NCREBs Lease Subaccount, an NCREBs Delivery Costs Subaccount, a Tax-Exempt Lease Subaccount and a Tax-Exempt Delivery Costs Subaccount in such Escrow Account.

*"Event of Default"* means any of the events of default as defined in Section 8.1.

*"Extended Lease Term"* means a period (and any successive period) during which the original Lease Term is extended pursuant to Section 4.2 or 6.5 and is equal in duration to any period during which the County does not pay Lease Payments (in whole or in part) when scheduled as a result of the occurrence of an event that results in abatement of the County's obligation to make Lease Payments in accordance to Section 6.2 or 6.3.

*"Facilities"* means the Tax-Exempt Facility and the NCREBs Facility.

*"Federal Securities"* means any direct general non-callable obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), or obligations the timely payment of principal of and interest on which are directly guaranteed by the United States of America.

*"Fiscal Year"* means each twelve-month period during the NCREBs Lease Term and the Tax-Exempt Lease Term commencing on [July 1 in any calendar year and ending on June 30 in the next succeeding calendar year], or any other twelve-month period selected by the County as its fiscal year period.

*"Funding Date"* means \_\_\_\_\_, 2016, which is the date on which the Assignment Proceeds are deposited with the County in accordance with Section 3.1.

*"Lease"* means either of, and *"Leases"* means both of, the NCREBs Equipment Lease and the Tax-Exempt Project Lease, as applicable.

*"Lease Payments"* means the NCREBs Lease Payments and/or Tax-Exempt Lease Payments, as applicable.

*"Lease Payment Commencement Date"* shall have the meaning set forth in the NCREBs Equipment Lease and the Tax-Exempt Project Lease, respectively.

*"Lease Payment Date"* means either an NCREBs Lease Payment Date or a Tax-Exempt Lease Payment Date, as applicable.

*"Lease Servicer"* for a Lease is defined in Section 7.4(b).



*“Lease Term”* means either the NCREBs Lease Term or the Tax-Exempt Lease Term, as applicable.

*“Leased Property”* means the Leased Real Property and the NCREBs Solar Equipment.

*“Leased Real Property”* means the NCREBs Real Property and the Tax-Exempt Real Property.

*“Lien”* means any lien (statutory or otherwise), security interest, mortgage, deed of trust, pledge, hypothecation, assignment, deposit arrangement, encumbrance, preference, priority or other security or preferential arrangement of any kind or nature whatsoever (including, without limitation, any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing and the filing of any financing statement under the UCC or comparable law of any jurisdiction).

*“Material Adverse Change”* means any change in the County’s creditworthiness that could have a material adverse effect on (a) the financial condition or operations of the County, or (b) the County’s ability to perform its obligations under this Agreement or a Lease.

*“NCREBs Equipment Lease”* means the NCREBs Equipment Schedule and the terms of this Agreement that are incorporated by reference into such Schedule, which shall constitute an independent lease transaction that is separate from the Tax-Exempt Project Lease.

*“NCREBs Equipment Schedule”* means the NCREBs Equipment Schedule substantially in the form of *Exhibit A* attached hereto together with the NCREBs Lease Payment Schedule substantially in the form of *Attachment A-1* attached thereto and the description of the NCREBs Real Property attached thereto as *Attachment A-2*.

*“NCREBs Facility”* means the buildings, facilities and other improvements located on the NCREBs Site and consisting generally of the Wayne Brown Correctional Facility , which is located at 925 Maidu Avenue, Nevada City, California, 95959 and is more particularly described in Attachment A-2 attached hereto.

*“NCREBs Lease Assignee”* means (a) initially, Banc of America Leasing & Capital, LLC, a Delaware limited liability company, or its designee, as assignee of the Assigned NCREBs Lease Rights pursuant to the NCREBs Lease Assignment, and (b) any other entity to whom the Assigned NCREBs Lease Rights (or any interest therein) are assigned and transferred as provided in Section 7.4.

*“NCREBs Lease Assignment”* means the Assignment Agreement (NCREBs Equipment Lease) dated \_\_\_\_\_, 2016, between the Authority, as assignor, and the initial NCREBs Lease Assignee, as assignee, as originally executed or as thereafter amended under any duly authorized and executed amendments thereto.

*“NCREBs Lease Assignment Proceeds”* means the amount of proceeds from the assignment and transfer of the Assigned NCREBs Lease Rights in the aggregate amount of \$[NCREBs Par Amount], which is to be applied as provided in Section 3.1(a).

*“NCREBs Lease Payment Date”* means, with respect to the NCREBs Lease Term, [DESCRIBE RECURRING PAYMENT DATES] in each year, commencing \_\_\_\_\_, 20\_\_\_\_, that occurs on or after the Lease Payment Commencement Date, on which the County is required to make an NCREBs Equipment Lease Payment under the NCREBs Equipment Lease as specified in the NCREBs Lease Payment Schedule attached thereto.

*“NCREBs Lease Payments”* means, with respect to the NCREBs Equipment Lease, the basic rental payments payable by the County pursuant to the NCREBs Equipment Lease on the NCREBs Lease Payment Dates and in the amounts as specified in the NCREBs Lease Payment Schedule, consisting of a principal component and an interest component as provided therein.

*“NCREBs Lease Payment Schedule”* means the NCREBs Lease Payment Schedule attached as *Attachment A-1* to the NCREBs Equipment Schedule.

*“NCREBs Lease Term”* means the period that begins on the Funding Date and ends on the first Business Day after the last scheduled NCREBs Lease Payment Date, subject to extension as provided in Section 4.2 and 6.5; *provided* that the NCREBs Lease Term shall, in any event, terminate no later than \_\_\_\_\_, [2046].

*“NCREBs Rate”* means the rate identified as such in the NCREBs Equipment Schedule.

*“NCREBs Real Property”* means the NCREBs Site and the NCREBs Facility, collectively, as the same may be modified pursuant to Section 4.7.

*“NCREBs Site”* means that certain parcel of real property situated in the County of Nevada, State of California, more particularly described in *Attachment A-2* attached to the NCREBs Equipment Schedule and made a part thereof.

*“NCREBs Solar Equipment”* means the equipment and other property consisting of solar systems and photovoltaic power generating systems and related improvements as more particularly described in the SunPower Agreement to be acquired and installed at the locations identified on Exhibit F attached hereto and made a part hereof (subject to modification as provided in Section [5.11] hereof), and all replacements, repairs, restorations, modifications and improvements thereof or thereto made pursuant to the NCREBs Equipment Lease. Whenever reference is made in this Agreement or the NCREBs Equipment Lease to NCREBs Solar Equipment, such reference shall be deemed to include all such replacements, repairs, restorations, modifications and improvements of or to such NCREBs Solar Equipment.

*“NCREBs Solar Equipment Costs”* means the total cost of the NCREBs Solar Equipment, including related costs such as freight, installation and taxes, capitalizable costs, the interest components of the NCREBs Lease Payments during the period of acquisition and installation of the NCREBs Solar Equipment; *provided* that NCREBs Solar Equipment Costs

shall not include any Delivery Costs with respect to the NCREBs Equipment Lease incurred in connection with the acquisition, installation and/or financing of the NCREBs Solar Equipment.

*“Net Proceeds”* means, with respect to either Lease, any eminent domain award (including any proceeds of sale to a governmental entity under threat of the exercise of eminent domain powers) or any insurance award under Section 5.4, paid with respect to the Tax-Exempt Real Property, the NCREBs Real Property or the NCREBs Solar Equipment, as the case may be, to the extent remaining after payment therefrom of all expenses incurred in the collection thereof.

*“Payment Schedule”* means the NCREBs Lease Payment Schedule and/or the Tax-Exempt Lease Payment Schedule.

*“Permitted Encumbrances”* means:

(1) as of any time and only with respect to the Tax-Exempt Real Property: (a) Liens for general ad valorem taxes and assessments, if any, not then delinquent, or which the County may permit to remain unpaid under Article V of this Agreement; (b) the Site Lease, the Tax-Exempt Project Lease and the Tax-Exempt Lease Assignment; (c) any right or claim of any mechanic, laborer, materialman, supplier or vendor not filed or perfected in the manner prescribed by law; (d) the exceptions disclosed in the title insurance policy issued with respect to the Tax-Exempt Real Property issued as of the Funding Date; and (e) any easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions which exist of record and which the County certifies in writing to the Tax-Exempt Lease Assignee will not materially impair the use of the Tax-Exempt Real Property for its intended purposes under the Site Lease and the Tax-Exempt Project Lease;

(2) as of any time and only with respect to the NCREBs Real Property: (a) Liens for general ad valorem taxes and assessments, if any, not then delinquent, or which the County may permit to remain unpaid under Article V of this Agreement; (b) the Site Lease, the NCREBs Equipment Lease and the NCREBs Lease Assignment; (c) any right or claim of any mechanic, laborer, materialman, supplier or vendor not filed or perfected in the manner prescribed by law; (d) the exceptions disclosed in the title insurance policy issued with respect to the NCREBs Real Property issued as of the Funding Date; and (e) any easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions which exist of record and which the County certifies in writing to the NCREBs Lease Assignee will not materially impair the use of the NCREBs Real Property for its intended purposes under the Site Lease and the NCREBs Equipment Lease; and

(3) as of any time, with respect to the real estate in, on or to which any NCREBs Solar Equipment is acquired and installed: (a) the fee interest of the Sanitation District and the Sanitation District Easement; (b) Liens for general ad valorem taxes and assessments, if any, not then delinquent or which the County may permit to remain unpaid under Article V of this Agreement; (c) the NCREBs Equipment Lease and the

NCREBs Lease Assignment; (d) any right or claim of any mechanic, laborer, materialman, supplier or vendor not filed or perfected in the manner prescribed by law; (e) any easements, rights of way, mineral rights and other rights, reservations, covenants, conditions or restrictions which exist of record and which will not materially impair the use of such real estate for its intended purposes; and (f) any other Lien, security interest, mortgage, deed of trust, pledge, hypothecation, assignment or other security or preferential arrangement of any kind or nature whatsoever of which the prior written consent of the NCREBs Lease Assignee has been obtained.

*“Person”* means an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, governmental authority or any other entity of whatever nature.

*“Prior Capital Projects Financing Agreements”* means (a) the Ground Lease, dated as of July 1, 2011, by and between the County and the Authority, (b) the Lease Agreement, dated as of July 1, 2011, by and between the County and the Authority, (c) the Assignment Agreement dated as of July 1, 2011, by and between the Authority and The Bank of New York Mellon Trust Company, N.A., and (d) the Trust Agreement, dated as of July 1, 2011 by and among the Authority, the County and The Bank of New York Mellon Trust Company, N.A., as Trustee, in each case as originally executed or as hereafter amended under any duly authorized and executed amendments and supplements thereto.

*“Prior Sanitation District Financing Documents”* means (a) the Loan Agreement (Lake of the Pines Project Financing), dated as of August 1, 2006, by and between LaSalle Bank National Association and the Sanitation District, as heretofore or hereafter amended and supplemented, and (b) the Agreement designated as Agreement Number 06-807-550-0 by and between the State Water Resources Control Board and the Sanitation District, in each case as originally executed or as hereafter amended under any duly authorized and executed amendments and supplements thereto.

*“Qualified New Clean Renewable Energy Project”* means capital expenditures incurred by the County within the meaning of Section 54C(d)(1) of the Code for any qualified renewable energy facility determined under Section 45(d) of the Code (without regard to paragraphs (8) and (10) thereof and any placed in service date), including (among others) solar energy facilities.

*“Rental Period”* means for each Lease Payment Date, the [\_\_\_\_\_] period from the first day after the next preceding Lease Payment Date to (and including) such succeeding Lease Payment Date; *provided* that the first Rental Period begins on the Funding Date and ends on \_\_\_\_\_, 20\_\_.

*“Sanitation District”* means Nevada County Sanitation District No. 1, a political subdivision of the State of California.

*“Sanitation District Easement”* means the easement conveyed by the Sanitation District to the County by the Grant of Solar Facilities Easement executed by the Sanitation District on or about August \_\_\_, 2016.

*“Sanitation District Real Property”* means the real property owned and operated by the Sanitation District at 10984 Riata Way, Auburn, California that is generally known as the Lake of the Pines Wastewater Treatment Plant..

*“Securities Act”* means the Securities Act of 1933, as amended.

*“Site”* means the NCREBs Site and/or the Tax-Exempt Site.

*“Site Lease”* means the Site, Facility and Equipment Lease dated as of \_\_\_\_\_ 1, 2016, between the County as lessor and the Authority as lessee of the Leased Real Property, as originally executed or as hereafter amended under any duly authorized and executed amendments and supplements thereto.

*“Special Counsel”* means (a) Stradling Yocca Carlson & Rauth, a Professional Corporation, or (b) any other attorney or firm of attorneys (acceptable to the NCREBs Lease Assignee with respect to the NCREBs Equipment Lease or the Tax-Exempt Lease Assignee with respect to the Tax-Exempt Project Lease) of nationally recognized expertise with respect to legal matters relating to tax-credit obligations or obligations the interest on which is excludable from gross income of the owners thereof for federal income tax purposes.

*“SunPower”* means SunPower Corporation, Systems, a Delaware corporation having its principal place of business at 1414 Harbour Way South, Richmond, CA 94804..

*“SunPower Agreement”* means the Engineering, Procurement and Construction Agreement between the County and SunPower dated April 26, 2016, as originally executed or as hereafter amended under any duly authorized and executed amendments and supplements thereto.

*“Tax-Exempt Facility”* means the buildings, facilities and other improvements located on the Tax-Exempt Site and consisting generally of the Veterans Memorial Building , which is located at 255 S. Auburn Street, Grass Valley, California, 95945 and is more particularly described in Attachment B-2 attached hereto.

*“Tax-Exempt Lease Assignee”* means (a) initially, Banc of America Public Capital Corp, a Kansas corporation, or its designee, as assignee of the Assigned Tax-Exempt Lease Rights pursuant to the Tax-Exempt Lease Assignment, and (b) any other entity to whom the Assigned Tax-Exempt Lease Rights (or any interest therein) are assigned and transferred as provided in Section 7.4.

*“Tax-Exempt Lease Assignment”* means the Assignment Agreement (Tax-Exempt Project Lease) dated \_\_\_\_\_, 2016, between the Authority, as assignor, and the initial Tax-Exempt Lease Assignee, as assignee, as originally executed or as thereafter amended under any duly authorized and executed amendments thereto.

*“Tax-Exempt Lease Assignment Proceeds”* means the amount of proceeds from the assignment and transfer of the Assigned Tax-Exempt Lease Rights in the aggregate amount of \$[Tax-Exempt Par Amount], which is to be applied as provided in Section 3.1(b).

*“Tax-Exempt Lease Payment Date”* means, with respect to the Tax-Exempt Lease Term, [DESCRIBE RECURRING PAYMENT DATES] in each year, commencing \_\_\_\_\_, 20\_\_\_\_, that occurs on or after the Lease Payment Commencement Date, on which the County is required to make a Tax-Exempt Lease Payment under the Tax-Exempt Project Lease as specified in the Tax-Exempt Lease Payment Schedule attached thereto.

*“Tax-Exempt Lease Payments”* means, with respect to the Tax-Exempt Project Lease, the basic rental payments payable by the County pursuant to the Tax-Exempt Project Lease on the Tax-Exempt Lease Payment Dates and in the amounts as specified in the Tax-Exempt Lease Payment Schedule, consisting of a principal component and an interest component as provided therein.

*“Tax-Exempt Lease Payment Schedule”* means the Tax-Exempt Lease Payment Schedule attached as *Attachment B-1* to the Tax-Exempt Project Schedule.

*“Tax-Exempt Lease Term”* means the period that begins on the Funding Date and ends on the first Business Day after the last scheduled Tax-Exempt Lease Payment Date, subject to extension as provided in Section 4.2 or 6.5; *provided* that the Tax-Exempt Lease Term shall, in any event, terminate no later than \_\_\_\_\_, [2041].

*“Tax-Exempt Project”* means the acquisition, construction, rehabilitation and installation of certain lighting, mechanical, utility, and other energy conservation measures on, in and to certain of the County’s public buildings and other facilities which are located at the following addresses, as more specifically described in the Climatec Agreement:

Nevada County Animal Shelter  
14647 McCourtney Road  
Grass Valley, California

Carl F. Bryan II Juvenile Hall  
15434 Highway 49  
Nevada City, California

Crown Point Facility  
500 Crown Point Circle  
Grass Valley, California

Eric Rood Administration Center  
950 Maidu Avenue  
Nevada City, California

Madelyn Helling Library

980 Helling Way  
Nevada City, California

Truckee Government Center  
10879 Donner Pass Road  
Truckee, California

Truckee Joseph Center  
10075 Levone Avenue  
Truckee, California

Facilities Service Center  
10014 N. Bloomfield Road  
Nevada City, California

Grass Valley Library Royce Branch  
207 Mill Street  
Grass Valley, California

Sheriff's Property Unit  
15076 Highway 49  
Nevada City, California

Truckee Library  
10031 Levone Avenue  
Truckee, California

*"Tax-Exempt Project Costs"* means, with respect to the Tax-Exempt Project, all costs of the acquisition and installation thereof which are paid from moneys on deposit in the Tax-Exempt Lease Subaccount in the Escrow Account, including but not limited to:

(a) all costs required to be paid to any person under the terms of any agreement for or relating to the Tax-Exempt Project;

(b) obligations incurred for labor and materials in connection with the Tax-Exempt Project;

(c) the cost of performance or other bonds and any and all types of insurance that may be necessary or appropriate to have in effect in connection with the Tax-Exempt Project;

(d) all costs of engineering, architectural services and other preliminary investigation expenses, including the actual out-of-pocket costs for site investigations, surveys, hazardous materials investigations, test borings, surveys, estimates, plans and specifications and preliminary investigations therefor, development fees, sales

commissions, and for supervising construction, as well as for the performance of all other duties required by or consequent to the Tax-Exempt Project;

(e) any sums required to reimburse the County for advances made on or after \_\_\_\_\_, 20\_\_ (i.e., the date on which a reimbursement resolution was adopted) for any of the above items or for any other costs incurred and for work done, including but not limited to administrative costs of the County, which are properly chargeable to the Tax-Exempt Project;

(f) all financing costs incurred in connection with the Tax-Exempt Project, including but not limited to financing costs incurred in connection with the Tax-Exempt Project Lease and the financing of the Tax-Exempt Project; and

(g) the interest components of the Tax-Exempt Lease Payments during the period of acquisition and installation of the Tax-Exempt Project.

*“Tax-Exempt Project Lease”* means the Tax-Exempt Project Schedule and the terms of this Agreement that are incorporated by reference into such Schedule, which shall constitute an independent lease transaction that is separate from the NCREBs Equipment Lease.

*“Tax-Exempt Project Schedule”* means the Tax-Exempt Project Schedule substantially in the form of *Exhibit B* attached hereto together with the Tax-Exempt Lease Payment Schedule substantially in the form of *Attachment B-1* attached thereto and the description of the Tax-Exempt Real Property attached thereto as *Attachment B-2*.

*“Tax-Exempt Rate”* means the rate identified as such in the Tax-Exempt Project Schedule.

*“Tax-Exempt Real Property”* means the Tax-Exempt Site and the Tax-Exempt Facility, collectively. From and after the date of substitution of any property under Section 4.5 or release of any property under Section 4.6, the term *“Tax-Exempt Real Property”* means the real property that remains subject to the Tax-Exempt Project Lease following such substitution or release.

*“Tax-Exempt Site”* means that certain parcel of real property situated in the County of Nevada, State of California, more particularly described in *Attachment B-2* attached to the Tax-Exempt Project Schedule and made a part thereof.

*“Vendor”* means Climatec as the contractor under the Climatec Agreement, SunPower as the contractor under the SunPower Agreement, and any other manufacturer, installer or supplier of the Tax-Exempt Project or the NCREBs Solar Equipment or any other person as well as the agents or dealers of the manufacturer, installer or supplier with whom the Authority or the County arranged acquisition, construction, rehabilitation and installation of the Tax-Exempt Project or acquisition and installation of the NCREBs Solar Equipment.

*“Vendor Agreement”* means (a) the Climatec Agreement, (b) the SunPower Agreement and (c) any other contract entered into by the County and any other Vendor with respect to the



Acquisition, construction, rehabilitation and installation of the Tax-Exempt Project and the acquisition and installation of the NCREBs Solar Equipment.

*Section 1.2. Interpretation.* (a) Unless the context otherwise indicates, words expressed in the singular include the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and include the neuter, masculine or feminine gender, as appropriate.

(b) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and do not affect the meaning, construction or effect hereof.

(c) All references herein to “Articles,” “Sections” and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Agreement; the words “herein,” “hereof,” “hereby,” “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or subdivision hereof.

## **ARTICLE II**

### **COVENANTS, REPRESENTATIONS AND WARRANTIES**

*Section 2.1. Covenants, Representations and Warranties of the County.* The County makes the following covenants, representations and warranties to the Authority as of the Funding Date:

(a) *Due Organization and Existence.* The County is a political subdivision duly organized and validly existing under the laws of the State of California, has full legal right, power and authority under the laws of the State of California to enter into this Agreement, the Leases and the Site Lease and to carry out and consummate all transactions contemplated hereby and thereby, and by proper action the County has duly authorized the execution and delivery of this Agreement, the Leases and the Site Lease.

(b) *Due Execution.* The representatives of the County executing this Agreement, the Leases and the Site Lease have been fully authorized to execute the same under a resolution duly adopted by the Board of Supervisors of the County.

(c) *Valid, Binding and Enforceable Obligations.* This Agreement, the Leases and the Site Lease have been duly authorized, executed and delivered by the County and constitute the legal, valid and binding agreements of the County enforceable against the County in accordance with their respective terms.

(d) *No Conflicts.* The execution and delivery of this Agreement, the Leases and the Site Lease, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or

any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the County is a party or by which it or its properties are otherwise subject or bound (including, without limitation, the Prior Capital Projects Financing Agreements), or result in the creation or imposition of any prohibited Lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the County. The execution and delivery of this Agreement, the NCREBs Equipment Lease and the Site Lease, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any of the Prior Sanitation District Financing Documents or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument relating to the Tax-Exempt Real Property, the NCREBs Real Property or any of the real properties where the NCREBs Solar Equipment are or will be located.

(e) *Consents and Approvals.* No consent or approval of any trustee or holder of any indebtedness of the County or of the voters of the County, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this Agreement, the Leases and the Site Lease, or the consummation of any transaction herein or therein contemplated, except as have been obtained or made and as are in full force and effect.

(f) *No Litigation.* There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending or, to the knowledge of the County after reasonable investigation, threatened against or affecting the County or the assets, properties or operations of the County which, if determined adversely to the County or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this Agreement, either Lease or the Site Lease, or upon the financial condition, assets, properties or operations of the County, and the County is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Agreement, either Lease or the Site Lease or the financial condition, assets, properties or operations of the County.

(g) *Essential Use.* The NCREBs Real Property, the Tax-Exempt Project and the Tax-Exempt Real Property are (and, upon completion and acceptance, the NCREBs Solar Equipment will be) essential to the proper, efficient and economic operation of the County and serve an essential governmental function of the County. The County does not intend to sell or otherwise dispose of the Tax-Exempt Real Property or any interest therein prior to the last Lease Payment (including all Extended Lease Terms) scheduled to be paid under the Tax-Exempt Project Lease. The County does not intend to sell or otherwise dispose of the NCREBs Real Property or the NCREBs Solar Equipment or any interest therein prior to the last Lease Payment (including all Extended Lease Terms)

scheduled to be paid under the NCREBs Equipment Lease. The County has an immediate need for the Tax-Exempt Real Property and the NCREBs Real Property and expects to make immediate use of the NCREBs Solar Equipment upon completion and acceptance thereof. The County's need for the Tax-Exempt Real Property and the NCREBs Real Property is not temporary and the County does not expect the need for any item of the NCREBs Solar Equipment to diminish during the Lease Term.

(h) *Insufficiency of NCREBs Lease Assignment Proceeds.* The County will pay all NCREBs Solar Equipment Costs in excess of NCREBs Lease Assignment Proceeds available therefor out of its own funds. The County will pay the Delivery Costs relating to the NCREBs Equipment Lease in excess of **[2% of NCREBs Lease Assignment Proceeds]** out of its own funds and not from NCREBs Lease Assignment Proceeds. The NCREBs Lease Assignee shall not have any responsibility to pay amounts for any NCREBs Solar Equipment Costs amounts or Delivery Costs with respect to the NCREBs Equipment Lease and NCREBs Solar Equipment that in the aggregate exceed the NCREBs Lease Assignment Proceeds.

(i) *Insufficiency of Tax-Exempt Lease Assignment Proceeds.* The County will pay all Tax-Exempt Project Costs and Delivery Costs relating to the Tax-Exempt Project Lease in excess of Tax-Exempt Lease Assignment Proceeds out of its own funds. The Tax-Exempt Lease Assignee shall not have any responsibility to pay any amounts relating to the Tax-Exempt Project Costs or Delivery Costs relating to the Tax-Exempt Project Lease that in the aggregate exceed the Tax-Exempt Lease Assignment Proceeds.

(j) *Ownership of or Rights to Real Estate where NCREBs Solar Equipment is and will be Located; Negative Pledge.* (1) So long as the NCREBs Lease Term is in effect and/or any NCREBs Lease Payment remains outstanding, the NCREBs Solar Equipment is and will be acquired, installed and located on the real property described in *Exhibit F* attached hereto and all such real property is and at all times will be either (i) owned by the County as fee simple owner and for which the County has good and marketable title or (ii) the County and the NCREBs Lease Assignee, on and after the Wayne Brown Correctional Facility Release Date, shall have all rights described in Section 2.1(j)(2) below for so long as any NCREBs Lease Payments remain outstanding or unpaid and/or the NCREBs Equipment Lease is in effect; and in each case there exists no mortgage, pledge, Lien, security interest, charge or other encumbrance of any nature whatsoever on or with respect to any such real estate (except to the extent of the rights and interests in the Eric Rood Administrative Center created under the Prior Capital Projects Financing Agreements). The County shall not create, incur, assume or permit to exist any mortgage, pledge, Lien, security interest, charge or other encumbrance of any nature whatsoever on any of the real estate (including any property identified on *Exhibit F* attached hereto) where the NCREBs Solar Equipment is or will be located or enter into any agreement to sell or assign or enter into any sale/leaseback arrangement of such real estate. The descriptions of the real property set forth in *Exhibit F* attached hereto, including street addresses and legal property descriptions, are true, accurate and complete.

(2) The County hereby represents and warrants to the Authority that under the terms and conditions of the Sanitation District Easement: (i) the County has a valid easement [THAT RUNS WITH THE LAND AND PASSES ALONG TO ANY SUBSEQUENT OWNER OF THE LAND] providing ingress, egress and regress to, from and over the Sanitation District Real Property and to acquire, install, maintain, modify, repair and/or repossess the NCREBs Solar Equipment in, on or to the Sanitation District Real Property and the Sanitation District Facilities; (ii) notwithstanding the means by which NCREBs Solar Equipment may be attached or affixed to the Sanitation District Real Property or the Sanitation District Facilities, such NCREBs Solar Equipment shall be and remain personal property of the County (for which the Authority is a secured party) and shall not be considered part of or affixed to such Sanitation District Real Property or the Sanitation District Facilities; (iii) neither the Sanitation District nor any other Person has, and shall not, have any interest in, right or claim to or Lien on the NCREBs Solar Equipment so long as any NCREBs Lease Payment remains outstanding or the NCREBs Lease Term is in effect; (iv) the Authority and its successors and assigns is and shall be entitled to enter into, over and on the Sanitation District Real Property and the Sanitation District Facilities for the purpose of exercising any right or remedy that the Authority may have under the terms of the NCREBs Equipment Lease, the Site Lease, or otherwise, including (without limitation) the right to physically detach and remove the NCREBs Solar Equipment from the Sanitation District Real Property or the Sanitation District Facilities or to conduct a sale of the NCREBs Solar Equipment subject to the terms of the NCREBs Equipment Lease; (v) the term of the Sanitation District Easement is so long as the NCREBs Equipment Lease and/or any NCREBs Lease Payment remains outstanding; and (vi) so long as the NCREBs Equipment Lease, the NCREBs Lease Term and/or any NCREBs Lease Payment remains outstanding, neither the Sanitation District nor any other Person is entitled to take any action to terminate the County's (or the Authority's as secured party) right to acquire, install, maintain, modify, repair and/or repossess the NCREBs Solar Equipment in, on or to the Sanitation District Real Property and/or the Sanitation District Facilities.

(3) So long as NCREBs Equipment Lease, the NCREBs Lease Term and/or any NCREBs Lease Payment remains outstanding, the County shall take all necessary actions to maintain the Sanitation District Easement in full force and effect and shall not terminate or agree to terminate, permit the Sanitation District or any other Person to terminate, the Sanitation District Easement without the prior written consent of the Authority. The County shall not agree to amend or modify the Sanitation District Easement or waive any term or condition of the Sanitation District Easement, in either event in any manner that would result in the terms and conditions of the Sanitation District Easement being inconsistent with the County's representations set forth in subsection (j) of this Section 2.1. The County shall notify the Authority immediately in writing of any default by under any Prior Capital Projects Financing Agreement or any Prior Sanitation District Financing Document.

(4) The NCREBs Solar Equipment does not and will not constitute any part of the Sanitation District Real Property, the Sanitation District Facilities, the NCREBS Facility, the County Juvenile Hall Real Property or Facilities, the Ranch property or the

Eric Rood Administrative Center under and as defined in the Prior Capital Projects Financing Agreements and the security interest and Lien on the NCREBs Solar Equipment and otherwise granted herein to the Authority does not create any security interest or Lien of the Authority on the Sanitation District Real Property, the Sanitation District Facilities or the Eric Rood Administrative Center.

(5) The County covenants and agrees that in the event any lien, issue, claim or dispute arises with respect to the County's legal title to (or the Authority's interest in) the Tax-Exempt Real Property, the NCREBs Real Property (prior to the County Jail Release Date), the NCREBs Solar Equipment (on or after the County Jail Release Date) or access to the Tax-Exempt Real Property, the NCREBs Real Property (prior to the County Jail Release Date), the NCREBs Solar Equipment (on or after the County Jail Release Date) for inspection or repossession or any other matters relating to the County's valid and marketable use or title of the Tax-Exempt Real Property, the NCREBs Real Property (prior to the County Jail Release Date), or on or after the County Jail Release Date any of real property at which the NCREBs Solar Equipment is or will be located (each of the foregoing referred to as a "*Real Property Issue*"), the County will take all steps necessary to promptly quiet, resolve and/or eliminate such Real Property Issue and/or provide the Authority with, or as applicable, will take all reasonable steps available to the County to ensure the Authority has, adequate access to the Tax-Exempt Real Property, the NCREBs Real Property (prior to the County Jail Release Date) and after the County Jail Release Date, the real property at which the NCREBs Solar Equipment is or will be located for purposes of accessing, inspecting and/or repossessing (if necessary) the Tax-Exempt Real Property, the NCREBs Real Property (prior to the County Jail Release Date) and after the County Jail Release Date, any of the NCREBs Solar Equipment and the County shall ensure that its fee interest (or easement in the case of the Sanitation District Real Property) in the Tax-Exempt Real Property, the NCREBs Real Property (prior to the County Jail Release Date) and after the County Jail Release Date, the real property at which the NCREBs Solar Equipment is or will be located is and remains free and clear of Real Property Issues. The County covenants and agrees that in the event any legal description, UCC-1 financing statement or fixture filing (or continuations or amendments thereof) filed or recorded with respect to the Authority's interests in the Tax-Exempt Real Property, the NCREBs Real Property (prior to the County Jail Release Date) and after the County Jail Release Date, the NCREBs Solar Equipment reflects any incorrect real property legal description, the County shall take all steps necessary (with the applicable Assignee's prior written approval) to promptly correct any errors with respect to such legal descriptions, UCC-1 financing statements and fixture filings.

(6) Notwithstanding any termination of this Agreement, the covenants in this Section 2.1(j) shall remain in effect and continue to inure to the benefit of the Authority and its assigns so long as any NCREBs Lease Payment remains outstanding or unpaid.

(k) *No Prior Termination for Lack of Appropriation.* No lease, rental agreement, lease-purchase agreement, payment agreement or contract for purchase to which the County has been a party at any time has been terminated by the County as a result of insufficient funds being appropriated in any Fiscal Year. No event has occurred

which would constitute an event of default under any debt, revenue bond or obligation which the County has issued during the past ten years.

(l) *Compliance with Government Code.* The County has complied with the Marks-Roos Local Bond Pooling Act of 1985, as amended (Section 6584 *et seq.* of the Government Code of the State) and other applicable law pertaining to the authorization of this Agreement and the acquisition by the County of the NCREBs Solar Equipment and the completion of the Tax-Exempt Project.

(m) *Reporting Requirements.* The County has kept, and throughout the Lease Term shall keep, its books and records in accordance with generally accepted accounting principles and practices applicable to governmental agencies consistently applied, and shall deliver to the Authority (i) annual audited financial statements (including (1) a balance sheet, (2) statement of revenues, expenses and changes in fund balances for budget and actual, (3) statement of cash flows, and (4) footnotes, schedules and attachments to the financial statements) within 270 days of its fiscal year end (and the County's obligation to so deliver such annual audited financial statements to the Authority may be met by filing the same on EMMA), (ii) such other financial statements and information as the Authority may reasonably request, and (iii) upon the Authority's request, its annual budget for any prior or current fiscal year or the following fiscal year when approved. The financial statements described in this subsection (m) shall be accompanied by an opinion of the County's auditor. Credit information relating to the County may be disseminated among the Assignees and any of their affiliates and any of their respective successors and assigns.

(n) *Further Assurances.* The County will, at its expense, do any further act and execute, acknowledge, deliver, file, register and record any further documents the Authority may reasonably request in order to protect the Authority's first priority security interest in the NCREBs Solar Equipment and the Authority's rights and benefits under this Agreement and the Site Lease.

(o) *NCREBs Allocation.* The County has received allocation of a portion of the national clean renewable energy bond limitation in the aggregate amount of \$[NCREBs Par Amount] and documentation with respect to such allocation has been provided for inclusion in the transcript for this Agreement. The County represents that the NCREBs Solar Equipment qualifies as a Qualified New Clean Renewable Energy Project.

(m) *SunPower Agreement.* Other than the County, there are no ["Capital Partners" as defined in Section \_\_\_\_ of that certain Vendor Agreement which is the [Master Purchasing and Services Agreement, effective \_\_\_\_\_, 2016 (the "MPSA"), between the County and SunPower Corporation Systems ("SunPower"). [The County shall deliver to the Authority such information as the Authority shall request regarding the MPSA, including any information provided by SunPower to the County thereunder.] [The County has funds on hand to pay the difference between each "EPC Price" as set

forth in Exhibit \_\_\_ to the MPSA and each “Purchase Price” as defined in the MPSA and set forth in Exhibit \_\_\_.]

(n) *Legal Descriptions.* All of the NCREBs Solar Equipment will be located at the sites, and only on the sites, set forth in Exhibit F hereto, and the legal descriptions, APN numbers and addresses set forth therein relating to such sites are accurate.

(o) *True and Accurate.* All financial statements and other information delivered to the Authority are correct as of the date thereof. Since the date of execution of the Purchase Contract between Banc of America Leasing & Capital, LLC and the County on \_\_\_\_\_, 2016, no material adverse change has occurred in the County’s financial condition that would adversely effect the County’s ability to perform its obligations hereunder.

*Section 2.2. Covenants, Representations and Warranties of the Authority.* The Authority makes the following covenants, representations and warranties to the County as of the Funding Date:

(a) *Due Organization and Existence.* The Authority is a joint exercise of powers authority duly organized and existing under the laws of the State of California, has full legal right, power and authority to enter into this Agreement, the Leases, the Site Lease and the Assignments and to carry out and consummate all transactions contemplated hereby and thereby, and by proper action of its governing board the Authority has duly authorized the execution and delivery of this Agreement, the Leases, the Site Lease and the Assignments.

(b) *Due Execution.* The representatives of the Authority executing this Agreement, the Leases, the Site Lease and the Assignments are fully authorized to execute the same under official action taken by the governing board of the Authority.

(c) *Valid, Binding and Enforceable Obligations.* This Agreement, the Leases, the Site Lease and the Assignments have been duly authorized, executed and delivered by the Authority and constitute the legal, valid and binding agreements of the Authority, enforceable against the Authority in accordance with their respective terms.

(d) *No Conflicts.* The execution and delivery of this Agreement, the Leases, the Site Lease and the Assignments, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the Authority is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited Lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Authority, which conflict, violation, breach, default, Lien, charge or encumbrance would

have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Agreement, the Leases, the Site Lease and the Assignments or the financial condition, assets, properties or operations of the Authority.

(e) *Consents and Approvals.* No consent or approval of any trustee or holder of any indebtedness of the Authority, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this Agreement, either Lease, the Site Lease or either Assignment, or the consummation of any transaction herein or therein contemplated, except as have been obtained or made and as are in full force and effect.

(f) *No Litigation.* There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending or, to the knowledge of the Authority after reasonable investigation, threatened against or affecting the Authority or the assets, properties or operations of the Authority which, if determined adversely to the Authority or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this Agreement, either Lease, the Site Lease or either Assignment, or upon the financial condition, assets, properties or operations of the Authority, and the Authority is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Agreement, either Lease, the Site Lease or either Assignment or the financial condition, assets, properties or operations of the Authority.

### ARTICLE III

#### **DEPOSIT AND APPLICATION OF FUNDS; ACQUISITION AND INSTALLATION OF THE NCREBS SOLAR EQUIPMENT AND THE TAX-EXEMPT PROJECT**

*Section 3.1. Deposit and Application of Assignment Proceeds.* (a) NCREBs Lease Assignment Proceeds in the amount of \$[NCREBs Par Amount] shall be deposited with the County on the Funding Date and applied as follows: (i) \$[NCREBs COI Amount] shall be deposited into the NCREBs Delivery Costs Subaccount in the Escrow Account and applied to pay Delivery Costs with respect to the NCREBs Equipment Lease to the persons entitled thereto pursuant to the Escrow Account; and (ii) \$[NCREBs Equipment Costs] shall be deposited into the NCREBs Lease Subaccount in the Escrow Account and applied at the written direction of the County to pay NCREBs Solar Equipment Costs. Any Delivery Costs in excess of 2% of NCREBs Lease Assignment Proceeds with respect to the NCREBs Equipment Lease incurred in connection with the acquisition, installation and/or financing of the NCREBs Solar Equipment shall be paid by the County from its own funds and not from NCREBs Lease Assignment Proceeds or any amounts in the NCREBs Lease Subaccount.

(b) Tax-Exempt Lease Assignment Proceeds in the amount of \$[Tax-Exempt Par Amount] shall be deposited with the County on the Funding Date and applied as follows:



(i) \$[Tax-Exempt COI Amount] shall be deposited into the Tax-Exempt Delivery Costs Subaccount in the Escrow Account and applied to pay Delivery Costs with respect to the Tax-Exempt Project Lease to the persons entitled thereto pursuant to the Escrow Account; and (ii) \$[Tax-Exempt Project Costs] shall be deposited into the Tax-Exempt Lease Subaccount in the Escrow Account and applied at the written direction of the County to pay Tax-Exempt Project Costs.

*Section 3.2. Appointment of County as Agent of Authority.* The Authority hereby appoints the County as its agent to carry out all phases of the Tax-Exempt Project and acquisition and installation of the NCREBs Solar Equipment under and in accordance with the provisions hereof. The County hereby accepts its appointment as agent of the Authority and assumes all rights, liabilities, duties and responsibilities of the Authority regarding the Tax-Exempt Project and acquisition and installation of the NCREBs Solar Equipment. The County, as agent of the Authority hereunder, has entered into or will enter into, administer and enforce all Vendor Agreements relating to the Tax-Exempt Project and the acquisition and installation of the NCREBs Solar Equipment. All Vendor Agreements for, and all work relating to, the Tax-Exempt Project and the acquisition and installation of the NCREBs Solar Equipment are subject to all applicable provisions of law relating to the acquisition, construction, improvement and equipping of like facilities, equipment and property by the County.

The County will disburse payment for Tax-Exempt Project Costs and NCREBs Solar Equipment Costs from amounts held by the County in the Tax-Exempt Lease Subaccount and the NCREBs Lease Subaccount, respectively, in the Escrow Account, as provided in this Article. The County has ordered or shall order the NCREBs Solar Equipment, cause the NCREBs Solar Equipment to be delivered and installed at the location specified in the NCREBs Equipment Schedule and pay any and all Equipment Costs and other delivery and installation costs in connection therewith.

Prior to each disbursement from the NCREBs Lease Subaccount, the County shall ensure that (i) such disbursement is for an obligation in the stated amount that has been incurred by the County, and that the same is a proper charge against the NCREBs Lease Subaccount for NCREBs Solar Equipment Costs relating to the NCREBs Solar Equipment identified in the NCREBs Equipment Lease, and has not been paid (or has been paid by the County and the County requests reimbursement thereof); (ii) each item of NCREBs Solar Equipment to be paid from the NCREBs Lease Subaccount has been delivered, installed and accepted by the County or the amount disbursed from the NCREBs Lease Subaccount will be used to reimburse the County for a required progress payment upon satisfaction of certain conditions; (iii) neither the County nor any representative of the County has any notice of any vendor's, mechanic's or other Liens or rights to Liens, chattel mortgages, conditional sales contracts or security interest which should be satisfied or discharged before such payment is made; (iv) such requisition contains no item representing payment on account, or any retained percentages which the County is, at the date of such certificate, entitled to retain (except to the extent such amounts represent a reimbursement to the County); (v) the NCREBs Solar Equipment is insured in accordance with the NCREBs Equipment Lease; (vi) no Event of Default has occurred and is continuing; and (vii) such disbursement shall occur prior to \_\_\_\_\_, 2017. Prior to each disbursement from the NCREBs Lease Subaccount, the County shall file with the NCREBs Lease Assignee notice of such

disbursement in the form of an NCREBs Notice of Disbursement/Certificate of Acceptance attached hereto as Exhibit E.

The County shall deliver to the Authority and the NCREBs Lease Assignee original invoices (and proof of payment of such invoices), information regarding progress payments and bills of sale (if title to such NCREBs Solar Equipment has passed to the County) relating to each item of NCREBs Solar Equipment accepted by the County and any additional documentation reasonably requested by the Authority or the NCREBs Lease Assignee.

*Section 3.3. Acquisition, Installation and Financing of the Tax-Exempt Project and the NCREBs Solar Equipment.* (a) As agent of the Authority, the County hereby agrees with due diligence to supervise and provide for, or cause to be supervised and provided for, the Tax-Exempt Project and acquisition and installation of the NCREBs Solar Equipment in accordance with the Vendor Agreements and other documents relating thereto and approved by the County under all applicable requirements of law. The County shall cause the Tax-Exempt Project to be acquired, constructed, rehabilitated and installed at the location or locations specified in the Tax-Exempt Equipment Schedule and the applicable Vendor Agreement and pay any and all Tax-Exempt Project Costs and other delivery and installation costs in connection therewith. The County shall cause the NCREBs Solar Equipment to be delivered and installed at the location or locations specified in the NCREBs Equipment Schedule and pay any and all NCREBs Solar Equipment Costs and other delivery and installation costs in connection therewith.

(b) The County shall obtain a written agreement between the County and each Vendor, in form and substance acceptable to the Assignees, to the effect that such Vendor agrees, for and in consideration of amounts to be disbursed from the NCREBs Lease Subaccount, that automatically and without any further act or action, ownership of and title to the NCREBs Solar Equipment (or portion thereof, as applicable) shall vest in the County (or its assigns) for purposes of this Agreement and the NCREBs Equipment Lease upon final acceptance by County of the work and prior to the County Jail Release Date. Prior to the County Jail Release Date, County shall provide a signed unconditional lien waivers received from Sunpower for the NCREBs Solar Equipment. The lien waiver will be consistent with the applicable form, if any, required by the law of the State of California and in a form reasonably acceptable to the Authority and Assignee. (c) When all items of the NCREBs Solar Equipment have been delivered and installed and are available for the County's beneficial use and enjoyment, the County shall promptly accept such NCREBs Solar Equipment and evidence such acceptance by executing and delivering to the Authority and the NCREBs Lease Assignee, an NCREBs Final Acceptance Certificate in the form attached hereto as Exhibit C. Once installed, no item of the NCREBs Solar Equipment will be moved or relocated from the location specified for it in the NCREBs Equipment Schedule without the Authority's prior written consent, which consent shall not be unreasonably withheld. The Authority shall have the right at all reasonable times during regular business hours to enter into and upon the property where the NCREBs Solar Equipment is located for the purpose of inspecting the NCREBs Solar Equipment.

(d) Notwithstanding anything in this Article III to the contrary, the County shall assure that amounts in the Escrow Account (including the Subaccounts therein) are expended solely in accordance with the requirements of Section 7.7 relating to the observance of all tax

provisions relating to the Tax-Exempt Project and the acquisition and installation of the NCREBs Solar Equipment.

*Section 3.4. Disposition of Excess Moneys.* (a) Amounts on deposit in the NCREBs Lease Subaccount and the NCREBs Delivery Costs Subaccount of the Escrow Account may be expended for the payment of NCREBs Equipment Costs for the Qualified New Clean Renewable Energy Project to and including the earlier of (i) \_\_\_\_\_, 2017 (or with the prior written consent of the NCREBs Lease Assignee in its sole and absolute discretion, the 90th day following the later of \_\_\_\_\_, 2019 or, if the County has obtained an extension of the expenditure period from the Secretary of the Treasury, the end of such extended period) or (ii) the date on which the County executes an NCREBs Final Acceptance Certificate (in the form attached hereto as Exhibit C) and all payments to SunPower as Vendor have been made. All amounts remaining on deposit in the NCREBs Lease Subaccount and the NCREBs Delivery Costs Subaccount of the Escrow Account as of the earlier of such dates ("*NCREBs Excess Proceeds*") shall be applied by the County to prepay the principal component of NCREBs Lease Payments in whole or in part in inverse order of NCREBs Lease Payment Dates. The portion of the NCREBs Excess Proceeds that are 10% or less of the original NCREBs Lease Assignment Proceeds shall be applied to prepay NCREBs Lease Payments at a prepayment price equal 100% of such NCREBs Excess Proceeds plus accrued interest on such prepaid principal portion of NCREBs Lease Payments to the prepayment date. Any portion of the NCREBs Excess Proceeds that exceeds 10% of the original NCREBs Lease Assignment Proceeds shall be applied to prepay NCREBs Lease Payments at a prepayment price equal 102% of such NCREBs Excess Proceeds plus accrued interest on such prepaid principal portion of NCREBs Lease Payments to the prepayment date. Notwithstanding anything in this Section to the contrary the County shall pay the prepayment premium (if any) and interest portion of NCREBs Lease Payments accrued to the prepayment date on such principal portion to be prepaid from funds legally available to the County for that purpose, but not from Available Project Proceeds (NCREBs). The County will give the Authority and the NCREBs Lease Assignee notice of any such prepayment in accordance with this Section 3.4(a) not less than 30 days in advance of the prepayment date.

(b) Amounts on deposit in the Tax-Exempt Lease Subaccount and the Tax-Exempt Delivery Costs Subaccount of the Escrow Account may be expended for the payment of Tax-Exempt Project Costs to and including the earlier of (i) \_\_\_\_\_, 20\_\_ and (ii) the date on which the Tax-Exempt Project has been completed and accepted by the County and all payments to Climatec as Vendor have been made. All amounts remaining on deposit in the Tax-Exempt Lease Subaccount and Tax-Exempt Delivery Costs Subaccount of the Escrow Account as of the earlier of such dates ("*Tax-Exempt Excess Proceeds*") shall be applied by the County (A) to finance additional projects and facilities of the County consistent with the provisions of Section 7.7, subject to the receipt by the Tax-Exempt Lease Assignee of an opinion of Special Counsel to the effect that such application of Tax-Exempt Excess Proceeds shall not adversely affect the tax-status of the Tax-Exempt Project Lease or cause the interest component of Tax-Exempt Lease Payments to be includable in the gross income of the holders thereof for federal income tax purposes or (B) to prepay the principal component of Tax-Exempt Lease Payments in whole or in part in inverse order of Tax-Exempt Lease Payment Dates. The portion of the Tax-Exempt Excess Proceeds that are 10% or less of the original Tax-Exempt Lease Assignment Proceeds shall be applied to prepay Tax-Exempt Lease Payments at a prepayment price equal

100% of such Tax-Exempt Excess Proceeds plus accrued interest on such prepaid principal portion of Tax-Exempt Lease Payments to the prepayment date. Any portion of the Tax-Exempt Excess Proceeds that exceeds 10% of the original Tax-Exempt Lease Assignment Proceeds shall be applied to prepay Tax-Exempt Lease Payments at a prepayment price equal 102% of such Tax-Exempt Excess Proceeds plus accrued interest on such prepaid principal portion of Tax-Exempt Lease Payments to the prepayment date. Notwithstanding anything in this Section to the contrary the County shall pay the prepayment premium (if any) and interest portion of Tax-Exempt Lease Payments accrued to the prepayment date on such principal portion to be prepaid from funds legally available to the County for that purpose, but not from Tax-Exempt Lease Assignment Proceeds or amounts in the Tax-Exempt Lease Subaccount or the Tax-Exempt Delivery Costs Subaccount. The County will give the Authority and the Tax-Exempt Lease Assignee notice of any such prepayment in accordance with this Section 3.4(b) not less than 30 days in advance of the prepayment date.

*Section 3.5. Investment of Escrow Account.* Amounts on deposit in each Subaccount of the Escrow Account may be invested in interest-bearing instruments as directed by the County from time to time. Such amounts may be invested solely in investments authorized for the investment of County funds under applicable California law. Principal from each investment of moneys in each Subaccount of the Escrow Account shall be deposited directly into such Subaccount in the Escrow Account for disbursement under Section 3.3. Interest earnings from each investment of moneys in the Escrow Account (and the respective Subaccounts therein) shall be deposited directly into the appropriate Subaccount in the Escrow Account for disbursement under Section 3.3. Neither the Authority, the NCREBs Lease Assignee nor the Tax-Exempt Lease Assignee has any liability or responsibility for any loss of moneys resulting from any investment or the sale of any investment authorized by the County.

## **ARTICLE IV**

### **LEASE PAYMENTS; SUBSTITUTION AND RELEASE OF PROPERTY**

*Section 4.1. Lease of Tax-Exempt Real Property, NCREBs Real Property and the NCREBs Solar Equipment.* (a) For and in consideration of the application by the Authority of funds in accordance with Section 3.1(a) and the beneficial use and enjoyment of the NCREBs Solar Equipment to be acquired and installed with the NCREBs Lease Assignment Proceeds as provided in the NCREBs Equipment Lease, the County has leased the NCREBs Real Property to the Authority under the Site Lease. Prior to the County Jail Release Date, for and in consideration of the NCREBs Lease Payments to be paid by the County under the NCREBs Equipment Lease, the Authority hereby leases the NCREBs Real Property to the County, upon the terms and conditions set forth in the NCREBs Equipment Lease. On and after the County Jail Release Date, for and in consideration of the NCREBs Lease Payments to be paid by the County under the NCREBs Equipment Lease, the Authority hereby leases the NCREBs Solar Equipment to the County upon the terms and conditions set forth in the NCREBs Equipment Lease.

(b) For and in consideration of the application by the Authority of funds in accordance with Section 3.1(b), the County has leased the Tax-Exempt Real Property to the

Authority under the Site Lease. For and in consideration of the Tax-Exempt Lease Payments to be paid by the County under the Tax-Exempt Project Lease, the Authority leases the Tax-Exempt Real Property to the County, and the County leases the Tax-Exempt Real Property from the Authority, upon the terms and conditions set forth in the Tax-Exempt Project Lease.

*Section 4.2. Term.* (a) The NCREBs Lease Term commences on the Funding Date and ends on the date on which all of the NCREBs Lease Payments have been paid in full. In the event that the obligation of the County to pay NCREBs Lease Payments is abated for any period under Article VI, the NCREBs Lease Term shall automatically extend until such time as all NCREBs Lease Payments have been paid in full; *provided* that the NCREBs Lease Term shall, in any event, terminate no later than \_\_\_\_\_, [2046]. The provisions of this Section 4.2(a) are subject to the provisions of Section 6.5 hereof.

(b) The Tax-Exempt Lease Term commences on the Funding Date and ends on the date on which all of the Tax-Exempt Lease Payments have been paid in full. In the event that the obligation of the County to pay Tax-Exempt Lease Payments is abated for any period under Article VI, the Tax-Exempt Lease Term shall automatically extend until such time as all Tax-Exempt Lease Payments have been paid in full; *provided* that the Tax-Exempt Lease Term shall, in any event, terminate no later than \_\_\_\_\_, [2041]. The provisions of this Section 4.2(b) are subject to the provisions of Section 4.5 relating to the substitution of property, the provisions of Section 4.6 relating to the release of property and the provisions of Section 6.2 relating to the taking in eminent domain of the Tax-Exempt Real Property or any portion thereof and subject to Section 6.5 generally.

(c) The County may not terminate the NCREBs Equipment Lease or the Tax-Exempt Project Lease as a remedy for a default by the Authority under either or both thereof.

*Section 4.3. Lease Payments.*

(a) *Obligation to Pay.* Subject to the provisions of Sections 6.2 and 6.3 and the provisions of Article IX, the County agrees to pay to the Authority, its successors and assigns, beginning on the applicable Lease Payment Commencement Date the Lease Payments (denominated into components of principal and interest) in the respective amounts for NCREBs Lease Payments and Tax-Exempt Lease Payments specified in the NCREBs Lease Payment Schedule and the Tax-Exempt Lease Payment Schedule, respectively, to be due and payable in immediately available funds on the Lease Payment Dates specified in the NCREBs Lease Payment Schedule and the Tax-Exempt Lease Payment Schedule, as applicable. The NCREBs Lease Payments payable in any Rental Period are for the beneficial use and enjoyment of the NCREBs Real Property or the NCREBs Solar Equipment, as the case may be, during such Rental Period, and the Tax-Exempt Lease Payments payable in any Rental Period are for the beneficial use and occupancy of the Tax-Exempt Real Property during such Rental Period. The interest components of the NCREBs Lease Payments have been calculated based on an interest rate of \_\_\_\_% per annum (the “*NCREBs Rate*”), on the basis of a 360-day year of twelve 30-day months. The interest components of the Tax-Exempt Lease Payments have been calculated based on an interest rate of \_\_\_\_% per annum (the “*Tax-Exempt Rate*”), on the basis of a 360-day year of twelve 30-day months.

Except as provided in Section 6.2 or 6.3, the obligations of the County to make Lease Payments and to perform and observe the other covenants and agreements contained in this Agreement shall be absolute and unconditional in all events without abatement, diminution, deduction, set-off or defense, for any reason, including without limitation any failure of the Tax-Exempt Project or the NCREBs Solar Equipment, any defects, malfunctions, breakdowns or infirmities in the Tax-Exempt Project or the NCREBs Solar Equipment, disputes with any Vendor of the Tax-Exempt Project or the NCREBs Solar Equipment or the Authority, failure of the Vendor under any Vendor Agreement to perform any of its obligations thereunder for whatever reason, including bankruptcy, insolvency, reorganization or any similar event with respect to the Vendor under any Vendor Agreement, the failure or inability (for whatever reason) of the County to receive (or delay in receipt of) all or any portion of the direct cash subsidy payment with respect to the NCREBs Equipment Lease or any accident, condemnation or unforeseen circumstances.

(b) *Effect of Prepayment.* If the County prepays all NCREBs Lease Payments or Tax-Exempt Lease Payments in full under Section 9.1 or 9.2, the County's obligations under the NCREBs Equipment Lease with respect to such NCREBs Lease Payments or under the Tax-Exempt Project Lease with respect to such Tax-Exempt Lease Payments, as the case may be, will thereupon cease and terminate. If the County prepays the NCREBs Lease Payments or the Tax-Exempt Lease Payments in part but not in whole under Section 9.1(b) or 9.2, such prepayment shall be applied to repay the principal components of the remaining NCREBs Lease Payments or Tax-Exempt Lease Payments, as the case may be, under the applicable Lease and allocated pro rata to each Lease Payment then unpaid based on the principal component of the Lease Payment payable on each of the scheduled Lease Payment Dates as a percentage of the total principal components of Lease Payments then remaining unpaid under the applicable Lease, or shall be applied as otherwise mutually agreed to by the County and the applicable Assignee.

(c) *Rate on Overdue Payments.* If the County fails to make any of the payments required in this Section 4.3, the payment in default will continue as an obligation of the County until the amount in default has been fully paid, and the County agrees to pay the same with interest thereon at the Default Rate from the date of default to the date of payment. If any Lease Payment or other amount payable hereunder is not paid by its due date, the County shall pay an administrative late charge of 5% of the amount not timely paid or the maximum amount permitted by law, whichever is less.

(d) *Fair Rental Value.* The NCREBs Lease Payments coming due and payable under the NCREBs Equipment Lease during each Rental Period thereunder, prior to the County Jail Release Date constitute the total rental for the NCREBs Real Property (and, on and after the County Jail Release Date, constitute the total rental for the NCREBs Solar Equipment) for such Rental Period, and the County will pay the NCREBs Lease Payments under the NCREBs Equipment Lease in each Rental Period for and in consideration of the right of the beneficial use and enjoyment of, and the continued quiet use and enjoyment of, the NCREBs Real Property prior to the County Jail Release Date (or, the NCREBs Solar Equipment on and after the County Jail Release Date) during each Rental Period. The Tax-Exempt Lease Payments coming due and payable under the Tax-Exempt Project Lease during each Rental Period thereunder constitute the total rental for the Tax-Exempt Real Property for such Rental Period, and the County will pay

the Tax-Exempt Lease Payments under the Tax-Exempt Project Lease in each Rental Period for and in consideration of the right of the beneficial use and occupancy of, and the continued quiet use and occupancy of, the Tax-Exempt Real Property during each Rental Period. The Authority and the County have agreed and determined that (i) prior to the County Jail Release Date the total NCREBs Lease Payments are not in excess of the fair rental value of the NCREBs Real Property (and, on and after the County Jail Release Date, the total NCREBs Lease Payments are not in excess of the fair rental value of the NCREBs Solar Equipment at completion and acceptance) and (ii) the total Tax-Exempt Lease Payments are not in excess of the fair rental value of the Tax-Exempt Real Property. In making that determination, consideration has been given to the estimated fair market value of the Tax-Exempt Real Property as of the Funding Date, the NCREBs Real Property as of the Funding Date, the estimated fair market value of the NCREBs Solar Equipment at completion and acceptance, the replacement costs of the NCREBs Real Property, the Tax-Exempt Real Property and the NCREBs Solar Equipment at completion and acceptance, the costs of financing for the amounts to be deposited and applied pursuant to Section 3.1, other obligations of the County and the Authority under the NCREBs Equipment Lease and the Tax-Exempt Project Lease, the uses and purposes which may be served by the NCREBs Real Property, the Tax-Exempt Real Property and the NCREBs Solar Equipment at completion and the benefits therefrom that will accrue to the County and the general public.

(e) *Source of Payments; Budget and Appropriation.* The Lease Payments are payable from any source of legally available funds of the County, subject to the provisions of Section 3.3 and Articles VI and IX.

The County covenants to take such action as is necessary under the laws applicable to the County to budget for and include and maintain funds sufficient and available to discharge its obligation to meet all Lease Payments in each of its fiscal years during each of the NCREBs Lease Term and the Tax-Exempt Lease Term. The County covenants to take such action as is necessary to include all Lease Payments in each of its annual budgets during the NCREBs Lease Term and the Tax-Exempt Lease Term and to make the necessary annual appropriations (including any supplemental appropriations) from any source of legally available funds of the County for all such Lease Payments which become due and payable during the period covered by each such budget. The covenants on the part of the County contained herein are duties imposed by law and it is the duty of each and every public official of the County to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the County to carry out and perform the covenants and agreements in each of the Leases agreed to be carried out and performed by the County.

(f) *Failure to Maintain Tax-Exemption.* If the Tax-Exempt Lease Assignee (or a former Tax-Exempt Lease Assignee) either (i) receives notice, in any form, from the Internal Revenue Service; or (ii) reasonably determines, based on an opinion of Special Counsel, in either case that such Tax-Exempt Lease Assignee may not exclude the interest component of any Tax-Exempt Lease Payment from gross income of the owner thereof for federal income tax purposes due to the County's action or failure to take any action, then the County shall pay to such Tax-Exempt Lease Assignee, within thirty (30) days after such Tax-Exempt Lease Assignee notifies the County of such determination, the amount which, with respect to Tax-Exempt Lease Payments previously paid under the Tax-Exempt Project Lease and taking into account all

penalties, fines, interest and additions to tax (including all federal, state and local taxes imposed on the interest component of all Tax-Exempt Lease Payments under the Tax-Exempt Project Lease due through the date of such event) that are imposed on Tax-Exempt Lease Payments as a result of the loss of the exclusion, will restore to the affected Tax-Exempt Lease Assignee the same after-tax yield on the transaction evidenced by the Tax-Exempt Project Lease (assuming tax at the highest marginal corporate tax rate) that it would have realized had the exclusion not been lost. Additionally, the County agrees that upon the occurrence of such an event, it shall thereafter pay additional rent on each succeeding Tax-Exempt Lease Payment Date under the Tax-Exempt Project Lease in such amount as will maintain such after-tax yield to such Tax-Exempt Lease Assignee.

*Section 4.4. Title to the Tax-Exempt Real Property; Title to the NCREBs Real Property; Title to and Security Interest in the NCREBs Solar Equipment and Funds.*

(a) *Title to the Tax-Exempt Real Property.* The County shall hold fee title to the Tax-Exempt Real Property, subject to the Site Lease and other applicable Permitted Encumbrances, including all additions which comprise fixtures, repairs, replacements or modifications thereto, and subject to the provisions of Section 5.2.

At all times during the Tax-Exempt Lease Term, the Authority shall hold leasehold title to the Tax-Exempt Real Property pursuant to the Site Lease and subject to the Tax-Exempt Project Lease and other applicable Permitted Encumbrances. Upon the termination of the Tax-Exempt Project Lease and the NCREBs Equipment Lease (other than under Section 8.2(b) or Section 8.2(c), respectively), all right, title and interest of the Authority in and to the Tax-Exempt Real Property shall be transferred to and vested in the County. Upon the payment in full of all Lease Payments under the Tax-Exempt Project Lease, all right, title and interest of the Authority in and to the Tax-Exempt Real Property shall thereupon vest in the County for no additional consideration.

(b) *Title to the NCREBs Real Property.* The County shall hold fee title to the NCREBs Real Property, subject to the Site Lease and other applicable Permitted Encumbrances, including all additions which comprise fixtures, repairs, replacements or modifications thereto, and subject to the provisions of Section 5.2.

At all times during the NCREBs Lease Term and prior to the County Jail Release Date, the Authority shall hold leasehold title to the NCREBs Real Property pursuant to the Site Lease and subject to the NCREBs Equipment Lease and other applicable Permitted Encumbrances. Upon the earlier of (i) termination of the NCREBs Equipment Lease (other than under Section 8.2(b) or Section 8.2(c), respectively) and (ii) the satisfaction of all conditions precedent in Section 4.7 on the County Jail Release Date, all right, title and interest of the Authority in and to the NCREBs Real Property shall be transferred to and vested in the County for no additional consideration.

(c) *Title to the NCREBs Solar Equipment.* During the NCREBs Lease Term, and so long as the County is not in default under Article VIII hereof, all right, title and interest in and to each item of the NCREBs Solar Equipment shall be vested in the County immediately upon its



payment for each item of NCREBs Solar Equipment or portion thereof, subject to the terms and conditions of the NCREBs Equipment Lease. The County shall at all times protect and defend, at its own cost and expense, its title in and to the NCREBs Solar Equipment from and against all claims, Liens and legal processes of its creditors, and keep all NCREBs Solar Equipment free and clear of all such claims, Liens and processes. On and after the County Jail Release Date the Authority shall lease the NCREBs Solar Equipment to the County (subject to Article VIII). Upon the payment in full of all Lease Payments under the NCREBs Equipment Lease, the Authority shall release its security interest in and to the NCREBs Solar Equipment granted under this Section 4.4, as is and where is, without warranty of any kind other than as to the absence of Liens created by or through the Authority, and shall execute and deliver to the County such documents as the County may reasonably request to evidence the release of the Authority's security interest in the NCREBs Solar Equipment granted under this Section 4.4.

(d) *Security Interest in NCREBs Solar Equipment and Funds.* As additional security for the payment and performance as and when due of all of the County's obligations under the NCREBs Equipment Lease, the County hereby grants to the Authority a first priority security interest constituting a first Lien on (i) the NCREBs Solar Equipment and (ii) any and all proceeds of any of the foregoing. The County authorizes the Authority to file (and the County agrees to execute, if applicable) such notices of assignment, chattel mortgages, financing statements and other documents, in form satisfactory to the Authority, which the Authority deems necessary or appropriate to establish and maintain the Authority's security interest in the NCREBs Solar Equipment and the proceeds thereof, including such financing statements with respect to personal property and fixtures under Article 9 of the California Commercial Code and treating such Article 9 as applicable to entities such as the County.

(e) *Treatment of NCREBs Solar Equipment as Personal Property.* The County agrees that, as and to the extent permitted by law, the NCREBs Solar Equipment is deemed to be and will remain personal property, and will not be deemed to be affixed to or a part of the real estate on which it may be situated, notwithstanding that the NCREBs Solar Equipment or any part thereof may be or hereafter become in any manner physically affixed or attached to real estate or any building thereon.

*Section 4.5. Substitution of Tax-Exempt Real Property.* The County may, at any time after completion of the Tax-Exempt Project and from time to time thereafter, substitute other real property similar in nature and characteristics to the Tax-Exempt Real Property (the "*Substitute Property*") for the Tax-Exempt Real Property or any portion thereof (in either case, the "*Former Property*"), *provided* that the County must satisfy all of the following requirements which are hereby declared to be conditions precedent to such substitution:

(a) The County has certified to the Authority and the Tax-Exempt Lease Assignee that no Event of Default has occurred and is continuing.

(b) The County has filed with the Authority and the Tax-Exempt Lease Assignee, and caused to be recorded in the office of the Nevada County Recorder, sufficient memorialization of an amendment to the Tax-Exempt Project Schedule which adds to *Attachment \_B\_* thereto and *Appendix \_A\_* to the Site Lease to provide a

description of such Substitute Property and delete therefrom the description of such Former Property.

(c) The County has, or prior to Closing will have, obtained a CLTA policy of title insurance which insures the Authority's leasehold estate in such Substitute Property under the Site Lease and the County's leasehold interest in such Substitute Property under the Tax-Exempt Project Lease subject only to applicable Permitted Encumbrances, in an amount at least equal to the aggregate amount of the principal component of the outstanding Tax-Exempt Lease Payments.

(d) The County has certified in writing to the Authority and the Tax-Exempt Lease Assignee that such Substitute Property (i) has an estimated value at least equal to the aggregate principal amount of outstanding Tax-Exempt Lease Payments, (ii) serves the public purposes of the County and constitutes property which the County is permitted to lease under the laws of the State of California, and (iii) has been determined to be essential to the proper, efficient and economic operation of the County and to serve an essential governmental function of the County.

(e) The County has obtained the prior written consent of the Tax-Exempt Lease Assignee, which consent shall not be unreasonably withheld.

(f) The Substitute Property does not cause the County to violate any of its covenants, representations and warranties made herein.

(g) The Tax-Exempt Lease Assignee has received an opinion of Special Counsel to the effect that the substitution of the Tax-Exempt Real Property will not constitute reissuance of any of the Lease Payments under the Tax-Exempt Project Lease for federal income tax purposes or adversely affect the tax status of such Lease.

(h) The Tax-Exempt Lease Assignee has received an environmental survey or surveys with respect to the Substitute Property, and other documents that the Tax-Exempt Lease Assignee may reasonably require; *provided, however*, that if the environmental studies have recommended that remedial action be taken with respect to the Substitute Property so that it will be in compliance with applicable environmental laws, the Authority, at the direction of the Tax-Exempt Lease Assignee, does not have an obligation or duty to accept the Substitute Property as Tax-Exempt Real Property until such time as the remedial action has been completed and the Tax-Exempt Lease Assignee has received assurances to its satisfaction that the Substitute Property is in compliance with applicable environmental laws.

Upon the satisfaction of all such conditions precedent, the Tax-Exempt Lease Term will thereupon end as to the Former Property and commence as to the Substitute Property, and all references to the Former Property will apply with full force and effect to the Substitute Property. The County is not entitled to any reduction, diminution, extension or other modification of the Tax-Exempt Lease Payments or the NCREBs Lease Payments whatsoever as a result of such substitution. The Authority and the County will execute, deliver and cause to be recorded all

documents required to discharge the Tax-Exempt Project Lease, the Site Lease and the Tax-Exempt Lease Assignment against the Former Property, and to cause the Substitute Property to become subject to all of the terms and conditions of the Tax-Exempt Project Lease, the Site Lease and the Tax-Exempt Lease Assignment.

*Section 4.6. Release of Tax-Exempt Real Property.* After completion of the Tax-Exempt Project and with the prior written consent of the Tax-Exempt Lease Assignee, in the exercise of its sole and absolute discretion, the County may, at any time and from time to time, release any portion of the Tax-Exempt Real Property from the Tax-Exempt Project Lease and the Site Lease (the “*Tax-Exempt Released Property*”) *provided* that the County has satisfied all of the following requirements which are hereby declared to be conditions precedent to such release:

(i) The County has certified to the Authority and the Tax-Exempt Lease Assignee that no Event of Default has occurred and is continuing.

(ii) The County has filed with the Authority and the Tax-Exempt Lease Assignee, and caused to be recorded in the office of the Nevada County Recorder, sufficient memorialization of an amendment to the Tax-Exempt Project Lease and the Site Lease that removes the Tax-Exempt Released Property from the Tax-Exempt Project Lease and the Site Lease.

(iii) The County has filed with the Authority and the Tax-Exempt Lease Assignee an appraisal or other written documentation prepared by a mutually agreeable third party that establishes that the fair market value of the property which remains subject to the Tax-Exempt Project Lease and the Site Lease following such removal is at least equal to the aggregate outstanding principal amount of the Tax-Exempt Lease Payments, and the fair rental value of the property which remains subject to the Tax-Exempt Project Lease and the Site Lease following such removal is at least equal to the Tax-Exempt Lease Payments thereafter coming due and payable under the Tax-Exempt Project Lease.

(iv) The Tax-Exempt Lease Assignee has received an opinion of Special Counsel to the effect that the release of the Tax-Exempt Real Property will not constitute a reissuance of any of the Lease Payments under the Tax-Exempt Project Lease for federal income tax purposes or adversely affect the tax status of the Tax-Exempt Project Lease.

Upon the satisfaction of all such conditions precedent, the Tax-Exempt Lease Term will thereupon end as to the Tax-Exempt Released Property. The County is not entitled to any reduction, diminution, extension or other modification of the Tax-Exempt Lease Payments or NCREBs Lease Payments whatsoever as a result of such release. The Authority and the County will execute, deliver and cause to be recorded all documents, if any, required to discharge the Tax-Exempt Project Lease and the Site Lease of record against the Tax-Exempt Released Property.

*Section 4.7. Release of NCREBs Real Property.* After completion and final acceptance of the NCREBs Solar Equipment, the County may release any portion of the NCREBs Real Property from the NCREBs Equipment Lease and the Site Lease (the “*NCREBs Released Property*”) provided that the County has satisfied all of the following requirements which are hereby declared to be conditions precedent to such release (the date on which all such requirements are satisfied is referred to herein as, the “*County Jail Release Date*”):

(i) (1) No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default shall have occurred and be continuing as of the date of such release and (2) no Material Adverse Change shall have occurred since the Funding Date and be continuing as of the date of such release.

(ii) The County has delivered to the Authority and the NCREBs Lease Assignee an NCREBs Final Acceptance Certificate with respect to all the NCREBs Solar Equipment in the form of Exhibit C attached hereto.

(iii) The County has delivered to the Authority and the NCREBs Lease Assignee original invoices (and proof of payment of such invoices) and bills of sale showing that title to the NCREBs Solar Equipment has passed to the County relating to each item of NCREBs Solar Equipment accepted by the County.

(iv) Other than Permitted Encumbrances, no vendor’s, mechanic’s or other Liens or rights to Liens, chattel mortgages, conditional sales contracts or security interest shall encumber the NCREBs Solar Equipment.

(v) The County has delivered to the Authority and the NCREBs Lease Assignee evidence that the NCREBs Solar Equipment is insured in accordance with the NCREBs Equipment Lease.

(vi) The County has delivered to the Authority and the NCREBs Lease Assignee rental interruption or use and occupancy insurance to cover loss, total or partial, of the use of the NCREBs Solar Equipment as described in Section 5.5.

(vii) The County has delivered to the Authority and the NCREBs Lease Assignee waivers of interest in the NCREBs Solar Equipment acceptable to the NCREBs Lease Assignee in its discretion from each party taking an interest in any part of the real estate where the NCREBs Solar Equipment is or will be located. The County has delivered to the Authority and the NCREBs Lease Assignee the Sanitation District Easement in form and substance satisfactory to the NCREBs Lease Assignee and evidence of recording thereof. The County has delivered to the Authority and the NCREBs Lease Assignee [DESCRIBE LOT LINE ADJUSTMENTS] (“LLAs”) with respect to the real property at which the NCREBs Solar Equipment is located each in form and substance satisfactory to the NCREBs Lease Assignee and amendments to the Site Lease, and Exhibit F hereto, addressing such LLAs with evidence of recording thereof, if necessary.

(viii) The County and the Authority shall file with the NCREBs Lease Assignee a written document certifying that they have agreed and determined that (1) the total NCREBs Lease Payments are not in excess of the fair rental value of the NCREBs Solar Equipment at completion and final acceptance; the fair market value of the property which remains subject to the NCREBs Equipment Lease after release of the NCREBs Real Property is at least equal to the aggregate outstanding principal amount of the NCREBs Lease Payments thereafter coming due and payable under the NCREBs Equipment Lease, (2) in making the determination in (1), consideration has been given to the estimated replacement costs of the NCREBs Solar Equipment, the costs of financing for the amounts to be deposited and applied pursuant to Section 3.1, other obligations of the County and the Authority under the NCREBs Equipment Lease, the uses and purposes which may be served by the NCREBs Solar Equipment and the benefits therefrom that will accrue to the County and the general public, and (3) no event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default shall have occurred and be continuing as of the date of such release and no Material Adverse Change has occurred since the Funding Date and is continuing as of the date of such document.

(ix) The NCREBs Lease Assignee has received an opinion of Special Counsel to the effect that the release of the NCREBs Real Property will not constitute a reissuance of any of the Lease Payments under the NCREBs Equipment Lease for federal income tax purposes or adversely affect the tax-status of the NCREBs Equipment Lease as a *“new clean renewable energy bond”* within the meaning of Section 54C(a) of the Code.

(x) The County has filed with the Authority and the NCREBs Lease Assignee, and caused to be recorded in the office of the Nevada County Recorder, sufficient memorialization of an amendment to the NCREBs Equipment Lease and the Site Lease that removes the NCREBs Released Property from the NCREBs Equipment Lease and the Site Lease.

Upon the satisfaction of all such conditions precedent, the NCREBs Released Property shall be released from the Site Lease and the County will lease from the Authority the NCREBs Solar Equipment. The County is not entitled to any reduction, diminution, extension or other modification of the NCREBs Lease Payments or Tax-Exempt Lease Payments whatsoever as a result of such release. The Authority and the County will execute, deliver and cause to be recorded all documents, if any, required to discharge the NCREBs Equipment Lease and the Site Lease of record against the NCREBs Released Property.

*Section 4.8. Quiet Enjoyment.* (a) Throughout the Tax-Exempt Lease Term, so long as the County is not default under the Tax-Exempt Project Lease, the Authority will provide the County with quiet use and enjoyment of the Tax-Exempt Real Property and the County will peaceably and quietly have and hold and enjoy the Tax-Exempt Real Property, without suit, trouble or hindrance from the Authority, except as expressly set forth in the Tax-Exempt Project Lease. The Authority shall, at the request of the County and at the County’s cost, join in any legal action in which the County asserts its right to such possession and enjoyment to the extent

the Authority may lawfully do so. Notwithstanding the foregoing, the Authority has the right to inspect the Tax-Exempt Real Property as provided in Section 7.2.

(b) Throughout the NCREBs Lease Term prior to the County Jail Release Date, so long as the County is not default under the NCREBs Equipment Lease, the Authority will provide the County with quiet use and enjoyment of the NCREBs Real Property and the County will peaceably and quietly have and hold and enjoy the NCREBs Real Property, without suit, trouble or hindrance from the Authority, except as expressly set forth in the NCREBs Equipment Lease. The Authority shall, at the request of the County and at the County's cost, join in any legal action in which the County asserts its right to such possession and enjoyment to the extent the Authority may lawfully do so. Notwithstanding the foregoing, the Authority has the right to inspect the NCREBs Real Property as provided in Section 7.2.

(c) Throughout the NCREBs Lease Term on and after the County Jail Release Date, so long as the County is not default under the NCREBs Equipment Lease, the Authority will provide the County with quiet use and enjoyment of the NCREBs Solar Equipment and the County will peaceably and quietly have and hold and enjoy the NCREBs Solar Equipment, without suit, trouble or hindrance from the Authority, except as expressly set forth in the NCREBs Equipment Lease. The Authority shall, at the request of the County and at the County's cost, join in any legal action in which the County asserts its right to such possession and enjoyment to the extent the Authority may lawfully do so. Notwithstanding the foregoing, the Authority has the right to inspect the NCREBs Solar Equipment as provided in Section 7.2.

*Section 4.9. No Merger.* It is the express intention of the Authority and the County that each of the Tax-Exempt Project Lease and the NCREBs Equipment Lease and the obligations of the parties under the Tax-Exempt Project Lease and the NCREBs Equipment Lease are separate and distinct from the Site Lease and the obligations of the parties thereunder, and that during the term of the Site Lease and the Tax-Exempt Lease Term or the NCREBs Equipment Lease, as the case may be, no merger of title or interest may occur or be deemed to occur as a result of the respective positions of the Authority and the County under the Site Lease and the Tax-Exempt Project Lease or the NCREBs Equipment Lease, as applicable.

## **ARTICLE V**

### **MAINTENANCE, TAXES, INSURANCE AND OTHER MATTERS**

*Section 5.1. Maintenance, Utilities, Taxes and Assessments with respect to the Leased Property.* Throughout the Lease Terms, as part of the consideration for the rental of the Leased Property, and in order to ensure that the County maintains the Leased Property in proper working order so that it may be used for its intended purpose, all improvement, repair and maintenance of the Leased Property are the sole responsibility of the County, and the County will pay for or otherwise arrange for the payment of all utility services supplied to the Leased Property, which may include, without limitation, janitor service, security, power, gas, telephone, light, heating, water and all other utility services, and will pay for or otherwise arrange for the payment of the cost of the repair and replacement of the Leased Property resulting from ordinary wear and tear or want of ordinary care on the part of the County or any assignee or sublessee thereof. In

exchange for the Lease Payments pursuant to the respective Lease, the Authority agrees to provide the related Leased Property, as more specifically set forth in the respective Lease. The County waives the benefits of subsections 1 and 2 of Section 1932, Section 1933(4) and Sections 1941 and 1942 of the California Civil Code, but such waiver does not limit any of the rights of the County under the terms of the Leases.

The County will also pay or cause to be paid all taxes and assessments of any type or nature, if any, charged to the Authority or the County affecting the Leased Property or the respective interests or estates therein; *provided* that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the County is obligated to pay only such installments as are required to be paid during the Lease Terms as and when the same become due.

The County may, at the County's expense and in its name, in good faith contest any such taxes, assessments, utility and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Authority notifies the County that, in its reasonable opinion, by nonpayment of any such items the interest of the Authority in the Leased Property will be materially endangered or the Leased Property or any part thereof will be subject to loss or forfeiture, in which event the County will promptly pay such taxes, assessments or charges or provide the Authority with full security against any loss which may result from nonpayment, in form satisfactory to the Authority and the applicable Assignee(s).

*Section 5.2. Modification of Leased Property.* The County has the right, at its own expense, to make additions, modifications and improvements to the Leased Property or any portion thereof. All additions, modifications and improvements to the Leased Property will thereafter comprise part of the Leased Property and become subject to the provisions of the related Lease(s). Such additions, modifications and improvements may not in any way damage the Leased Property, or cause the Leased Property to be used for purposes other than those authorized under the provisions of state and federal law; and the Leased Property, upon completion of any additions, modifications and improvements made thereto under this Section, must be of a value which is not substantially less than the value thereof immediately prior to the making of such additions, modifications and improvements. The County will not permit any mechanic's or other Lien to be established or remain against the Leased Property for labor or materials furnished in connection with any remodeling, additions, modifications, improvements, repairs, renewals or replacements made by the County under this Section; *provided* that if any such Lien is established and the County first notifies the Authority of the County's intention to do so, the County may in good faith contest any Lien filed or established against the Leased Property, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom and will provide the Authority with full security against any loss or forfeiture which might arise from the nonpayment of any such item, in form satisfactory to the Authority. The Authority will cooperate fully in any such contest, upon the request and at the expense of the County.

*Section 5.3. Public Liability and Property Damage Insurance.* The County shall maintain or cause to be maintained, throughout the Lease Terms, comprehensive general

insurance in protection of the Authority, the County and their respective members, officers, agents and employees. Such insurance must provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by reason of the operation of the Leased Property. Such insurance must provide coverage of at least \$1,000,000 per occurrence, \$3,000,000 in aggregate and \$5,000,000 excess liability and be subject to such deductibles as the County deems adequate and prudent. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the County, and may be maintained in whole or in part in the form of a program of self-insurance by the County, or in the form of the participation by the County in a joint powers authority or other program providing pooled insurance. The County will apply the proceeds of such insurance toward extinguishment or satisfaction of the liability with respect to which the net proceeds are paid.

*Section 5.4. Casualty Insurance; Flood Coverage.*

(a) *Requirement to Maintain Casualty Insurance.* The County will procure and maintain, or cause to be procured and maintained, throughout the Lease Terms, casualty insurance against loss or damage to the Facilities by fire and lightning, with extended coverage insurance, vandalism and malicious mischief insurance and sprinkler system leakage insurance. Said extended coverage insurance shall cover loss or damage by fire, explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance, including earthquake coverage if such coverage is available at commercially reasonable cost from a reputable insurer in the reasonable determination of the County. Such insurance shall be in an amount at least equal to the greater of (i) the sum of the insured replacement value of the Facilities *plus* the NCREBs Solar Equipment, or (ii) the aggregate unpaid principal components of the Lease Payments, and may be subject to such deductibles as the County deems adequate and prudent. The County shall set aside in a segregated account funds sufficient to cover such deductibles. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the County, and may be maintained in whole or in part in the form of the participation by the County in a joint powers authority or other program providing pooled insurance. The County will apply the Net Proceeds of such insurance as provided in Article VI.

(b) *Flood Insurance.* If at any time and for so long as any portion of the Facilities is located in a 100-year flood area as shown on a Flood Insurance Rate Map published by the Federal Emergency Management Agency, the policy or policies of casualty insurance provided under this Section 5.4 shall include insurance against loss or damage to the Facilities due to flooding. If the County obtains an exception or waiver to the designation of the Facilities as being within a 100-year flood area from the Federal Emergency Management Agency, the County shall not be required to provide flood insurance as set forth in this subsection (b).

(c) *Federal or State Disaster Aid.* Should the Leased Property be damaged or destroyed as a result of an event for which federal or State of California disaster aid is available, the Authority and/or the County shall promptly apply for disaster aid. Any disaster aid proceeds received shall be used to repair, reconstruct, restore or replace the damaged or destroyed portions



of the Leased Property, or, at the option of the County and the Authority, to prepay the Lease Payments if permitted under the disaster aid program and the law.

(d) *Self-Insurance.* As an alternative to providing the insurance required by this Section, the County may provide a self-insurance method or plan of protection if and to the extent such self-insurance method or plan of protection (i) affords reasonable coverage for the risks required to be insured against, in light of all circumstances, giving consideration to cost, availability and similar plans or methods of protection adopted by public entities in the State of California other than the County, and (ii) has been approved in writing by the applicable Assignee. Before such other method or plan may be provided by the County, and annually thereafter so long as such method or plan is being provided to satisfy the requirements of this Agreement and the related Lease, there shall be filed with the Authority and the related Assignee a certificate of an actuary, insurance consultant or other qualified person (who may be an employee of the County), stating that, in the opinion of the signer, the substitute method or plan of protection is in accordance with the requirements of this Section and, when effective, would afford reasonable coverage for the risks required to be insured against and is sufficiently funded to afford such coverage. There shall also be filed a certificate of the County setting forth the details of such substitute method or plan. In the event of loss covered by any such self-insurance method, the liability of the County hereunder shall be limited to the amounts in the self-insurance reserve fund or funds created under such method.

(e) *Worker's Compensation Insurance.* If required by applicable California law, the County shall carry worker's compensation insurance covering all employees on, in, near or about the Leased Property and, upon request, shall furnish to the Authority certificates evidencing such coverage throughout the Lease Terms

*Section 5.5. Rental Interruption Insurance.* The County shall procure and maintain, or cause to be procured and maintained, throughout the Lease Terms, rental interruption or use and occupancy insurance to cover loss, total or partial, of the use of the Tax-Exempt Real Property, and prior the County Jail Release Date, the NCREBs Real Property (and on and after the County Jail Release Date, the NCREBs Solar Equipment) and the improvements situated thereon as a result of any of the hazards covered in the insurance required by Section 5.4, in an amount at least equal to the maximum Lease Payments coming due and payable during any future 24-month period. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the County, and may be maintained in whole or in part in the form of the participation by the County in a joint powers authority or other program providing pooled insurance. Such rental interruption or use and occupancy insurance shall not be self-insured and the County acknowledges that this requirement may limit its ability to self-insure under Section 5.4. The County will apply the Net Proceeds of such insurance towards the payment of the Lease Payments allocable to the insured improvements as the same become due and payable.

*Section 5.6. Recordation of the Leases; Title Insurance.* The County shall, at its expense, cause the Site Lease, the Tax-Exempt Project Schedule, the Tax-Exempt Lease Assignment, the NCREBs Equipment Schedule and the NCREBs Lease Assignment to be recorded in the office of the Nevada County Recorder on or before the Funding Date. Concurrently with such recordation, the County shall obtain (a) a [CLTA] leasehold lender's title

insurance policy insuring the Authority's leasehold estate in the Tax-Exempt Real Property under the Site Lease and the County's leasehold interest in the Tax-Exempt Real Property under the Tax-Exempt Project Lease, subject only to Permitted Encumbrances, in an amount at least equal to the original aggregate principal components of the Tax-Exempt Lease Payments and (b) a [CLTA] leasehold lender's title insurance policy insuring the Authority's leasehold estate in the NCREBs Real Property under the Site Lease and the County's leasehold interest in the NCREBs Real Property under the NCREBs Equipment Lease, in an amount at least equal to the original aggregate principal components of the NCREBs Lease Payments. All Net Proceeds received under such title insurance policies will be credited towards the prepayment of the respective Lease Payments under Section 9.2.

*Section 5.7. Insurance Net Proceeds; Form of Policies.* All insurance policies (or riders) required by this Article V shall be taken out and maintained with responsible insurance companies organized under the laws of one of the states of the United States and qualified to do business in the State of California. Each insurance policy or rider required by Sections 5.3, 5.4 and 5.5 shall name the related Assignee as additional insureds and loss payees and shall include a lender's loss payable endorsement for the benefit of the related Assignee. Prior to the Funding Date, the County will deposit with each Assignee policies (and riders and endorsements, if applicable) evidencing any such insurance procured by it, or a certificate or certificates of the respective insurers stating that such insurance is in full force and effect. The County shall pay or cause to be paid when due the premiums for all insurance policies required by this Article V. All such policies shall provide that the related Assignee is given at least 10 days' notice of each alteration or expiration of coverage, any intended cancellation thereof or reduction of the coverage provided thereby. Neither Assignee is responsible for the sufficiency, adequacy or amount of any insurance or self-insurance herein required and is fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss. Before the expiration of any such policy (or rider), the County shall furnish to the related Assignee evidence that the policy has been renewed or replaced by another policy conforming to the provisions of this Article V unless such insurance is no longer obtainable, in which event the County shall notify the related Assignee of such fact.

*Section 5.8. Installation of County's Personal Property.* The County may at any time and from time to time, in its sole discretion and at its own expense, install or permit to be installed other items of equipment or other personal property in or upon the Leased Property. All such items will remain the sole property of the County, in which neither the Authority nor the Assignees have any interest, and may be modified or removed by the County at any time, *provided* that the County must repair and restore any and all damage to the Leased Property resulting from the installation, modification or removal of any such items. Nothing in either Lease prevents the County from purchasing or leasing items to be installed under this Section under a lease or conditional sale agreement, or subject to a vendor's Lien or security agreement, as security for the unpaid portion of the purchase price thereof, *provided* that no such Lien or security interest attaches to any part of the Leased Property.

*Section 5.9. Liens.* The County shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, deed of trust, security interest, pledge, Lien, charge, encumbrance or claim on or with respect to the Leased Property (including the charge upon property purchased

under conditional sales or other title retention agreements), other than Permitted Encumbrances. Except as expressly provided in this Article, the County shall promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such mortgage, pledge, Lien, charge, encumbrance or claim, for which it is responsible, if the same will arise at any time. The County shall reimburse the Authority for any expense incurred by it in order to discharge or remove any such mortgage, deed of trust, security interest, pledge, Lien, charge, encumbrance or claim. The County shall keep the Leased Property free of all levies, Liens and encumbrances except those created by the Leased Property.

*Section 5.10. Environmental Covenants.* (a) Neither the Assignees nor the Authority shall be obligated to monitor compliance of the Leased Property with applicable environmental or other laws. Neither the Assignees nor the Authority shall have any obligations or responsibility to foreclose or otherwise further involve itself with the Leased Property under any circumstance, including any instance where either the Authority or either Assignee is notified of any non-compliance of the Leased Property with applicable environmental or other laws. The County represents that the Leased Property is currently in full compliance with all applicable federal, state and local environmental laws. It is expressly understood that neither the Assignees nor the Authority shall have the right or the obligation to monitor the County's compliance with environmental laws. The County hereby further represents and warrants to the Authority and each of the initial Assignees that the County, its officers, employees or agents have neither ever caused or permitted and shall neither ever cause or permit Hazardous Substances (as defined below) to be generated, placed, housed, located or disposed of on, under or in the Leased Property, nor ever use the Leased Property as a dump site, permanent or temporary storage site or transfer station for any Hazardous Substance. The County further represents and warrants to the Authority and each of the initial Assignees that it shall not allow any actual or alleged violation with respect to the Leased Property of any federal, state or local statute, ordinance, rule regulation or other law pertaining to Hazardous Substances.

(b) To the greatest extent permitted by law, the County agrees to hold harmless, indemnify and defend the Authority and each of the Assignees from and against any claim, demand, penalty, fee, Lien, damage, loss expense or liability resulting from (i) any breach of the representations and warranties made by it in this Section or any failure, for any reason to comply with environmental laws, rules and regulations, including reasonable attorneys' fees and costs of, or in preparation for, any trial or appellate review, and (ii) any actual or alleged Hazardous Substance contamination, including the clean-up of Hazardous Substances from the Leased Property or any other properties resulting from any activities on the Leased Property during the County's ownership, possession or control of the Leased Property which directly or indirectly result in the Leased Property or any other property being contaminated with Hazardous Substances. This indemnity shall survive the termination of the Leases and shall continue to inure to the benefit of the Authority notwithstanding any assignment of its other rights hereunder, as well as either Assignee of the Authority's rights hereunder; *provided, however*, that the obligations of the County under this Section are specifically limited to payment from such moneys of the County as are available at such time from the proceeds of insurance, self-insurance and legally available funds.

(c) The Authority acknowledges that so long as the County operates the Leased Property, any Hazardous Substance generated, placed, housed or located on, under or in the Leased Property, in the ordinary course of the County's operation of the Leased Property, shall not violate the Leases or the Site Lease, so long as the County complies with all federal, State or local statutes, ordinances, rules, regulation or other laws applicable to the handling and disposal of such Hazardous Substances.

(d) As used herein, "*Hazardous Substance*" shall mean any hazardous, toxic or dangerous substance, waste, material or underground storage tanks that are or may become regulated under any federal, State or local statute, ordinance, rule, regulation or other law now or hereafter in effect pertaining to environmental protection, contamination or clean-up.

*Section 5.11. Taxes and Other Governmental Charges with respect to the NCREBs Solar Equipment; Use and Maintenance of the NCREBs Solar Equipment.* (a) The County and the Authority contemplate that the NCREBs Solar Equipment will be used for a governmental or proprietary purpose of the County and that the NCREBs Solar Equipment will therefore be exempt from all property taxes. If the use, possession or acquisition of any NCREBs Solar Equipment is nevertheless determined to be subject to taxation, the County shall pay when due all taxes and governmental charges lawfully assessed or levied against or with respect to such NCREBs Solar Equipment. The County shall pay such taxes or charges as the same may become due; *provided* that, with respect to any such taxes or charges that may lawfully be paid in installments over a period of years, the County shall be obligated to pay only such installments as accrue during the NCREBs Lease Term.

(b) The County shall not install, use, operate or maintain the NCREBs Solar Equipment (or cause the NCREBs Solar Equipment to be installed, used, operated or maintained) improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by the NCREBs Equipment Lease. The County shall provide all permits and licenses, if any, necessary for the installation and operation of the NCREBs Solar Equipment. The County shall pay all utility and other charges incurred in the use and maintenance of the NCREBs Solar Equipment. In addition, the County agrees to comply in all respects with all applicable laws, regulations and rulings of any legislative, executive, administrative, or judicial body; *provided* that the County may contest in good faith the validity or application of any such law, regulation or ruling in any reasonable manner that does not, in the opinion of the Authority, adversely affect the interest of the Authority in and to the NCREBs Solar Equipment or its interest or rights under the NCREBs Equipment Lease.

(c) The County shall maintain, preserve and keep the NCREBs Solar Equipment in good repair and working order, in a condition comparable to that recommended by the manufacturer. The Authority shall have no responsibility to maintain, repair or make improvements or additions to the NCREBs Solar Equipment. In all cases during the Lease Terms and prior to return of the NCREBs Solar Equipment to the Authority as provided in Section 8.2(c), the County agrees to pay any costs necessary for the manufacturer to re-certify the NCREBs Solar Equipment as eligible for manufacturer's maintenance upon the return of the NCREBs Solar Equipment as provided for in such Section. Except with respect to NCREBs Solar Equipment for which Lease Payments have been abated pursuant to Section 6.2 or 6.3, and

during the period of such abatement, the County agrees that it will (a) maintain, preserve and keep the NCREBs Solar Equipment in good repair and working order, in a condition comparable to that recommended by the manufacturer; and (b) replace or rebuild any component of the NCREBs Solar Equipment that becomes permanently unfit for normal use or inoperable during the Lease Term (herein, the *"Inoperable Component"*) in order to keep the NCREBs Solar Equipment as a whole in good repair and working order during the Lease Term. The County shall promptly notify the Authority in writing when any major component of the NCREBs Solar Equipment is reasonably expected within forty-five (45) days to become an Inoperable Component. The County shall promptly replace or rebuild the Inoperable Component with the same major component of comparable or improved make and model and that has at least equivalent value, utility and remaining useful life and is in as good operating condition as the Inoperable Component it is replacing. The Authority shall have no responsibility to maintain, repair, replace, rebuild or make improvements or additions to the NCREBs Solar Equipment.

(d) The County shall not alter any item of NCREBs Solar Equipment or install any accessory, equipment or device on an item of NCREBs Solar Equipment if that would impair any applicable warranty, the originally intended function or the value of that NCREBs Solar Equipment. All repairs, parts, accessories, equipment and devices furnished, affixed to or installed on any NCREBs Solar Equipment, excluding temporary replacements, shall thereupon become subject to the security interest granted pursuant to Section 4.4.

(e) The County agrees that the NCREBs Solar Equipment is deemed to be and will remain personal property, and will not be deemed to be affixed to or a part of the real estate on which it may be situated, notwithstanding that the NCREBs Solar Equipment or any part thereof may be or hereafter become in any manner physically affixed or attached to real estate or any building thereon. The County shall not create, incur, assume or permit to exist any mortgage, pledge, Lien, security interest, charge or other encumbrance of any nature whatsoever except for Permitted Encumbrances on any of the real estate where the NCREBs Solar Equipment is or will be located or enter into any agreement to sell or assign or enter into any sale/leaseback arrangement of such real estate without the prior written consent of the NCREBs Lease Assignee, which consent shall not be unreasonably withheld; *provided*, that if the NCREBs Lease Assignee is furnished with a waiver of interest in the NCREBs Solar Equipment acceptable to the NCREBs Lease Assignee in its reasonable discretion from any party taking an interest in any such real estate prior to such interest taking effect, such consent shall not be unreasonably withheld.

(f) If the County elects to replace any item of the NCREBs Solar Equipment (the *"Replaced Equipment"*) pursuant to this Section, the replacement equipment (the *"Replacement Equipment"*) shall be new or of a quality, type, utility and condition at least as good as the Replaced Equipment, shall be of equal or greater value than the Replaced Equipment and shall provide at least the same level of energy and/or operational savings expected in the aggregate from the Replaced Equipment prior to such casualty, destruction or condemnation to the extent possible from Net Proceeds. The County shall grant to the NCREBs Lease Assignee a first priority security interest in any such Replacement Equipment. The County shall represent, warrant and covenant to the NCREBs Lease Assignee that each item of Replacement Equipment is free and clear of all claims, Liens, security interests and encumbrances, excepting only those

Liens created by or through the NCREBs Lease Assignee, and shall provide to the NCREBs Lease Assignee any and all documents as the NCREBs Lease Assignee may reasonably request in connection with the replacement, including, but not limited to, documentation in form and substance satisfactory to the NCREBs Lease Assignee evidencing the NCREBs Lease Assignee's security interest in the Replacement Equipment. The Authority and the County hereby acknowledge and agree that any Replacement Equipment acquired pursuant to this paragraph shall constitute "NCREBs Solar Equipment" for purposes of this Agreement. The County shall complete the documentation of Replacement Equipment on or before the next Lease Payment Date after the occurrence of a casualty event, or as soon as reasonably practicable thereafter, or exercise its option to prepay, to the extent possible from Net Proceeds, the obligations hereunder with respect to the damaged equipment in accordance with this Agreement.

*Section 5.12. Reserved.*

*Section 5.13. Advances.* If the County fails to perform any of its obligations under this Article V, the Authority may, but shall be under no obligation to, take any necessary action to cure the failure, including the advancement of money. All amounts so advanced by the Authority shall constitute additional rent for the NCREBs Lease Term or Tax-Exempt Lease Term, as applicable, and the County covenants and agrees to pay such amounts so advanced by the Authority with interest thereon from the date advanced until paid at a rate equal to the Default Rate; *provided, however*, that any amount payable by the County pursuant to this Section 5.13 shall be payable solely from moneys appropriated for such purpose by the Board of Supervisors of the County in its discretion, and failure to appropriate such moneys shall not constitute an Event of Default under either Lease.

## **ARTICLE VI**

### **DAMAGE, DESTRUCTION AND EMINENT DOMAIN; USE OF NET PROCEEDS**

*Section 6.1. Application of Net Proceeds.* The Net Proceeds of any taking of the Leased Property or any portion of either thereof in eminent domain proceedings, and the Net Proceeds of any insurance award with respect to the Leased Property under Section 5.4, will be applied as hereinafter set forth in this Section 6.1.

If the Leased Property is taken in eminent domain proceedings at any time during the Tax-Exempt Lease Term or the NCREBs Lease Term, or if the Leased Property is damaged or destroyed, the County shall as soon as practicable after such event, with the prior written consent of the Authority, apply the Net Proceeds resulting therefrom to one of the following: (a) repair such Leased Property to full use; (b) replace such Leased Property at the County's sole cost and expense, with property of equal or greater value to the Leased Property immediately prior to the time of such destruction or damage, such replacement Leased Property to be subject to the Authority's reasonable approval, whereupon such replacement shall be substituted in the Tax-Exempt Project Lease or the NCREBs Equipment Lease, as applicable, by appropriate amendment; (c) substitute additional property as provided in Section 4.5 or Section 6.5(c); or (d) prepay the related Lease Payments in accordance with Section 9.2. The County shall notify the

Authority of which course of action it desires to take within 60 days after the occurrence of such destruction or damage and be pursued diligently to completion. The Authority may (but is not required to) in its own name or in the County's name execute and deliver proofs of claim, receive all such moneys, endorse checks and other instruments representing payment of such moneys, and adjust, litigate, compromise or release any claim against the issuer of any such policy, and the County hereby grants to the Authority a power of attorney coupled with an interest to accomplish all or any of the foregoing. The Net Proceeds of all insurance or eminent domain award payable with respect to the Leased Property shall be applied by the County to discharge the County's obligations under this Section. If the County shall make any payments pursuant to this Section, the County shall not be entitled to any reimbursement therefor from the Authority nor shall the County be entitled to any diminution of the amounts payable under the affected Lease.

*Section 6.2. Termination or Abatement Due to Eminent Domain.* If the Applicable Leased Property is taken permanently under the power of eminent domain or sold to a government threatening to exercise the power of eminent domain, then subject to Section 6.1 hereof, the Tax-Exempt Lease Term or the NCREBs Lease Term, as applicable, will cease with respect thereto as of the day possession is so taken. If less than all of the Applicable Leased Property is taken permanently, or if the Applicable Leased Property is taken temporarily, under the power of eminent domain, (a) the Tax-Exempt Project Lease or the NCREBs Equipment Lease, as applicable, will continue in full force and effect with respect thereto and will not be terminated by virtue of such taking and the parties waive the benefit of any law to the contrary, and (b) subject to Section 6.1 hereof, there will be a partial abatement of Tax-Exempt Lease Payments or NCREBs Lease Payments, as the case may be, allocated thereto based upon whether such event has occurred with respect to the Tax-Exempt Real Property or, prior to the County Jail Release Date, the NCREBs Real Property (or, on or after the County Jail Release Date, the NCREBs Solar Equipment), as the case may be, in an amount to be determined by the County such that the resulting Tax-Exempt Lease Payments or NCREBs Lease Payments, as the case may be, represent fair consideration for the use, occupancy and enjoyment of the remaining usable portions of the affected Applicable Leased Property.

*Section 6.3. Abatement Due to Damage or Destruction.* The amount of Tax-Exempt Lease Payments or NCREBs Lease Payments will be abated during any period in which by reason of damage or destruction (other than by eminent domain which is hereinbefore provided for) there is substantial interference with the use, occupancy and enjoyment by the County of the Tax-Exempt Real Property or, prior to the County Jail Release Date, the NCREBs Real Property (or, on or after the County Jail Release Date, the NCREBs Solar Equipment), as the case may be, or any portion of either thereof. The amount of such abatement will be determined by the County such that the resulting Tax-Exempt Lease Payments or NCREBs Lease Payments, as the case may be, based upon whether such damage or destruction occurs with respect to the Applicable Leased Property represent fair consideration for the use, occupancy and enjoyment of the portions of the Applicable Leased Property not damaged or destroyed. Such abatement will continue for the period commencing with such damage or destruction and ending with the earlier of (i) substantial completion of the work of repair, replacement or reconstruction or (ii) substitution of property as provided in Section 6.1 or Section 6.5(c) (the "*Abatement End Date*"). In the event of any such damage or destruction, the Tax-Exempt Project Lease or the

NCREBs Equipment Lease, as the case may be, will continue in full force and effect and the County waives any right to terminate the Tax-Exempt Project Lease or the NCREBs Equipment Lease, as applicable, by virtue of any such damage and destruction or other defect. Notwithstanding the foregoing, there will be no abatement of Tax-Exempt Lease Payments or NCREBs Lease Payments under this Section 6.3 to the extent that the proceeds of casualty insurance and rental interruption insurance are available to pay Tax-Exempt Lease Payments or NCREBs Lease Payments, as the case may be, which would otherwise be abated under this Section 6.3, it being hereby declared that such proceeds and amounts constitute a special fund for the payment of such Lease Payments. The County shall immediately notify the Authority and the applicable Assignee(s) upon the occurrence of any event causing substantial interference with the County's beneficial use and enjoyment of any portion of the Leased Property that is unavailable under Section 6.2 or 6.3.

*Section 6.4. Reserved.*

*Section 6.5. Extended Lease Term; Recalculation of Lease Payments; Substitution of Equipment under Certain Circumstances.* (a) In case of abatement of any Lease Payments as provided herein, the term of the Tax-Exempt Project Lease or the NCREBs Equipment Lease, as the case may be, shall automatically be extended for an Extended Lease Term and further extended successively for any additional Extended Lease Term as a result of the occurrence of any subsequent similar event; provided, however, that in no event shall any such extension result in the term of such Lease extending past the date specified in the definition of "*Tax-Exempt Lease Term*" or "*NCREBs Lease Term*", as applicable. The terms and conditions during any Extended Lease Term under an affected Lease shall be the same as the terms and conditions during the original Lease Term, except that:

(i) the then unpaid aggregate principal component under the affected Lease, shall be amortized at the applicable Tax-Exempt Rate or NCREBs Rate, as the case may be, on a level debt service basis over a period equal to the duration of the then remainder of such original Lease Term and such Extended Lease Term and with related Lease Payments payable on each related Lease Payment Date provided in the applicable Payment Schedule;

(ii) the applicable Assignee shall prepare, and the Authority and the County shall execute and deliver, a revised Payment Schedule as described in the preceding clause (i);

(iii) if the Extended Lease Term does not end on an applicable Lease Payment Date, the final date for payment of such Lease Payments shall be the last business day of the Extended Lease Term under the related Lease;

(iv) the County shall take such actions as may be necessary to maintain federal tax-exemption of the interest component of Tax-Exempt Lease Payments under the Tax-Exempt Project Lease, including preparing, executing and filing an information reporting return in compliance with the Code in the event that the revised Payment Schedule may



result in treatment of such revised Payment Schedule as a reissuance of the Tax-Exempt Lease for federal income tax purposes; and

(v) the County shall take such actions as may be necessary to maintain the status of the NCREBs Equipment Lease as a “*new clean renewable energy bond*” within the meaning of Section 54C(a) of the Code.

In connection with the execution and delivery of a revised Payment Schedule as herein provided, the County shall deliver to related Assignee, at the County’s expense, a written opinion of special tax counsel (selected by the County and reasonably acceptable to such Assignee) with respect to the federal tax matters described in (iv) or (v) above as the case may be. The applicable Assignee shall establish the Extended Lease Term, calculate the increased interest component and revised amortization of the then unpaid aggregate principal component under the applicable Lease and prepare the revised Payment Schedule, all as provided in this subsection (a), within thirty days after an Abatement End Date (as described above). Once the applicable Assignee has prepared such revised Payment Schedule, such Assignee shall promptly deliver such revised Payment Schedule to the County for execution and delivery by the County and the Authority (with a signed copy to the Assignee); *provided* that the revised Payment Schedule prepared in accordance with this subsection (a) shall become immediately effective for the period from and after such Abatement End Date.

(b) Notwithstanding any such interference with the County’s beneficial use and enjoyment of a portion of the Leased Property, this Agreement and the related Lease shall continue in full force and effect with respect to any unimpaired or remaining Leased Property hereunder. The County hereby waives the benefits of California Civil Code Sections 1932(1), 1932(2) and 1933(4) and any and all other rights to terminate this Agreement and the Leases by virtue of any interference with the use and possession of the Leased Property under any Lease.

(c) In the event of damage to or destruction of all or a portion of the Leased Property due to earthquake or other uninsured casualty for which the proceeds of rental interruption insurance are not available, promptly after the occurrence of such event, to the extent such action will not cause the applicable Lease to be invalid, the County Executive Officer will use its best efforts to present to the Board of Supervisors of the County a recommendation that such Board of Supervisors consider substituting and adding as additional Leased Property under the applicable Lease other real or personal property of the County that is unimpaired and unencumbered, the fair rental value of which shall be at least equal to the applicable Lease Payments due during each fiscal year for the remainder of the Lease Term(s), provided that any such addition and substitution shall be subject to the approval of the Board of Supervisors of the County.

## **ARTICLE VII**

### **OTHER COVENANTS**

*Section 7.1. Disclaimer of Warranties.* THE AUTHORITY MAKES NO AGREEMENT, WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN,

CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY THE COUNTY OF THE NCREBS SOLAR EQUIPMENT OR THE LEASED REAL PROPERTY OR ANY PORTION OF EITHER THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE NCREBS SOLAR EQUIPMENT OR THE LEASED REAL PROPERTY OR ANY PORTION OF EITHER THEREOF. THE COUNTY ACKNOWLEDGES THAT THE AUTHORITY IS NOT A MANUFACTURER OF ANY PORTION OF THE NCREBS SOLAR EQUIPMENT OR THE LEASED REAL PROPERTY OR A DEALER THEREIN, THAT THE COUNTY LEASES THE NCREBS SOLAR EQUIPMENT AND THE LEASED REAL PROPERTY AS-IS, IT BEING AGREED THAT ALL OF THE AFOREMENTIONED RISKS ARE TO BE BORNE BY THE COUNTY. In no event shall the Authority be liable for incidental, indirect, special or consequential damages, in connection with or arising out of either Lease for the existence, furnishing, functioning or the County's use of the NCREBS Solar Equipment or the Leased Real Property.

*Section 7.2. Access to the Leased Property.* The County agrees that the Authority, and the Authority's successors or assigns, may at all reasonable times enter upon, to examine and inspect, the Leased Property or any part thereof. The Authority and the Authority's successors and assigns have such rights of access to the Leased Property or any component thereof as may be reasonably necessary to cause the proper maintenance of the Leased Property in the event of failure by the County to perform its obligations under a Lease with respect to such Leased Property; *provided, however*, that neither the Authority nor any of its assigns have any obligation to cause such proper maintenance.

*Section 7.3. Risk of Loss; Release and Indemnification Covenants.* Whether or not covered by insurance or self-insurance, the County hereby assumes all risk of loss of, or damage to and liability related to injury or damage to any persons or property arising from the NCREBS Solar Equipment or the Leased Real Property from any cause whatsoever, and no such loss of or damage to or liability arising from the NCREBS Solar Equipment or the Leased Real Property shall relieve the County of the obligation to make Lease Payments or to perform any other obligation under the Leases, except as otherwise provided in Sections 6.2 and 6.3. Whether or not covered by insurance or self-insurance, the County shall indemnify (to the fullest extent permitted by applicable law and subject to the appropriation of moneys sufficient for the purpose) the Authority and the Assignees, and their respective officers, agents, successors and assigns, against all liabilities, obligations, claims, losses and damages, including legal fees and expenses, arising out of any of the following:

- (a) the use, maintenance, condition or management of, or from any work or thing done on or in the NCREBS Solar Equipment, the Tax-Exempt Project, any Leased Real Property or any real property on which the NCREBS Solar Equipment is or will be located, including (without limitation) any action or claim that the Sanitation District, the County, the Authority, The Bank of New York Mellon Trust Company, N.A., as Trustee, or any other Person may at any time assert against the Authority or any Assignee relating to the NCREBS Solar Equipment, the Tax-Exempt Project, any Leased Real Property, or any real property on which the NCREBS Solar Equipment is located, the Sanitation District Easement, any Prior Capital Projects Financing Agreement, any Prior Sanitation District Financing Document, or the acquisition, installation, operation, repair, modification, maintenance or repossession of NCREBS Solar Equipment,

(b) any breach or default on the part of the County in the performance of any of its obligations under either Lease or the Sanitation District Easement,

(c) any negligence, bad faith or willful misconduct of the County or of any of its agents, contractors, servants, employees or licensees with respect to the NCREBs Solar Equipment, Tax-Exempt Project, any Leased Real Property or any real property on which the NCREBs Solar Equipment is or will be located, or

(d) any intentional misconduct or negligence of any sublessee of the County with respect to the NCREBs Solar Equipment, Tax-Exempt Project, any Leased Real Property or any real property on which the NCREBs Solar Equipment is or will be located.

No indemnification is made under this Section or elsewhere in either Lease for willful misconduct or negligence under either Lease by the Authority or either Assignee, or their respective officers, agents, employees, successors or assigns. The provisions of this Section 7.3 shall continue in full force and effect notwithstanding the full payment of all obligations under the Leases or the termination of the NCREBs Lease Term or the Tax-Exempt Lease Term for any reason.

*Section 7.4. Assignment by the Authority.* (a) The Authority has assigned and transferred (i) the Assigned NCREBs Lease Rights to the NCREBs Lease Assignee pursuant to the NCREBs Lease Assignment and (ii) the Assigned Tax-Exempt Lease Rights to the Tax-Exempt Lease Assignee pursuant to the Tax-Exempt Lease Assignment. The County hereby consents to each such assignment and transfer. The Authority hereby directs the County, and the County hereby agrees, to pay to the NCREBs Lease Assignee all payments payable by the County pursuant to the NCREBs Equipment Lease under Section 4.3 and all amounts payable by the County pursuant to the NCREBs Equipment Lease under Article IX. Whenever in the NCREBs Equipment Lease any reference is made to the Authority and such reference concerns any Assigned NCREBs Lease Rights, such reference shall be deemed to refer to the NCREBs Lease Assignee. The Authority hereby further directs the County, and the County hereby agrees, to pay to the Tax-Exempt Lease Assignee all payments payable by the County pursuant to the Tax-Exempt Project Lease under Section 4.3 and all amounts payable by the County pursuant to the Tax-Exempt Project Lease under Article IX. Whenever in the Tax-Exempt Project Lease any reference is made to the Authority and such reference concerns any Assigned Tax-Exempt Lease Rights, such reference shall be deemed to refer to the Tax-Exempt Lease Assignee. Nothing in this Section 7.4 is intended, or shall be construed, to entitle the NCREBs Lease Assignee (in such capacity) to assign or transfer any Assigned Tax-Exempt Lease Rights (or any interest therein) or to entitle the Tax-Exempt Lease Assignee (in such capacity) to assign or transfer any Assigned NCREBs Lease Rights (or any interest therein).

(b) The Assigned NCREBs Lease Rights and the Assigned Tax-Exempt Lease Rights, and all proceeds therefrom, may be further assigned and reassigned in whole or in part to one or more assignees or subassignees by an NCREBs Lease Assignee (but only with respect to Assigned NCREBs Lease Rights) or a Tax-Exempt Lease Assignee (but only with respect to Assigned Tax-Exempt Lease Rights), without the necessity of obtaining the consent of the

County; *provided*, that any such assignment, transfer or conveyance (i) shall be made only to investors each of whom the transferor Assignee reasonably believes is a “*qualified institutional buyer*” as defined in Rule 144A(a)(1) promulgated under the Securities Act or an “*accredited investor*” as defined in Sections 501(a)(1), (2), (3) and (7) of Regulation D promulgated under the Securities Act and is purchasing the related Assigned Rights (or any interest therein) for its own account with no present intention to resell or distribute such Assigned Rights (or interest therein), subject to each investor’s right at any time to dispose of its Assigned Rights or any interest therein as it determines to be in its best interests, (ii) shall not result in more than 35 owners of Assigned NCREBs Lease Rights or 35 owners of Assigned Tax-Exempt Lease Rights or the creation of any interest in Assigned NCREBs Lease Rights or Assigned Tax-Exempt Lease Rights in an aggregate principal component that is less than \$[\_\_\_\_\_] and (iii) shall not require the County to make Lease Payments under either Lease, send notices or otherwise deal with respect to matters arising under the NCREBs Equipment Lease or the Tax-Exempt Project Lease with or to more than one trustee, owner, servicer or other fiduciary or agent for a Lease (herein referred to with respect to each Lease as the “*Lease Servicer*”) and any trust agreement, participation agreement or custodial agreement under which multiple ownership interests in the Assigned NCREBs Lease Rights or the Assigned Tax-Exempt Lease Rights are created shall provide the method by which the owners of such interests shall establish the rights and duties of a single Lease Servicer to act on their behalf with respect to such Assigned Rights, including with respect to the exercise of rights and remedies on behalf of such owners upon the occurrence of an Event of Default under the NCREBs Equipment Lease or the Tax-Exempt Project Lease, as the case may be. The Authority (including the initial NCREBs Lease Assignee pursuant to the NCREBs Lease Assignment and the initial Tax-Exempt Lease Assignee pursuant to the Tax-Exempt Lease Assignment) and the County hereby acknowledge and agree that the restrictions and limitations on transfer as provided in this Section 7.4 shall apply to the first and subsequent assignees and sub-assignees of any of the Assigned Rights (or any interest therein).

(c) No assignment, transfer or conveyance permitted by this Section 7.4 that changes the Lease Servicer for a Lease or its payment instructions or mailing address shall be effective until the County shall have received a written notice of assignment that discloses the name, payment instructions and address of each such assignee; *provided*, that if such assignment is made to a bank or trust company as trustee or paying agent for owners of certificates of participation, trust certificates or partnership interests evidencing interests in the Assigned NCREBs Lease Rights or the Assigned Tax-Exempt Lease Rights, it shall thereafter be sufficient that the County receives notice of the name, payment instructions and address of such bank or trust company that acts as the Lease Servicer for such Lease. During the NCREBs Lease Term and the Tax-Exempt Lease Term, the County shall keep, or cause to be kept, a complete and accurate record of all such assignments in form necessary to comply with Section 149 of the Code. The County shall retain all such notices as a register of all Assignees for each Lease and shall make all payments to the NCREBs Lease Assignee or the Tax-Exempt Lease Assignee, as the case may be, or the Lease Servicer for a Lease designated in such register. The County shall not have the right to, and shall not, assert against the initial NCREBs Lease Assignee, the initial Tax-Exempt Lease Assignee or any subsequent Assignee any claim, counterclaim or other right that the County may have against the Authority. If an NCREBs Lease Assignee or a Tax-Exempt Lease Assignee notifies the County of its intent to assign the related Assigned Rights (or any interest therein) to a different Lease Servicer, the County agrees that it shall execute and

deliver to the requesting Assignee a notice and acknowledgment of assignment in form reasonably required by such Assignee within five (5) Business Days after its receipt of such request.

*Section 7.5. Assignment and Subleasing by the County.* (a) After the date of recordation of the Leases, the County may sublease the Facilities or the NCREBs Solar Equipment, or any portion thereof, with the prior written consent of the applicable Assignee (which will not be unreasonably withheld), and subject to all of the following conditions:

(i) The related Lease and the obligation of the County to make Lease Payments thereunder shall remain obligations of the County.

(ii) The County shall, within 30 days after the delivery thereof, furnish or cause to be furnished to the Authority and the applicable Assignee a true and complete copy of such sublease.

(iii) No such sublease by the County may cause the Facilities or the NCREBs Solar Equipment to be used for a purpose which is not authorized under the provisions of the laws of the State of California.

(iv) The County shall furnish the Authority and the applicable Assignee with a written opinion of Special Counsel to the effect that such sublease does not cause a reissuance of the related Lease or adversely affect the tax status of such Lease.

(b) None of the County's right, title or interest in, to and under the Tax-Exempt Project Lease, the NCREBs Equipment Lease, any portion of the NCREBs Solar Equipment or the Escrow Account may be assigned, encumbered or subleased by the County for any reason, and any purported assignment, encumbrance or sublease without the Authority's prior written consent shall be null and void.

*Section 7.6. Amendment of Leases.* The NCREBs Equipment Lease may be amended by the mutual consent of the County and the Authority, with the prior written consent of the NCREBs Lease Assignee. The Tax-Exempt Project Lease may be amended by the mutual consent of the County and the Authority, with the prior written consent of the Tax-Exempt Lease Assignee. Prior to the effective date of any such amendment, and as a condition precedent to the effectiveness thereof, the County at its expense will obtain an opinion of Special Counsel to the effect that such amendment will not adversely affect the tax status of such Lease or cause a reissuance, as the case may be, for federal income tax purposes.

*Section 7.7. Tax Covenants.*

(a) *Private Activity Bond Limitation.* The County shall assure that proceeds of the Tax-Exempt Project Lease are not used so as to cause the interest components of Tax-Exempt Lease Payments to satisfy the private business tests of Section 141(b) of the Code or the private loan financing test of Section 141(c) of the Code.

(b) *Federal Guarantee Prohibition.* The County shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Tax-Exempt Project Lease or the Tax-Exempt Lease Payments to be “federally guaranteed” within the meaning of Section 149(b) of the Code.

(c) *Rebate Requirement.* The County shall take any and all actions necessary to assure compliance with Section 148(f) of the Code with respect to the Leases, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to the Lease Payments.

(d) *No Arbitrage.* The County shall not take, or permit or suffer to be taken by the Authority, either Assignee or otherwise, any action with respect to the proceeds of the Leases which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of execution of the Leases would have caused the Leases (or either of the Leases) to be “arbitrage bonds” within the meaning of Section 148 of the Code.

(e) *Use of Available Project Proceeds (NCREBs).* The County shall assure that all of the Available Project Proceeds (NCREBs) will be used for a Qualified New Clean Renewable Energy Project.

(f) *County a Local Governmental Body.* The County shall maintain its status as a state or local governmental body as required by Section 54C(a)(2) of the Code.

(g) *Designation of NCREBs Equipment Lease.* The County hereby designates the NCREBs Equipment Lease as a “new clean renewable energy bond” for purposes of Section 54C(a)(3) of the Code.

(h) *Reasonable Expectations as to Expenditure of Available Project Proceeds (NCREBs).* The County reasonably expects to expend all of the Available Project Proceeds (NCREBs) for a Qualified New Clean Renewable Energy Project within three years of the issue date of the NCREBs Equipment Lease. The County reasonably expects that, within 6 months of the issue date of the NCREBs Equipment Lease, it will enter into a binding commitment with a third party to spend at least ten percent (10%) of the Available Project Proceeds (NCREBs) for a Qualified New Clean Renewable Energy Project.

(i) *Costs of Issuance Limitation.* No NCREBs Lease Assignment Proceeds and investment earnings thereon, in an amount in excess of two percent (2%) of the NCREBs Lease Assignment Proceeds, will be used to pay costs of issuing of the NCREBs Equipment Lease.

(j) *Compliance with Conflicts of Interest Laws.* The County hereby covenants and agrees to comply with all State of California (“State”) and local law requirements governing conflicts of interest as such requirements may relate, directly or indirectly, to the NCREBs Equipment Lease. The County hereby covenants and agrees to comply with any conflict of interest rules prescribed by the Internal Revenue Service or United States Department of the Treasury governing the appropriate Member of Congress, Federal, State, and local officials, and their spouses as such rules may apply to the NCREBs Equipment Lease.

(k) *Compliance with Wage Requirements.* The County hereby covenants and agrees to comply with the wage rate requirements of Title 40, Subtitle II, Part A, Chapter 31, Subchapter IV of the United States Code as such requirements relate to the proceeds of the NCREBs Equipment Lease.

(l) *Compliance with Tax Certificates.* The County shall comply with the instructions and requirements of the tax certificates with respect to each Lease, which are incorporated herein as if fully set forth herein. This covenant shall survive payment in full of the Lease Payments.

*Section 7.8. Vendor's Agreements; Warranties.* The County covenants that it shall not in any material respect amend, modify, rescind or alter any Vendor Agreement relating to the NCREBs Solar Equipment without the prior written consent of the Authority. The Authority hereby irrevocably appoints the County its agent and attorney-in-fact during the Lease Terms, so long as the County shall not be in default under the Leases, to assert from time to time whatever claims and rights (including without limitation warranties) relating to the NCREBs Solar Equipment that the Authority may have against a Vendor. The County's sole remedy for the breach of such warranty, indemnification or representation shall be against the applicable Vendor of the NCREBs Solar Equipment, and not against the Authority. Any such matter shall not have any effect whatsoever on the rights and obligations of the Authority under the Leases, including the right to receive full and timely Lease Payments thereunder. The County expressly acknowledges that the Authority makes, and has made, no representations or warranties whatsoever as to the existence or the availability of such warranties relating to the NCREBs Solar Equipment.

## **ARTICLE VIII**

### **EVENTS OF DEFAULT AND REMEDIES**

*Section 8.1. Events of Default Defined.* Each of the following events constitutes an Event of Default under the NCREBs Equipment Lease or the Tax-Exempt Project Lease, as applicable:

(a) Failure by the County to pay any Lease Payment under such Lease (other than as permitted pursuant to Sections 6.2 and 6.3) or other payment required to be paid under a Lease at the time specified therein or to maintain insurance as specified in Article V.

(b) Failure by the County to observe and perform any covenant, condition or agreement on its part to be observed or performed under such Lease, other than as referred to in the preceding subsection (a), for a period of 30 days after written notice specifying such failure and requesting that it be remedied has been given to the County by the Authority. However, if the County notifies the Authority that in its reasonable opinion the failure stated in the notice can be corrected, but not within such 30 day period, the failure will not constitute an Event of Default if the County commences to cure the failure within such 30 day period and thereafter diligently and in good faith cures such failure in a reasonable period of time.

(c) Any statement, representation or warranty made by the County in or pursuant to such Lease or its execution, delivery or performance shall prove to have been false, misleading, or breached in any material respect on the date when made.

(d) Any default occurs under any other agreement for borrowing money, lease financing of property or otherwise receiving credit (i) that is provided by either Assignee or any affiliate of either Assignee or (ii) under which there is outstanding, owing or committed an aggregate amount in excess of \$1,000,000.00, in each case under which the County is an obligor, and such default remains uncured following the applicable cure period, if any, and either (1) arises from a failure to pay any amounts due with respect to such agreement for borrowing money, lease financing of property or provision of credit and/or (3) causes or permits amounts to become immediately due and payable in full as a result of such default.

(e) The County shall (i) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of the County, or of all or a substantial part of the assets of the County, (ii) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors or (iv) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any answer admitting the material allegations of a petition filed against the County in any bankruptcy, reorganization, moratorium or insolvency proceeding.

(f) An order, judgment or decree shall be entered by any court of competent jurisdiction, approving a petition or appointing a receiver, trustee, custodian or liquidator for the County or of all or a substantial part of the assets of the County, in each case without its application, approval or consent, and such order, judgment or decree shall continue unstayed and in effect for any period of 60 consecutive days.

(g) With respect to the NCREBs Equipment Lease, the occurrence of (i) an Event of Default under the Tax-Exempt Project Lease, (ii) an event of default under any Prior Capital Projects Financing Agreement which remains uncured following any applicable cure period, if any, or (iii) termination of the Sanitation District Easement.

(h) With respect to the Tax-Exempt Project Lease, the occurrence of an Event of Default under the NCREBs Equipment Lease.

*Section 8.2. Remedies on Default.* Whenever any Event of Default has happened and is continuing, the Authority may exercise any and all remedies available under law or granted under the Leases. Notwithstanding anything herein or in the Leases to the contrary, there is no right under any circumstances to accelerate the Lease Payments or otherwise declare any Lease Payments not then in default to be immediately due and payable. Each and every covenant under this Agreement and the Leases to be kept and performed by the County is expressly made a condition and upon the breach thereof the Authority may exercise any and all rights granted under this Agreement and the Leases; *provided*, that no termination of either Lease will be effected either by operation of law or acts of the parties hereto, except only in the manner herein



expressly provided. Notwithstanding anything in this Article VIII to the contrary, the remedies provided under this Section 8.2 may be exercised separately with respect to the NCREBs Equipment Lease or the Tax-Exempt Project Lease upon the occurrence of an Event of Default under either such Lease or may be exercised with respect to both of the Leases as the respective Assignee may determine, unless otherwise required by applicable California law. Upon the occurrence and during the continuance of any Event of Default, the Authority may exercise each and every one of the following remedies:

(a) *Enforcement of Payments Without Termination.* If the Authority does not elect to terminate the Tax-Exempt Project Lease or the NCREBs Equipment Lease in the manner hereinafter provided for in subsection (b) or (c) of this Section, the County agrees to remain liable for the payment of all Tax-Exempt Lease Payments and the performance of all conditions contained in the Tax-Exempt Project Lease and the payment of all NCREBs Lease Payments and the performance of all conditions contained in the NCREBs Equipment Lease, and the Authority may take whatever action at law or in equity may appear necessary or desirable, to collect each such Lease Payment as it becomes due under the Tax-Exempt Project Lease and the NCREBs Equipment Lease, as applicable, subject, however, in any case to the provisions of Sections 6.2 and 6.3; *provided*, that in no event shall the County be liable in any Fiscal Year for any amount in excess of the related Lease Payments shown for such Fiscal Year in the Tax-Exempt Lease Payment Schedule or NCREBs Lease Payment Schedule, as applicable. The County shall reimburse the Authority for any deficiency arising out of the re-leasing or sale of the Leased Property or the NCREBs Solar Equipment or portion of either thereof, or, if the Authority is unable to re-lease the Leased Property or the NCREBs Solar Equipment, then for the full amount of all Tax-Exempt Lease Payments to the end of the Tax-Exempt Lease Term and the full amount of all NCREBs Lease Payments to the end of the NCREBs Lease Term (subject in any case to the provisions of Sections 6.2 and 6.3), but said Lease Payments and/or deficiency will be payable only at the same time and in the same manner as hereinabove provided for the payment of Lease Payments under such Lease, notwithstanding such entry or re-entry by the Authority or any suit in unlawful detainer, or otherwise, brought by the Authority for the purpose of effecting such re-entry or obtaining possession of the Leased Property or portion of thereof or the exercise of any other remedy by the Authority.

The County hereby irrevocably appoints the Authority as the agent and attorney-in-fact of the County to enter upon and re-lease the Leased Property upon the occurrence and continuation of an Event of Default and to remove all personal property whatsoever situated upon the Leased Property, to place such property in storage or other suitable place in the State of California for the account of and at the expense of the County, and the County hereby exempts and agrees to save harmless the Authority from any costs, loss or damage whatsoever arising or occasioned by any such entry upon and re-leasing of the Leased Property and the removal and storage of such property by the Authority or its duly authorized agents in accordance with the provisions herein contained. The County agrees that the terms of each Lease constitute full and sufficient notice of the right of the Authority to re-lease the Leased Property in the event of such re-entry without effecting a surrender of such Lease, and further agrees that no acts of the

Authority in effecting such re-leasing constitute a surrender or termination of such Lease irrespective of the term for which such re-leasing is made or the terms and conditions of such re-leasing, or otherwise, but that, on the contrary, in the event of such default by the County the right to terminate a Lease will vest in the Authority to be effected in the sole and exclusive manner hereinafter provided for in subsection (b) of this Section. The County agrees to surrender and quit possession of the Leased Property upon demand of the Authority for the purpose of enabling the Leased Property to be re-let under this paragraph. Any rental obtained by the Authority in excess of the unpaid Lease Payments and other amounts due under such Lease will be applied as a credit against future Lease Payments.

(b) *Termination of Tax-Exempt Project Lease.* If an Event of Default occurs and is continuing under the Tax-Exempt Project Lease, the Authority at its option may terminate the Tax-Exempt Project Lease and re-lease all or any portion of the Tax-Exempt Real Property. If the Authority terminates the Tax-Exempt Project Lease at its option and in the manner hereinafter provided on account of default by the County (and notwithstanding any re-entry upon the Tax-Exempt Real Property by the Authority in any manner whatsoever or the re-leasing of the Tax-Exempt Real Property), the County nevertheless agrees to pay to the Authority all costs, loss or damages howsoever arising or occurring payable at the same time and in the same manner as is herein provided in the case of payment of Tax-Exempt Lease Payments. Any surplus received by the Authority from such re-leasing will be applied as a credit against future Tax-Exempt Lease Payments. Neither notice to pay rent or to deliver up possession of the premises given under law nor any proceeding in unlawful detainer taken by the Authority will of itself operate to terminate the Tax-Exempt Project Lease, and no termination of the Tax-Exempt Project Lease on account of default by the County will be or become effective by operation of law, or otherwise, unless and until the Authority has given written notice to the County of the election on the part of the Authority to terminate the Tax-Exempt Project Lease. The County agrees that no surrender of the Tax-Exempt Real Property, or of the remainder of the Tax-Exempt Lease Term or any termination of the Tax-Exempt Project Lease will be valid in any manner or for any purpose whatsoever unless stated or accepted by the Authority by such written notice.

(c) *Termination of NCREBs Equipment Lease.* (i) If an Event of Default occurs and is continuing under the NCREBs Equipment Lease prior to the County Jail Release Date, the Authority at its option may terminate the NCREBs Equipment Lease and, re-lease all or any portion of the NCREBs Real Property. If the Authority terminates the NCREBs Equipment Lease at its option and in the manner hereinafter provided on account of default by the County (and notwithstanding any re-entry upon the NCREBs Real Property by the Authority in any manner whatsoever or the re-leasing of the NCREBs Real Property), the County nevertheless agrees to pay to the Authority all costs, loss or damages howsoever arising or occurring payable at the same time and in the same manner as is herein provided in the case of payment of NCREBs Lease Payments. Any surplus received by the Authority from such re-leasing will be applied as a credit against future NCREBs Lease Payments. Neither notice to pay rent or to deliver up possession of the premises given under law nor any proceeding in unlawful detainer taken by the

Authority will of itself operate to terminate the NCREBs Equipment Lease, and no termination of the NCREBs Equipment Lease on account of default by the County will be or become effective by operation of law, or otherwise, unless and until the Authority has given written notice to the County of the election on the part of the Authority to terminate the NCREBs Equipment Lease. The County agrees that no surrender of the NCREBs Real Property, or of the remainder of the NCREBs Lease Term or any termination of the NCREBs Equipment Lease will be valid in any manner or for any purpose whatsoever unless stated or accepted by the Authority by such written notice.

(ii) If an Event of Default occurs and is continuing under the NCREBs Equipment Lease on or after the County Jail Release Date, the Authority at its option may terminate the NCREBs Equipment Lease and, re-lease all or any portion of the NCREBs Solar Equipment. If the Authority terminates the NCREBs Equipment Lease at its option and in the manner hereinafter provided on account of default by the County (and notwithstanding any repossession of the NCREBs Solar Equipment by the Authority in any manner whatsoever or the re-leasing of the NCREBs Solar Equipment), the County nevertheless agrees to pay to the Authority all costs, loss or damages howsoever arising or occurring payable at the same time and in the same manner as is herein provided in the case of payment of NCREBs Lease Payments. Any surplus received by the Authority from such re-leasing will be applied as a credit against future NCREBs Lease Payments. Neither notice to pay rent or to deliver up possession of the NCREBs Solar Equipment given under law nor any proceeding in unlawful detainer taken by the Authority will of itself operate to terminate the NCREBs Equipment Lease, and no termination of the NCREBs Equipment Lease on account of default by the County will be or become effective by operation of law, or otherwise, unless and until the Authority has given written notice to the County of the election on the part of the Authority to terminate the NCREBs Equipment Lease. The County agrees that no surrender of the NCREBs Solar Equipment, or of the remainder of the NCREBs Lease Term or any termination of the NCREBs Equipment Lease will be valid in any manner or for any purpose whatsoever unless stated or accepted by the Authority by such written notice.

(iii) If an Event of Default occurs and is continuing under the NCREBs Equipment Lease on or after the County Jail Release Date, the Authority at its option may terminate the NCREBs Equipment Lease and may enter the premises where the NCREBs Solar Equipment is located and retake possession of the NCREBs Solar Equipment or require the County at the County's expense to promptly return any or all of the NCREBs Solar Equipment to the possession of the Authority at such place within the State of California as the Authority shall specify, and sell or lease such NCREBs Solar Equipment or, for the account of the County, sublease such NCREBs Solar Equipment, and the County hereby agrees to save harmless the Authority from any costs, loss or damage whatsoever arising or occasioned by any such removal, storage or reconditioning of such property by the Authority or its duly authorized agents in accordance with the provisions herein contained; *provided* that such amounts shall be payable solely from amounts legally appropriated.

(d) *Action with respect to the Escrow Account.* The Authority may direct the County to terminate the Escrow Account and apply any moneys and investments (i) then held in the NCREBs Lease Subaccount and the NCREBs Delivery Costs Subaccount to NCREBs Lease Payments due under the NCREBs Equipment Lease and (ii) then held in the Tax-Exempt Lease Subaccount and the Tax-Exempt Delivery Costs Subaccount to Tax-Exempt Lease Payments due under the Tax-Exempt Project Lease.

(e) *Suit for Payment of Lease Payments.* By action pursuant to the California Code of Civil Procedure, or as otherwise provided by law, obtain the issuance of a writ of mandamus enforcing, for each Fiscal Year seriatim during the entire balance of the remaining NCREBs Lease Term or Tax-Exempt Lease Term, as applicable, subject in any case to the provisions of Sections 6.2 and 6.3, the duty of the County to appropriate and take all other administrative steps necessary for the payment of Lease Payments and other amounts due under the NCREBs Equipment Lease or the Tax-Exempt Project Lease, as applicable.

(f) *Proceedings at Law or In Equity.* If an Event of Default occurs and, continues under the NCREBs Equipment Lease or the Tax-Exempt Project Lease, the Authority may take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due thereunder or to enforce any other of its rights thereunder.

(g) *Remedies as Secured Party.* If an Event of Default occurs and continues under the NCREBs Equipment Lease, the Authority may take any and all actions to which it is entitled as a secured party with respect to the NCREBs Solar Equipment.

(h) *Remedies under the Site Lease.* If an Event of Default occurs and continues under a Lease, the Authority may exercise its rights under the Site Lease.

*Section 8.3. No Remedy Exclusive.* No remedy herein conferred upon or reserved to the Authority is intended to be exclusive and every such remedy is cumulative and in addition to every other remedy given under the Leases or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon the occurrence of any Event of Default will impair any such right or power or will be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it in this Article VIII it is not necessary to give any notice, other than such notice as may be required in this Article VIII or by law.

*Section 8.4. Agreement to Pay Attorneys' Fees and Expenses.* If either party to this Agreement defaults under any of the provisions of a Lease and the non-defaulting party employs attorneys or incurs other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party contained in the NCREBs Equipment Lease or the Tax-Exempt Project Lease, the defaulting party agrees that it will on demand therefor pay to the non-defaulting party the reasonable fees of such attorneys and such other expenses so incurred by the non-defaulting party.

*Section 8.5. No Additional Waiver Implied by One Waiver.* If any agreement contained in either Lease is breached by either party and thereafter waived by the other party, such waiver will be limited to the particular breach so waived and will not constitute a waiver of any other breach thereunder.

*Section 8.6. Assignees to Exercise Rights.* Such rights and remedies as are given to the Authority under this Agreement and this Article VIII with respect to the NCREBs Equipment Lease have been assigned by the Authority to the NCREBs Lease Assignee and with respect to the Tax-Exempt Project Lease have been assigned by the Authority to the Tax-Exempt Lease Assignee, to each of which assignment the County hereby consents. Such rights and remedies shall be exercised solely by the NCREBs Lease Assignee with respect to the Assigned NCREBs Lease Rights and solely by the Tax-Exempt Lease Assignee with respect to the Assigned Tax-Exempt Lease Rights.

## ARTICLE IX

### PREPAYMENT OF LEASE PAYMENTS

*Section 9.1. Optional Prepayment.* (a) The County may exercise its option to prepay the aggregate principal components of the Lease Payments under either or both Leases in whole, but not in part, on any Lease Payment Date on or after the Funding Date, by paying a prepayment price equal to the aggregate principal components of the Lease Payments to be prepaid, together with the principal and interest components of the Lease Payments required to be paid on such date, *plus* in each case accrued interest on such prepaid principal components to the prepayment date, *plus*:

(i) for the Tax-Exempt Project Lease, a prepayment premium equal to (1) two percent (2.00%) of the aggregate principal component to be prepaid of the Tax-Exempt Lease Payments to be prepaid if such prepayment date occurs on or prior to \_\_\_\_, 20\_\_ or (2) one percent (1.00%) of the aggregate principal components of the Tax-Exempt Lease Payments to be prepaid if such prepayment occurs on or after \_\_\_\_, 20\_\_; and

(ii) for the NCREBs Equipment Lease, a prepayment premium equal to (1) two percent (2.00%) of the aggregate principal component to be prepaid of the NCREBs Lease Payments to be prepaid if such prepayment date occurs on or prior to \_\_\_\_, 20\_\_ or (2) one percent (1.00%) of the aggregate principal components of the NCREBs Lease Payments to be prepaid if such prepayment occurs on or after \_\_\_\_, 20\_\_.

The County shall give the Authority written notice of its intention to exercise its option to prepay Lease Payments under either or both of the Leases under this Section 9.1(a) not less than 30 days in advance of the intended prepayment date.

(b) *Loss of Subsidy.* In the event that a Change in Law (as hereafter defined) occurs, on the day specified in the County's notice to the Authority of its exercise of the prepayment option provided under this subsection (b), the County shall have the option to prepay all, but not less than all, of the outstanding NCREBs Lease Payments (which prepayment must occur on an

NCREBs Lease Payment Date no later than one (1) year following the occurrence of the Change in Law) by paying full to the NCREBs Lease Assignee of the sum of (i) all NCREBs Lease Payments then due *plus* (ii) an amount equal to the then remaining Outstanding Balance of NCREBs Lease Payments plus accrued interest to such prepayment date *plus* (iii) all other amounts then owing under the NCREBs Equipment Lease. “*Change in Law*” means legislation hereafter enacted by the Congress of the United States of America or a ruling, regulation or statement hereafter issued by the Treasury Department or the Internal Revenue Service, the effect of which (A) repeals, revokes or Materially Reduces the County’s applicable cash subsidy payments from the United States Treasury under Section 54A or 6431 of the Code (as currently in effect) with respect to the NCREBs Equipment Lease or (B) imposes one or more new substantive conditions on the receipt by the County of such applicable cash subsidy payments under such Sections (as currently in effect) and such conditions are unacceptable to the County; *provided* that notwithstanding anything herein to the contrary the current sequestration program under applicable federal law (or extension thereof) shall not constitute a Change in Law.

“Material Reduction” or “Materially Reduces” means a reduction in the County’s applicable cash subsidy payments relating to the NCREBs Equipment Lease received from the United States Treasury under Section 54A and Section 6431 of the Code, net of sequestration (as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended), with the result that the net cash subsidy payment to be received by the County for the next interest payment equals 50% or less of the expected cash subsidy payment calculated at issuance for such next interest payment as set forth in the column titled “Expected Cash Subsidy Payment At Issuance” on Attachment ##. Notwithstanding anything herein to the contrary, the following shall not constitute, or result in, either a Change in Law or a Material Reduction: (i) the current sequestration program for fiscal year starting 10/1/16 for direct pay bonds at a rate of 6.9% (or higher for such fiscal year as released by the Treasury) under applicable federal law (or extension thereof), (ii) any acts or omissions of the County that adversely affect the tax-status of the NCREBs Equipment Lease as a “new clean renewable energy bond” within the meaning of Section 54C(a) of the Code or a “qualified bond” under Section 6431(f) of the Code, (iii) the County’s failure or inability for reasons within its control to receive or delay to receive all or any portion of any subsidy payment from the United States Department of the Treasury, or (iv) the County’s failure to comply with applicable laws and regulations to obtain payment of any subsidy payment from the United States Department of the Treasury, including without limitation any offset against any subsidy payment as a result of other liabilities of the County to the United States Department of the Treasury.

In order to exercise the prepayment option described in this Section 9.1(b), the County shall deliver to the NCREBs Lease Assignee at least 60 days prior to the prepayment date (1) a copy of the legislation hereafter enacted by the Congress of the United States of America resulting in the Material Reduction (along with an opinion of Bond Counsel to the effect that such legislation results in a Material Reduction) or a copy of the ruling, regulation or statement hereafter issued by the Treasury Department or the Internal Revenue Service resulting in the Material Reduction (along with an opinion of Bond Counsel to the effect that such ruling, regulation or statement results in a Material Reduction) and (2) a calculation of the reduction in the net subsidy based on a spreadsheet substantially similar to Attachment \_\_\_\_ setting forth, in reasonable detail, the basis for calculation and the amount of such calculation.

In determining the impact of a Change in Law, a Material Reduction and any such amounts, the County will act reasonably and in good faith. In the event there is a partial prepayment of NCREBs Lease Payments at any time under the NCREBs Equipment Lease, the NCREBs Lease Assignee shall recalculate the "Expected Cash Subsidy Payment At Issuance" and "Materially Reduced Applicable Cash Subsidy Payment at Issuance" on Attachment \_\_\_ for the remaining interest payment dates taking into account the reduction in principal component resulting from such partial prepayment. The NCREBs Lease Assignee shall provide the County with a copy of such revised spreadsheet which shall replace the original or preceding Attachment \_\_\_

*Section 9.2. Mandatory Prepayment From Net Proceeds of Insurance or Eminent Domain.* The County shall prepay the unpaid principal components of the NCREBs Lease Payments or the Tax-Exempt Lease Payments, as applicable, in whole or in part on any Lease Payment Date, from and to the extent of any Net Proceeds of insurance award or eminent domain award allocated to the NCREBs Real Property, the NCREBs Solar Equipment or the Tax-Exempt Real Property and to be applied for purposes of such prepayment under Article VI, by paying a prepayment price equal to the aggregate principal components of the Lease Payments to be prepaid *plus* in each case accrued interest on such prepaid principal components to the prepayment date, *plus*: (i) for the Tax-Exempt Project Lease, a prepayment premium equal to (1) two percent (2.00%) of the aggregate principal component to be prepaid of the Tax-Exempt Lease Payments to be prepaid if such prepayment date occurs on or prior to \_\_\_\_, 20\_\_ or (2) one percent (1.00%) of the aggregate principal components of the Tax-Exempt Lease Payments to be prepaid if such prepayment occurs on or after \_\_\_\_, 20\_\_; and (ii) for the NCREBs Equipment Lease, a prepayment premium equal to (1) two percent (2.00%) of the aggregate principal component to be prepaid of the NCREBs Lease Payments to be prepaid if such prepayment date occurs on or prior to \_\_\_\_, 20\_\_ or (2) one percent (1.00%) of the aggregate principal components of the NCREBs Lease Payments to be prepaid if such prepayment occurs on or after \_\_\_\_, 20\_\_. The County shall give the Authority notice of prepayment of Lease Payments under the affected Lease pursuant to this Section 9.2 not less than 30 days in advance of such prepayment date. Prepayment in part of the unpaid principal components of Lease Payments as provided in this Section 9.2 shall be applied to reduce the principal components of Lease Payments in inverse order of the Lease Payment Dates under the affected Lease.

*Section 9.3. Credit for Amounts on Deposit.* If the County prepays the principal components of the Tax-Exempt Lease Payments or the NCREBs Lease Payments in full under Section 9.2, such that the related Lease is discharged by its terms as a result of such prepayment, at the written election of the County filed with the Tax-Exempt Lease Assignee or the NCREBs Lease Assignee, as the case may be, any or all amounts then on deposit in the Escrow Account allocable to the Tax-Exempt Project or the NCREBs Solar Equipment will be credited towards the amounts then required to be so prepaid with respect to the Tax-Exempt Lease Payments or the NCREBs Lease Payments, as the case may be.

## ARTICLE X

### MISCELLANEOUS

*Section 10.1. Notices.* Any notice, request, complaint, demand or other communication under this Agreement or the Leases may be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or by facsimile transmission or other form of telecommunication, at its number set forth below. Notice is effective either (a) upon transmission by facsimile transmission or other form of telecommunication, (b) 72 hours after deposit in the United States of America first class mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt. The Authority, the County, the NCREBs Lease Assignee or the Tax-Exempt Lease Assignee may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

*If to the Authority:*

Nevada County Finance Authority  
950 Maidu Avenue  
Nevada City, CA 95959  
Attention: County Executive Officer

Phone: (530) 265-7040  
Fax No. (530) 265-9839

*If to the County:*

County of Nevada, California  
950 Maidu Avenue  
Nevada City, CA 95959  
Attention: County Executive Officer

Phone: (530)265-7040  
Fax No. (530)265-9839

*If to the Tax-Exempt Lease Assignee:*

Banc of America Public Capital Corp  
11333 McCormick Road  
Hunt Valley II  
M/C MD5-032-07-05  
Hunt Valley, MD 21031  
Attention: Contract Administration  
Fax No.: (443) 556-6977

*If to the NCREBs Lease Assignee:*

Banc of America Leasing & Capital, LLC  
11333 McCormick Road  
Hunt Valley II  
M/C MD5-032-07-05  
Hunt Valley, MD 21031  
Attention: Contract Administration  
Fax No.: (443) 556-6977



*Section 10.2. Binding Effect.* This Agreement and each Lease inures to the benefit of and is binding upon the Authority, the County and their respective successors and assigns.

*Section 10.3. Severability.* If any provision of this Agreement or a Lease is held invalid or unenforceable by any court of competent jurisdiction, such holding does not invalidate or render unenforceable any other provision hereof or thereof.

*Section 10.4. Net-net-net Lease.* Each Lease is a “net-net-net lease” and the County hereby agrees that the Lease Payments under each Lease are an absolute net return to the Authority, free and clear of any expenses, charges or set-offs whatsoever.

*Section 10.5. Third Party Beneficiary.* The NCREBs Lease Assignee is made a party beneficiary under this Agreement and the NCREBs Equipment Lease with all rights of a third party beneficiary, and the Tax-Exempt Lease Assignee is made a party beneficiary under this Agreement and the Tax-Exempt Project Lease with all rights of a third party beneficiary.

*Section 10.6. Further Assurances and Corrective Instruments.* The Authority and the County will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the NCREBs Real Property, the NCREBs Solar Equipment leased (or intended so to be) under the NCREBs Equipment Lease or the Tax-Exempt Real Property leased (or intended so to be) under the Tax-Exempt Project Lease or for carrying out the expressed intention of this Agreement or either Lease.

*Section 10.7. Execution in Counterparts.* This Agreement, the NCREBs Equipment Schedule and the Tax-Exempt Project Schedule may be executed in several counterparts, each of which will be an original and all of which will constitute but one and the same instrument.

*Section 10.8. Applicable Law.* This Agreement and each Lease is governed by and construed in accordance with the laws of the State of California.

*Section 10.9. Authority and County Representatives.* Whenever under the provisions of this Agreement or either Lease the approval of the Authority or the County is required, or the Authority or the County is required to take some action at the request of the other, such approval or such request will be given for the Authority by an authorized officer, employee or other representative of the Authority designated and identified to the County (in form and substance acceptable to the County) for such purpose and for the County by an authorized official, employee or other representative of the County designated and identified to the Authority (in form and substance acceptable to the Authority) for such purpose, and any party hereto will be authorized to rely upon any such approval or request.

*Section 10.10. Captions.* The captions or headings in this Agreement or either Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement or either Lease.

*[Signature Pages Follow]*

IN WITNESS WHEREOF, the Authority and the County have caused this Lease Agreement to be executed in their respective names by their duly authorized officers, all as of the date first above written.

NEVADA COUNTY FINANCE AUTHORITY, *as*  
*Lessor*

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

Attest:

\_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

COUNTY OF NEVADA, CALIFORNIA, *as Lessee*

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

Attest:

\_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of \_\_\_\_\_ )

On \_\_\_\_\_ [Date] before me, \_\_\_\_\_  
(insert name and title of the officer)

personally appeared \_\_\_\_\_ [Name and Title],  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of \_\_\_\_\_ )

On \_\_\_\_\_ [Date] before me, \_\_\_\_\_  
(insert name and title of the officer)

personally appeared \_\_\_\_\_ [Name and Title],  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

## EXHIBIT A

### FORM OF NCREBs EQUIPMENT SCHEDULE

TO BE RECORDED AND WHEN RECORDED

RETURN TO:

Stradling Yocca Carlson & Rauth  
660 Newport Center Drive, Suite 1600  
Newport Beach, CA 92660-6401  
Attention: John Murphy

THIS TRANSACTION IS EXEMPT FROM CALIFORNIA DOCUMENTARY TRANSFER TAX PURSUANT TO SECTION 11922 OF THE CALIFORNIA REVENUE AND TAXATION CODE. THIS DOCUMENT IS EXEMPT FROM RECORDING FEES PURSUANT TO SECTION 27383 OF THE CALIFORNIA GOVERNMENT CODE.

Re: Lease Agreement  
Dated as of \_\_\_\_ 1, 2016  
between  
Nevada County Finance Authority, as lessor,  
and  
County of Nevada, California, as lessee

1. *Defined Terms.* All terms used herein have the meanings ascribed to them in the above-referenced Lease Agreement (the “*Agreement*”).

2. *NCREBs Solar Equipment.* The following equipment and other property constitutes the NCREBs Solar Equipment hereby included under this NCREBs Equipment Schedule entered into pursuant to the Agreement and to be acquired and installed at the indicated locations:

Eric Rood Administration Center  
950 Maidu Avenue  
Nevada City, California  
469.80 kWdc of fixed-tilt carport solar arrays

Wayne Brown Correctional Facility  
925 Maidu Avenue  
Nevada City, California  
313.20 kWdc of fixed-tilt carport solar arrays

Carl Bryan II Juvenile Hall  
15435 Highway 49  
Nevada City, California  
90.25 kWdc of single-tilt roof-mounted solar arrays

Lake of the Pines Wastewater Treatment Plant  
10907 Riata Way  
Auburn, California  
365.40 kWdc of ground-mounted tracker solar arrays

Ranch Property  
16782 Highway 49  
Nevada City, California  
1,200.60 kWdc of ground-mounted fixed-tilt solar arrays

3. *Lease of NCREBs Real Property.* For and in consideration of the NCREBs Lease Payments to be paid by the County under the NCREBs Equipment Lease, prior to the County Jail Release Date, the Authority hereby leases the NCREBs Real Property to the County, and the County hereby leases the NCREBs Real Property from the Authority, upon the terms and conditions set forth in the NCREBs Equipment Lease created hereunder. The NCREBs Real Property consists of the Site described in *Attachment A-2* attached hereto and the buildings, facilities and other improvements located on the Site that consist generally of the County's Wayne Brown Correctional Facility, which is located at 925 Maidu Avenue, Nevada City, California, 95959.

4. *Lease of the NCREBs Solar Equipment.* For and in consideration of the application by the Authority of funds in accordance with Section 3.1(a) of the Agreement and the beneficial use and enjoyment of the NCREBs Solar Equipment to be acquired and installed with the NCREBs Lease Assignment Proceeds as provided in the NCREBs Equipment Lease and the Escrow Account, on and after the County Jail Release Date, the County hereby leases from the Authority the NCREBs Solar Equipment. For and in consideration of the NCREBs Lease Payments to be paid by the County under the NCREBs Equipment Lease, on and after the County Jail Release Date, the Authority hereby leases the NCREBs Solar Equipment to the County, upon the terms and conditions set forth in the NCREBs Equipment Lease created hereunder.

5. *Payment Schedule.*

(a) *Lease Payment Commencement Date.* The Lease Payment Commencement Date is \_\_\_\_\_, 2016 which is the effective date of the Site Lease and the NCREBs Equipment Lease created under this NCREBs Equipment Schedule, which is the date the County becomes obligated to commence payment of NCREBs Lease Payments in accordance with the NCREBs Lease Payment Schedule attached hereto as *Attachment A-1*. The NCREBs Rate is \_\_\_\_% per annum.

(b) *NCREBs Lease Payments.* The NCREBs Lease Payments shall be in such amounts and payable on such dates as set forth in the NCREBs Lease Payment Schedule attached to this NCREBs Equipment Schedule as *Attachment A-1*. NCREBs Lease Payments payable by the County shall commence on the Lease Payment Commencement Date.

6. *Representations, Warranties and Covenants.* The County hereby represents, warrants and covenants that its representations, warranties and covenants set forth in the Agreement are true and correct on the Funding Date. The County further represents and warrants that no material adverse change in the County's financial condition has occurred since [June 30, 2015] (*i.e.*, the end date of its last audited annual financial statements).

6. *Incorporation of the Agreement by Reference.* The terms and provisions of the Agreement (other than to the extent that they relate solely to the Tax-Exempt Project Schedule or the Tax-Exempt Project therein described) are hereby incorporated into this NCREBs Equipment Schedule by reference and made a part hereof, and thereby create the separate NCREBs Equipment Lease under the Agreement.

7. *NCREBs Lease Assignment Proceeds.* The NCREBs Lease Assignment Proceeds equal \$[NCREBs Par Amount] and shall be deposited and applied as provided in Section 3.1(a) of the Agreement.

8. *NCREBs Lease Term.* The NCREBs Lease Term shall be the period set forth in Section 4.2(a) of the Agreement.

Dated: \_\_\_\_\_, 2016.

LESSOR:

LESSEE:

NEVADA COUNTY FINANCE AUTHORITY

COUNTY OF NEVADA, CALIFORNIA

By \_\_\_\_\_  
Title \_\_\_\_\_

By \_\_\_\_\_  
Title \_\_\_\_\_

Attest:

By \_\_\_\_\_  
Title \_\_\_\_\_

Counterpart No. \_\_\_\_\_ of 3 manually executed and serially numbered counterparts. To the extent that this NCREBs Equipment Lease constitutes chattel paper (as defined in the California Commercial Code), no security interest herein may be created through the transfer or possession of any Counterpart other than Counterpart No. 1.



## NCREBS LEASE PAYMENT SCHEDULE

\* [Describe Premium in Prepayment Price]



LEASE PAYMENT DATE	LEASE PAYMENT AMOUNT	INTEREST COMPONENT	PRINCIPAL COMPONENT	OUTSTANDING BALANCE	PREPAYMENT PRICE* (including prepayment premium, if applicable)

**ATTACHMENT A-2 TO  
NCREBs EQUIPMENT SCHEDULE**

**DESCRIPTION OF NCREBs SITE**

The NCREBs Site consists of the land located in the County of Nevada, State of California, which is described as follows, together with all buildings, facilities and other improvements which constitute real property and which are located thereon:

Real property in the City of Nevada City, County of Nevada, State of California, described as follows:

ALL THAT PORTION OF THE NORTHEAST QUARTER OF SECTION 12 AND THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 16 NORTH, RANGE 8 EAST, M.D.B.&M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY SECTION LINE OF SAID SECTION 12, FROM WHICH THE NORTH QUARTER CORNER OF SAID SECTION 12 BEARS SOUTH 86°40'36" WEST, 582.23 FEET; THENCE FROM SAID POINT OF BEGINNING, SOUTH 7°28'33" WEST, 279.38 FEET; THENCE SOUTH, 17°45'10" EAST, 230.45 FEET; THENCE, NORTH 72°14'50" EAST, 154.21 FEET; THENCE SOUTH 17°45'10" EAST, 66.75 FEET; THENCE, NORTH 72°14'50" EAST 101.00 FEET; 101.00 FEET; THENCE, NORTH 17°45'10" WEST 66.75 FEET; THENCE, NORTH 72°14'50" EAST 29.54 FEET, TO A CURVE TO THE LEFT WITH A RADIUS OF 124.50 FEET; THENCE, ALONG SAID CURVE, , THROUGH A CENTRAL ANGLE OF 90°00'00", FOR A LENGTH OF 195.56 FEET; THENCE NORTH 17°45'10" WEST, 284.02 FEET TO A POINT ON THE NORTHERLY SECTION LINE OF SAID SECTION 12; THENCE, ALONG SAID SECTION LINE NORTH 86°40'36" EAST, 69.58 FEET; THENCE, LEAVING SAID SECTION LINE, SOUTH 17°39'07" EAST, 267.45 FEET; THENCE NORTH 86°30'00" EAST 191.50 FEET; THENCE, SOUTH 13°00'00" WEST, 54.88 FEET; THENCE, SOUTH 60°15'00" EAST 82.95 FEET; THENCE, SOUTH 47°01'00" WEST, 70.79 FEET, TO A CURVE TO THE LEFT WITH A RADIUS OF 100.00 FEET; THENCE, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 28°22'00", FOR A LENGTH OF 49.51 FEET; THENCE, SOUTH 18°39'00" WEST, 128.84 FEET, TO A CURVE TO THE LEFT WITH A RADIUS OF 100.00 FEET; THENCE, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 30°32'00", FOR A LENGTH OF 53.29 FEET; THENCE, SOUTH 11°53'00" EAST, 100.08 FEET; THENCE, NORTH 77°39'05" WEST, 18.89 FEET; THENCE, SOUTH 2°33'39" WEST, 149.95 FEET, TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF STATE HIGHWAY 49; THENCE, ALONG SAID RIGHT-OF-WAY LINE, SOUTH 70°33'40" WEST, 800.00 FEET, TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF CEMENT HILL ROAD; THENCE, SAID RIGHT -OF-WAY LINE, NORTH 47°52'20" WEST, 82.20 FEET; THENCE, NORTH 47°51'00" WEST, 20.00 FEET; THENCE, NORTH 69°46'30" WEST, 120.00 FEET, TO A CURVE TO THE RIGHT WITH A RADIUS OF 150.00 FEET; THENCE, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 39°28'30", FOR A LENGTH OF 103.35 FEET; THENCE, NORTH 42°34'00" WEST, 190.74 FEET; THENCE, NORTH 53°29'26" WEST, 137.69 FEET; THENCE, LEAVING SAID RIGHT-OF-WAY LINE, SOUTH 89°52'00" EAST, 116.36 FEET; THENCE, NORTH 00°52'00" WEST 270.72 FEET; THENCE, SOUTH 78°04'00" EAST, 28.79 FEET; THENCE, SOUTH 76°36' 00" EAST 119.45 FEET; THENCE, EAST 180.00 FEET; THENCE, NORTH 00°08'24" WEST, 441.78 FEET, TO A POINT ON THE NORTHERLY LINE OF SAID SECTION 12; THENCE, ALONG SAID SECTION LINE, SOUTH 86°40'36" WEST, 107.51 FEET, TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF WET HILL ROAD; THENCE, LEAVING SAID SECTION LINE AND ALONG SAID RIGHT-OF-WAY LINE, ON A NON-TANGENT CURVE CONCAVE TO THE NORTHWEST WITH A CHORD BEARING OF NORTH 57°47'20" EAST AND A RADIUS OF 2970.00 FEET; THENCE, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 2°08'40", FOR A LENGTH

OF 111.16 FEET; THENCE, NORTH 58°51'40" EAST 218.90 FEET; THENCE, LEAVING SAID RIGHT OF WAY LINE, SOUTH 27°15'00" EAST, 37.67 FEET; THENCE, SOUTH 65°25' 40" EAST, 218.00 FEET; THENCE, LEAVING SAID RIGHT OF WAY LINE, SOUTH 27°15'00" EAST, 37.67 FEET; THENCE, SOUTH 65°25' 13" WEST, 5.94 FEET; THENCE, SOUTH 24°34'37" EAST, 56.38 FEET; THENCE, NORTH 65°25'13" EAST, 8.57 FEET; THENCE, SOUTH 27°15'00" EAST, 75.97 FEET TO THE POINT OF BEGINNING.

APN:

05-020-22-000

**NCREBs EQUIPMENT SCHEDULE TO LEASE AGREEMENT BETWEEN THE  
NEVADA COUNTY FINANCE AUTHORITY, AS LESSOR,  
AND  
COUNTY OF NEVADA, CALIFORNIA, AS LESSEE**

**CERTIFICATE OF ACCEPTANCE**

This is to certify that the interest in real property conveyed by the NCREBs Equipment Schedule to that certain Lease Agreement, dated as of \_\_\_\_\_ 1, 2016, between the Nevada County Finance Authority, as lessor, and the County of Nevada, California, as lessee (the "*County*"), is hereby accepted by the undersigned officer on behalf of the County pursuant to authority conferred by resolution of the Board of Supervisors of the County adopted on \_\_\_\_\_, 2016, and the County consents to recordation thereof by its duly authorized officer.

Dated \_\_\_\_\_, 2016.

COUNTY OF NEVADA, CALIFORNIA

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**[\*TO BE DELIVERED ON COUNTY JAIL RELEASE DATE\*]**

**NCREBS EQUIPMENT SCHEDULE TO LEASE AGREEMENT BETWEEN THE  
NEVADA COUNTY FINANCE AUTHORITY, AS LESSOR,  
AND  
COUNTY OF NEVADA, CALIFORNIA, AS LESSEE**

**CERTIFICATE OF ACCEPTANCE**

This is to certify that the interest in the NCREBs Solar Equipment conveyed by the NCREBs Equipment Schedule to that certain Lease Agreement, dated as of \_\_\_\_\_ 1, 2016, between the Nevada County Finance Authority, as lessor, and the County of Nevada, California, as lessee (the "*County*"), is hereby accepted by the undersigned officer on behalf of the County pursuant to authority conferred by resolution of the Board of Supervisors of the County adopted on \_\_\_\_\_, 2016, and the County consents to recordation thereof by its duly authorized officer.

Dated \_\_\_\_\_, 2016.

COUNTY OF NEVADA, CALIFORNIA

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## EXHIBIT B

### FORM OF TAX-EXEMPT PROJECT SCHEDULE

TO BE RECORDED AND WHEN RECORDED  
RETURN TO:

Stradling Yocca Carlson & Rauth  
660 Newport Center Drive, Suite 1600  
Newport Beach, CA 92660-6401  
Attention: John Murphy

THIS TRANSACTION IS EXEMPT FROM CALIFORNIA DOCUMENTARY TRANSFER TAX PURSUANT TO SECTION 11922 OF THE CALIFORNIA REVENUE AND TAXATION CODE. THIS DOCUMENT IS EXEMPT FROM RECORDING FEES PURSUANT TO SECTION 27383 OF THE CALIFORNIA GOVERNMENT CODE.

Re: Lease Agreement  
Dated as of \_\_\_\_\_ 1, 2016  
between  
Nevada County Finance Authority, as lessor,  
and  
County of Nevada, California, as lessee

1. *Defined Terms.* All terms used herein have the meanings ascribed to them in the above-referenced Lease Agreement (the “*Agreement*”).

2. *The Tax-Exempt Project.* The project financed under this Tax-Exempt Project Schedule consists of the **[acquisition, construction, rehabilitation and installation of certain lighting, mechanical, utility, water and other energy conservation measures on, in and to certain of the County’s public buildings and other facilities]**, as more specifically described in the Vendor Agreement.

3. *Lease of Tax-Exempt Real Property.* For and in consideration of the Tax-Exempt Lease Payments to be paid by the County under the Tax-Exempt Project Lease, the Authority hereby leases the Tax-Exempt Real Property to the County, and the County hereby leases the Tax-Exempt Real Property from the Authority, upon the terms and conditions set forth in the Tax-Exempt Project Lease created hereunder. The Tax-Exempt Real Property consists of the Site described in *Attachment B-2* attached hereto and the buildings, facilities and other improvements located on the Site that consist generally of the County’s Veteran’s Memorial Building, which is located at 255 S. Auburn Street, Grass Valley, California, 95945.

4. *Tax-Exempt Lease Payment Schedule.*

(a) *Lease Payment Commencement Date.* The Lease Payment Commencement Date is \_\_\_\_\_, 2016 which is the effective date of the Site Lease and the Tax-Exempt Project Lease created under this Tax-Exempt Project Schedule, which is the date the County becomes obligated



to commence payment of Tax-Exempt Lease Payments in accordance with the Tax-Exempt Lease Payment Schedule attached hereto as *Attachment B-1*. The Tax-Exempt Rate is \_\_\_\_% per annum.

(b) *Tax-Exempt Lease Payments*. The Tax-Exempt Lease Payments shall be in such amounts and payable on such dates as set forth in the Tax-Exempt Lease Payment Schedule attached to this Tax-Exempt Project Schedule as *Attachment B-1*. Tax-Exempt Lease Payments payable by the County shall commence on the Lease Payment Commencement Date.

5. *Representations, Warranties and Covenants*. The County hereby represents, warrants and covenants that its representations, warranties and covenants set forth in the Agreement are true and correct on the Funding Date. The County further represents and warrants that no material adverse change in the County's financial condition has occurred since [June 30, 2015] (*i.e.*, the end date of its last audited annual financial statements).

6. *Incorporation of the Agreement by Reference*. The terms and provisions of the Agreement (other than to the extent that they relate solely to the NCREBs Equipment Schedule or the NCREBs Real Property or the NCREBs Solar Equipment therein described) are hereby incorporated into this Tax-Exempt Project Schedule by reference and made a part hereof, and thereby create the separate Tax-Exempt Project Lease under the Agreement.

7. *Tax-Exempt Lease Assignment Proceeds*. The Tax-Exempt Lease Assignment Proceeds equal \$[Tax-Exempt Par Amount] and shall be deposited and applied as provided in Section 3.1(b) of the Agreement.

8. *Tax-Exempt Lease Term*. The Tax-Exempt Lease Term shall be the period set forth in Section 4.2(b) of the Agreement.

Dated: \_\_\_\_\_, 2016.

LESSOR:

LESSEE:

NEVADA COUNTY FINANCE AUTHORITY

COUNTY OF NEVADA, CALIFORNIA

By \_\_\_\_\_  
Title \_\_\_\_\_

By \_\_\_\_\_  
Title \_\_\_\_\_

Attest:

By \_\_\_\_\_  
Title \_\_\_\_\_





LEASE PAYMENT DATE	LEASE PAYMENT AMOUNT	INTEREST COMPONENT	PRINCIPAL COMPONENT	OUTSTANDING BALANCE	PREPAYMENT PRICE* (including prepayment premium, if applicable)

**ATTACHMENT B-2 TO  
TAX-EXEMPT PROJECT SCHEDULE**

**DESCRIPTION OF TAX-EXEMPT SITE**

The Tax-Exempt Site consists of the land located in the County of Nevada, State of California, which is described as follows, together with all buildings, facilities and other improvements which constitute real property and which are located thereon:

Real property in the City of Grass Valley, County of Nevada, State of California, described as follows:

**PARCEL 1:**

ALL THAT PORTION OF LOT 13 IN BLOCK 36 OF THE TOWN (NOW CITY) OF GRASS VALLEY AS SAID LOT AND BLOCK ARE DESIGNATED UPON THE OFFICIAL MAP OF THE TOWN OF GRASS VALLEY MADE BY SAMUEL BETHELL IN THE YEAR 1872, DESCRIBED AS FOLLOWS: TO WIT:

BEGINNING AT A POINT ON THE EAST SIDE OF AUBURN STREET AT SOUTH 4° 32' EAST 55 FEET FROM THE NORTHWEST CORNER OF LOT 13, BLOCK 36, GRASS VALLEY TOWNSITE, THENCE TRUE BEARING SOUTH 4° 32' EAST 91.02 FEET; THENCE NORTH 82° 30' EAST 184.00 FEET; THENCE NORTH 3° 46' WEST 82.92 FEET; THENCE SOUTH 85° 02' WEST 185.09 FEET TO THE PLACE OF BEGINNING.

**PARCEL 2:**

ALL THAT PORTION OF LOT 13 IN BLOCK 36 OF THE TOWN (NOW CITY) OF GRASS VALLEY AS SAID LOT AND BLOCK ARE DESIGNATED UPON THE OFFICIAL MAP OF THE TOWN OF GRASS VALLEY MADE BY SAMUEL BETHELL IN THE YEAR 1872, DESCRIBED AS FOLLOWS, TO WIT:

BEGINNING AT A POINT ON THE EAST SIDE OF AUBURN STREET OF SOUTH 4° 32' EAST 146.02 FEET FROM THE NORTHWEST CORNER OF LOT 13, BLOCK 36, GRASS VALLEY TOWNSITE, THENCE TRUE BEARING SOUTH 4° 32' EAST 45.36 FEET TO IRON POST, SOUTH OF ROADWAY; THENCE NORTH 82° 52' EAST 545.30 FEET (FOLLOWING OLD FENCE) TO FENCE CORNER; THENCE NORTH 5° 26' WEST 115.77 FEET TO FENCE CORNER; THENCE SOUTH 85° 02' WEST 357.91 FEET; THENCE SOUTH 3° 46' EAST 82.92 FEET; THENCE SOUTH 82° 30' WEST 184.00 FEET TO THE PLACE OF BEGINNING.

APN: 08-460-39

**TAX-EXEMPT PROJECT SCHEDULE TO LEASE AGREEMENT BETWEEN THE  
NEVADA COUNTY FINANCE AUTHORITY, AS LESSOR,  
AND  
COUNTY OF NEVADA, CALIFORNIA, AS LESSEE**

**CERTIFICATE OF ACCEPTANCE**

This is to certify that the interest in real property conveyed by the Tax-Exempt Project Schedule to that certain Lease Agreement, dated as of \_\_\_\_\_ 1, 2016, between the Nevada County Finance Authority, as lessor, and the County of Nevada, California, as lessee (the "*County*"), is hereby accepted by the undersigned officer on behalf of the County pursuant to authority conferred by resolution of the Board of Supervisors of the County adopted on \_\_\_\_\_, 2016, and the County consents to recordation thereof by its duly authorized officer.

Dated \_\_\_\_\_, 2016.

COUNTY OF NEVADA, CALIFORNIA

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## EXHIBIT C

### FORM OF NCREBS FINAL ACCEPTANCE CERTIFICATE

Banc of America Leasing & Capital, LLC  
11333 McCormick Road  
Mail Code: MD5-032-07-05  
Hunt Valley, MD 21031  
Attn: Contract Administration

Re: Lease Agreement  
Dated as of \_\_\_\_\_ 1, 2016  
between  
Nevada County Finance Authority, as lessor,  
and  
County of Nevada, California, as lessee

Ladies and Gentlemen:

In accordance with the Lease Agreement dated as of \_\_\_\_\_ 1, 2016 (the "*Agreement*"), the undersigned County of Nevada, California (the "*County*") hereby certifies and represents to the NCREBs Lease Assignee as follows:

1. All of the NCREBs Solar Equipment (as such term is defined in the Agreement) listed in the NCREBs Equipment Schedule has been fully delivered, installed and accepted on the date hereof and is substantially available for the County's beneficial use and enjoyment.
2. The County has conducted such inspection and/or testing of the NCREBs Solar Equipment as it deems necessary and appropriate and hereby acknowledges that it unconditionally accepts the NCREBs Solar Equipment for all purposes.
3. All original invoices (and proof of payment of such invoices) and bills of sale showing that title to the NCREBs Solar Equipment has passed to the County relating to each item of NCREBs Solar Equipment accepted by the County has delivered to the Authority and the NCREBs Lease Assignee.
4. Other than Permitted Encumbrances, no vendor's, mechanic's or other Liens or rights to Liens, chattel mortgages, conditional sales contracts or security interest encumber the NCREBs Solar Equipment.
5. The County is currently maintaining the insurance coverage required by Section [5.4] of the Agreement and has delivered to the Authority and the NCREBs Lease Assignee evidence of the same.

6. The County has delivered to the Authority and the NCREBs Lease Assignee rental interruption or use and occupancy insurance to cover loss, total or partial, of the use of the NCREBs Solar Equipment as described in Section 5.5 of the Agreement.

7. The County has delivered to the Authority and the NCREBs Lease Assignee waivers of interest in the NCREBs Solar Equipment acceptable to the NCREBs Lease Assignee in its discretion from each party taking an interest in any part of the real estate where the NCREBs Solar Equipment is or will be located. The County has delivered to the Authority and the NCREBs Lease Assignee the Sanitation District Easement in form and substance satisfactory to the NCREBs Lease Assignee and evidence of recording thereof. The County has delivered to the Authority and the NCREBs Lease Assignee [DESCRIBE LOT LINE ADJUSTMENTS] ("LLAs") with respect to the real property at which the NCREBs Solar Equipment is located each in form and substance satisfactory to the NCREBs Lease Assignee and amendments to the Site Lease, and Exhibit F hereto, addressing such LLAs with evidence of recording thereof, if necessary.

8. The County hereby reaffirms that the representations, warranties and covenants contained in the Agreement are true and correct as of the date hereof.

9. The County hereby reaffirms that the representations, warranties and covenants contained in the Agreement and incorporated into the NCREBs Equipment Lease by reference are true and correct as of the date hereof.

10. No Event of Default or event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default (as defined in the Agreement) exists at the date hereof under any Lease currently in effect.

Capitalized terms used herein and not defined herein have the respective meanings set forth in the Agreement.

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

COUNTY OF NEVADA, CALIFORNIA

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

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

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



**EXHIBIT D**

**FORM OF NCREBS SOLAR EQUIPMENT  
FAIR RENTAL VALUE CERTIFICATE**

Banc of America Leasing & Capital, LLC  
11333 McCormick Road  
Mail Code: MD5-032-07-05  
Hunt Valley, MD 21031  
Attn: Contract Administration

Nevada County Finance Authority  
950 Maidu Avenue  
Nevada City, California, 95959

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Re: Lease Agreement  
Dated as of \_\_\_\_\_ 1, 2016  
between  
Nevada County Finance Authority, as lessor,  
and  
County of Nevada, California, as lessee

Ladies and Gentlemen:

In accordance with the Lease Agreement Dated as of \_\_\_\_\_ 1, 2016 (the "*Agreement*"), the undersigned County of Nevada, California (the "*County*") hereby certifies and represents to the Authority and the NCREBs Lease Assignee as follows:

1. The County hereby reaffirms that the representations, warranties and covenants of the County contained in the NCREBs Final Acceptance Certificate delivered on the date hereof relating to the NCREBs Solar Equipment are true and correct as of the date hereof.
2. The total NCREBs Lease Payments are not in excess of the fair rental value of the NCREBs Solar Equipment at completion and final acceptance. The fair market value of the property which remains subject to the NCREBs Equipment Lease after release of the NCREBs Real Property is at least equal to the aggregate outstanding principal amount of the NCREBs Lease Payments thereafter coming due and payable under the NCREBs Equipment Lease.
3. In making the determination in described in 2 above, consideration has been given to the estimated replacement costs of the NCREBs Solar Equipment, the costs of financing for the amounts to be deposited and applied pursuant to Section 3.1 of the

Agreement, other obligations of the County and the Authority under the NCREBs Equipment Lease, the uses and purposes which may be served by the NCREBs Solar Equipment and the benefits therefrom that will accrue to the County and the general public.

4. No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default shall have occurred or be continuing of the date of such release and no Material Adverse Change has occurred since the Funding Date.

Capitalized terms used herein and not defined herein have the respective meanings set forth in the Agreement.

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

COUNTY OF NEVADA, CALIFORNIA

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest:

By \_\_\_\_\_  
Title \_\_\_\_\_

ACCEPTED AND AGREED:

NEVADA COUNTY FINANCE AUTHORITY

By \_\_\_\_\_  
Title \_\_\_\_\_

## EXHIBIT E

### FORM OF NCREBS NOTICE OF DISBURSEMENT/CERTIFICATE OF ACCEPTANCE

Banc of America Leasing & Capital, LLC  
11333 McCormick Road  
Mail Code: MD5-032-07-05  
Hunt Valley, MD 21031  
Attn: Contract Administration

Re: Lease Agreement  
Dated as of \_\_\_\_ 1, 2016  
between  
Nevada County Finance Authority, as lessor,  
and  
County of Nevada, California, as lessee

In accordance with the Lease Agreement dated as of \_\_\_\_ 1, 2016 (the "*Agreement*"), the undersigned County of Nevada, California (the "*County*"), the undersigned hereby notifies the NCREBs Lease Assignee that the County is making payment to the following persons the following amounts from the NCREBs Lease Subaccount (or the NCREBs Delivery Costs Subaccount, if so noted below) created under the Escrow Account for the following purposes:

#### DISBURSEMENT AMOUNTS:

PAYEE'S NAME AND ADDRESS (IF DISBURSEMENT VIA WIRE, MUST INCLUDE WIRE TRANSFER INSTRUCTIONS)	INVOICE NUMBER	DOLLAR AMOUNT	PURPOSE

(i) (a) Each obligation specified in the table herein titled as "Disbursement Amounts" has been incurred by the County in the stated amount, (b) the same is a proper charge against the NCREBs Lease Subaccount for costs relating to the NCREBs Solar Equipment identified in the NCREBs Equipment Lease, and (c) has not been paid (or has been paid by the County and the County requests reimbursement thereof).

(ii) Each item of NCREBs Solar Equipment relating to an obligation specified in the table herein titled as "Disbursement Amounts" has been delivered, installed and accepted by the County.

(iii) Attached are original invoices (and proof of payment of such invoices) and bills of sale showing that title to the NCREBs Solar Equipment has passed to the County relating to each item of NCREBs Solar Equipment accepted by the County.

(iv) The undersigned, as Authorized Representative, has no notice of any vendor's, mechanic's or other Liens or rights to Liens, chattel mortgages, conditional sales contracts or security interest which should be satisfied or discharged before such payment is made.

(v) The NCREBs Solar Equipment is insured in accordance with the NCREBs Equipment Lease.

(vi) No Event of Default under the NCREBs Equipment Lease has occurred and is continuing at the date hereof.

(vii) The disbursement will occur prior to \_\_\_\_\_, 2017.

Dated: \_\_\_\_\_

COUNTY OF NEVADA, CALIFORNIA

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## EXHIBIT F

### LOCATIONS FOR NCREBS SOLAR EQUIPMENT

	Name of Location and Street Address	Legal Description
1.	Eric Rood Administrative Center 950 Maidu Ave, Nevada City, CA 95959	Real property in the City of Nevada City, County of Nevada, State of California, described as follows: ALL THAT PORTION OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 8 EAST, M.D.B.&M., ALSO BEING A PORTION OF PARCEL 1 OF THAT MAP RECORDED IN BOOK 15 OF PARCEL MAPS AT PAGE 93, NEVADA COUNTY OFFICIAL RECORDS, TOGETHER WITH THAT PROPERTY DESCRIBED IN DOCUMENT 99-36250 OF NEVADA COUNTY OFFICIAL RECORDS, BEING A PORTION OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 16 NORTH, RANGE 8 EAST, M.D.B.&M.; MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE NORTHERLY SECTION LINE OF SAID SECTION 12, FROM WHICH THE NORTH QUARTER CORNER OF SAID SECTION 12 BEARS SOUTH 86° 40' 36" WEST, 582.33 FEET; THENCE FROM SAID POINT OF BEGINNING, ALONG SAID SECTION LINE, NORTH 86° 40' 36" EAST, 47.38 FEET; THENCE, LEAVING SAID SECTION LINE, NORTH 72° 24' 57" EAST, 66.69 FEET; THENCE, SOUTH 38° 42' 00" WEST, 22.11 FEET TO A POINT ON THE NORTHERLY SECTION LINE OF SAID SECTION 12; THENCE, ALONG SAID SECTION LINE, NORTH 86° 40' 36" EAST, 202.41; THENCE, LEAVING SAID SECTION LINE, SOUTH 17° 45' 10" EAST, 284.02 FEET, TO A CURVE TO THE RIGHT WITH A RADIUS OF 124.50 FEET; THENCE, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 90° 00' 00", FOR A LENGTH OF 195.56 FEET; THENCE, SOUTH 72° 14' 50" WEST, 29.54 FEET; THENCE, SOUTH 17° 45' 10" EAST, 66.75 FEET; THENCE, SOUTH 72° 14' 50" WEST, 101.00 FEET; THENCE, NORTH 17° 45' 10" WEST, 66.75 FEET; THENCE, SOUTH 72° 14' 50" WEST, 154.21 FEET; THENCE, NORTH 17° 45' 10" WEST, 230.45 FEET; THENCE, NORTH 7° 28' 33" EAST, 279.38 FEET TO THE POINT OF BEGINNING; THIS LEGAL DESCRIPTION IS MADE PURSUANT TO THAT CERTAIN CERTIFICATE APPROVING A LOT LINE ADJUSTMENT, CERTIFICATE NO. LA11-007, RECORDED JUNE 30, 2011 AS

		<p>INSTRUMENT NO. 20110015366, OF OFFICIAL RECORDS.</p> <p>EXCEPTING THEREFROM THE MINERALS SITUATE BELOW A DEPTH OF 100 FEET BENEATH THE SURFACE, TOGETHER WITH THE RIGHT TO WORK AND MINE SAID PROPERTY BELOW SAID DEPTH AND REMOVE MINERALS THEREFROM WITHOUT DISTURBING THE SURFACE THEREOF AS CONTAINED IN THE QUITCLAIM DEED DATED JUNE 18, 1962, RECORDED JUNE 29, 1962, IN BOOK 318 OF OFFICIAL RECORDS AT PAGE 526, NEVADA COUNTY RECORDS, EXECUTED BY WILLIAM W. MORGAN AND GEORGE F. HAMPTON, AS TRUSTEES, TO FRANK V. AMARAL.</p> <p>APN: 05-020-23</p>
2.	<p>Wayne Brown Correctional Facility 925 Maidu Ave, Nevada City, CA 95959</p>	<p>Real property in the City of Nevada City, County of Nevada, State of California, described as follows:</p> <p>ALL THAT PORTION OF THE NORTHEAST QUARTER OF SECTION 12 AND THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 16 NORTH, RANGE 8 EAST, M.D.B.&amp;M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:</p> <p>BEGINNING AT A POINT ON THE NORTHERLY SECTION LINE OF SAID SECTION 12, FROM WHICH THE NORTH QUARTER CORNER OF SAID SECTION 12 BEARS SOUTH 86°40'36" WEST, 582.23 FEET; THENCE FROM SAID POINT OF BEGINNING, SOUTH 7°28'33" WEST, 279.38 FEET; THENCE SOUTH, 17°45'10" EAST, 230.45 FEET; THENCE, NORTH 72°14'50" EAST, 154.21 FEET; THENCE SOUTH 17°45'10" EAST, 66.75 FEET; THENCE, NORTH 72°14'50" EAST 101.00 FEET; 101.00 FEET; THENCE, NORTH 17°45'10" WEST 66.75 FEET; THENCE, NORTH 72°14'50" EAST 29.54 FEET, TO A CURVE TO THE LEFT WITH A RADIUS OF 124.50 FEET; THENCE, ALONG SAID CURVE, , THROUGH A CENTRAL ANGLE OF 90°00'00", FOR A LENGTH OF 195.56 FEET; THENCE</p> <p>NORTH 17°45'10" WEST, 284.02 FEET TO A POINT ON THE NORTHERLY SECTION LINE OF SAID SECTION 12; THENCE, ALONG SAID SECTION LINE NORTH 86°40'36" EAST, 69.58 FEET;</p> <p>THENCE, LEAVING SAID SECTION LINE, SOUTH 17°39'07" EAST, 267.45 FEET; THENCE NORTH 86°30'00" EAST 191.50 FEET; THENCE, SOUTH 13°00'00" WEST, 54.88 FEET; THENCE, SOUTH 60°15'00" EAST 82.95 FEET; THENCE, SOUTH 47°01'00" WEST, 70.79 FEET, TO A CURVE TO</p>

	<p>THE LEFT WITH A RADIUS OF 100.00 FEET; THENCE, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 28°22'00", FOR A LENGTH OF 49.51 FEET; THENCE, SOUTH 18°39'00" WEST, 128.84 FEET, TO A CURVE TO THE LEFT WITH A RADIUS OF 100.00 FEET; THENCE, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 30°32'00", FOR A LENGTH OF 53.29 FEET; THENCE, SOUTH 11°53'00" EAST, 100.08 FEET; THENCE, NORTH 77°39'05" WEST, 18.89 FEET; THENCE, SOUTH 2°33'39" WEST, 149.95 FEET, TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF STATE HIGHWAY 49; THENCE, ALONG SAID RIGHT-OF-WAY LINE, SOUTH 70°33'40" WEST, 800.00 FEET, TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF CEMENT HILL ROAD; THENCE, SAID RIGHT -OF-WAY LINE, NORTH 47°52'20" WEST, 82.20 FEET; THENCE, NORTH 47°51'00" WEST, 20.00 FEET; THENCE, NORTH 69°46'30" WEST, 120.00 FEET, TO A CURVE TO THE RIGHT WITH A RADIUS OF 150.00 FEET; THENCE, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 39°28'30", FOR A LENGTH OF 103.35 FEET; THENCE, NORTH 42°34'00" WEST, 190.74 FEET; THENCE, NORTH 53°29'26" WEST, 137.69 FEET; THENCE, LEAVING SAID RIGHT-OF-WAY LINE, SOUTH 89°52'00" EAST, 116.36 FEET; THENCE, NORTH 00°52'00" WEST 270.72 FEET; THENCE, SOUTH 78°04'00" EAST, 28.79 FEET; THENCE, SOUTH 76°36' 00" EAST 119.45 FEET; THENCE, EAST 180.00 FEET; THENCE, NORTH 00°08'24" WEST, 441.78 FEET, TO A POINT ON THE NORTHERLY LINE OF SAID SECTION 12; THENCE, ALONG SAID SECTION LINE, SOUTH 86°40'36" WEST, 107.51 FEET, TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF WET HILL ROAD; THENCE, LEAVING SAID SECTION LINE AND ALONG SAID RIGHT-OF-WAY LINE, ON A NON-TANGENT CURVE CONCAVE TO THE NORTHWEST WITH A CHORD BEARING OF NORTH 57°47'20" EAST AND A RADIUS OF 2970.00 FEET; THENCE, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 2°08'40", FOR A LENGTH OF 111.16 FEET; THENCE, NORTH 58°51'40" EAST 218.90 FEET; THENCE, LEAVING SAID RIGHT OF WAY LINE, SOUTH 27°15'00" EAST, 37.67 FEET; THENCE, SOUTH 65°25' 40" EAST, 218.00 FEET; THENCE, LEAVING SAID RIGHT OF WAY LINE, SOUTH 27°15'00" EAST, 37.67 FEET; THENCE, SOUTH 65°25' 13" WEST, 5.94 FEET; THENCE, SOUTH 24°34'37" EAST, 56.38 FEET;</p>
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		<p>THENCE, NORTH 65°25'13" EAST, 8.57 FEET;          THENCE, SOUTH 27°15'00" EAST, 75.97 FEET TO          THE POINT OF BEGINNING.</p> <p>APN: 05-020-22-000</p>
3.	<p>Carl F. Bryan II Juvenile Hall          15434 State Highway 49, Nevada City,          CA 95959</p>	<p>ALL THAT PORTION OF THE WEST HALF OF          SECTION 12, TOWNSHIP 16 NORTH, RANGE 8          EAST, M.D.B. &amp;M., DESCRIBED AS FOLLOWS:          BEGINNING AT A POINT ON THE EAST LINE OF          THE NORTHWEST QUARTER OF THE          SOUTHEAST QUARTER OF THE NORTHWEST          QUARTER OF SAID SECTION 12, LOCATED SOUTH          01° 30' EAST 254.00 FEET FROM THE NORTHEAST          CORNER OF SAID NORTHWEST QUARTER OF          THE SAID SOUTHEAST QUARTER OF THE SAID          NORTHWEST QUARTER OF SAID SECTION 12,          SAID POINT ALSO BEING A CORNER COMMON TO          THE REALTY DESCRIBED HEREIN AND THE          REALTY NOW OR FORMERLY OWNED BY          ERICKSON LUMBER COMPANY, A CORPORATION;          THENCE FROM SAID POINT OF BEGINNING ALONG          THE SOUTHWESTERLY LINE OF THE SAID          ERICKSON REALTY, THE FOLLOWING 4 COURSES          AND DISTANCES: SOUTH 31° 39' 00" EAST          113.40 FEET, SOUTH 23° 42' 00" EAST 158.60          FEET, SOUTH 27° 20' 00" EAST 313.40 FEET AND          SOUTH 23° 41' 00" EAST 139.02 FEET TO A POINT          IN THE NORTHEASTERLY LINE OF          AMERICAN HILL ROAD; THENCE NORTH 58° 54'          00" WEST 125.65 FEET ALONG THE SAID          NORTHEASTERLY LINE OF SAID AMERICAN HILL          ROAD TO A POINT IN AN EASTERLY LINE OF          THE REALTY DESCRIBED IN THE DEED DATED          DECEMBER 28, 1962, RECORDED JUNE 18, 1963,          IN BOOK 337 OF OFFICIAL RECORDS, AT PAGE          405, NEVADA COUNTY RECORDS, EXECUTED BY          BENUZZI BROS, A PARTNERSHIP, TO ROMAN          ROZYNSKI AND BRITA M. ROZYNSKI, HIS WIFE;          THENCE ALONG THE EASTERLY, NORTHEASTERLY          AND NORTHWESTERLY LINES OF THE SAID          ROZYNSKI REALTY, THE FOLLOWING 4 COURSES          AND DISTANCES: NORTH 09° 19' 00" EAST          88.46 FEET, NORTH 63° 49' 00" WEST 169.95          FEET, NORTH 26° 06' 00" WEST 75.94 FEET AND          SOUTH 38° 59' 00" WEST 161.42 FEET TO THE          MOST NORTHERLY CORNER OF THE REALTY          DESCRIBED IN THE DEED DATED AUGUST 31,          1962, RECORDED AUGUST 31, 1962, IN BOOK          322 OF OFFICIAL RECORDS, AT PAGE 239,          NEVADA COUNTY RECORDS, EXECUTED BY          BENUZZI          BROS., A PARTNERSHIP, TO BRUNO S. BENUZZI</p>



		<p>AND ANITA BENUZZI, HIS WIFE; THENCE SOUTH 46° 53' 52" WEST 218.43 FEET ALONG THE NORTHWESTERLY LINE OF THE REALTY DESCRIBED IN SAID DEED TO THE MOST NORTHERLY CORNER OF THE REALTY DESCRIBED IN</p> <p>THE DEED DATED DECEMBER 22, 1966, RECORDED JANUARY 4, 1967, IN BOOK 413 OF OFFICIAL RECORDS, AT PAGE 592, NEVADA COUNTY RECORDS, EXECUTED BY FRED G. BENUZZI AND BARBARA R. BENUZZI, HIS WIFE, TO BRUNO S. BENUZZI AND ANITA BENUZZI, HIS WIFE; THENCE SOUTH 58° 00' 00" WEST 192.00 FEET ALONG THE NORTHWESTERLY LINE OF THE REALTY HEREIN DESCRIBED IN SAID DEED TO THE MOST NORTHERLY CORNER OF THE REALTY DESCRIBED IN THE DEED DATED NOVEMBER 24, 1969, RECORDED NOVEMBER 25, 1969, IN BOOK 495 OF OFFICIAL RECORDS, AT PAGE 103, NEVADA COUNTY RECORDS, EXECUTED BY BRUNO BENUZZI AND ANITA BENUZZI, HIS WIFE, TO PAUL RAWN AND EDITH B. RAWN, HIS WIFE; THENCE SOUTH 87° 27' 50" WEST 359.88 FEET ALONG THE NORTHERLY LINE OF SAID RAWN REALTY TO THE NORTHWESTERLY CORNER THEREOF IN THE EASTERLY</p> <p>LINE OF THE REALTY NOW OR FORMERLY OWNED BY ERICKSON LUMBER COMPANY; THENCE ALONG THE LINES OF THE SAID ERICKSON REALTY, THE FOLLOWING 4 COURSES AND DISTANCES: NORTH 07° 14' 10" EAST 176.61 FEET, NORTH 24° 49' 00" EAST 576.94 FEET, EAST 476.35 FEET AND NORTH 01° 30' 00" WEST 45.64 FEET TO THE POINT OF BEGINNING, AS SHOWN BY A SURVEY MADE IN DECEMBER, 1965, BY J. R. BERTINO, LICENSED SURVEYOR NO. 3215.</p> <p>EXCEPTING THEREFROM THE MINERAL RIGHTS GRANTED BY THE FOLLOWING DEEDS:</p> <p>A) DEED DATED APRIL 28, 1884, RECORDED APRIL 28, 1884, IN BOOK 64 OF DEEDS, AT PAGE 189 ET SEQ., EXECUTED BY RUTH L. ROGERS, THROUGH HER ATTORNEY-IN-FACT, I. J. ROLFE, TO PHILLIPS DUNN.</p> <p>(B) DEED DATED MARCH 26, 1900, RECORDED MARCH 28, 1900, IN BOOK 93 OF DEEDS, AT PAGES 393 ET SEQ., EXECUTED BY ALICE MARY LANGDON TO CHAS. E. MOODY.</p> <p>(C) DEED DATED OCTOBER 29, 1900, RECORDED NOVEMBER 3, 1900, IN BOOK 94 OF DEEDS, AT PAGE 573, EXECUTED BY HENRY LANGDON</p>
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		<p>AND ALICE M. LANGDON, HUSBAND AND WIFE, TO THE MOUNTAINEER MILL AND MINING COMPANY, A CORPORATION.</p> <p>APN: 05-050-15</p>
4.	<p>Ranch House Property</p> <p>16782 State Highway 49, Nevada City, CA 95959</p>	<p>Real property in the unincorporated area of the County of Nevada, State of California, described as follows:</p> <p>THE SURFACE TO A DEPTH OF 50 FEET OF THAT CERTAIN PORTION OF THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 16 NORTH, RANGE 8 EAST, M.D.B.&amp;M., LYING WEST OF THE DOWNIEVILLE HIGHWAY, DESCRIBED AS FOLLOWS:</p> <p>COMMENCING AT A FENCE CORNER AT THE NORTHWEST CORNER FROM WHICH THE NORTHWEST CORNER OF SAID SECTION 11 BEARS NORTH 1 DEGREES 58 MINUTES WEST 808.90 FEET AND RUNNING THENCE NORTH 84 DEGREES 33 MINUTES EAST 124.18 FEET TO THE WEST SIDE OF THE DOWNIEVILLE HIGHWAY; THENCE ALONG HIGHWAY SOUTH 45 DEGREES 23 MINUTES EAST 1043.82 FEET; THENCE SOUTH 44 DEGREES 37 MINUTES WEST 585.42 FEET TO THE SOUTHEAST CORNER; THENCE NORTH 45 DEGREES 23 MINUTES WEST 597.40 FEET TO FENCE; THENCE ALONG FENCE NORTH 2 DEGREES 58 MINUTES WEST 719.40 FEET TO THE POINT OF BEGINNING.</p> <p>EXCEPTING THEREFROM ALL THAT PORTION THEREOF CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED DECEMBER 31, 1941, IN BOOK 77 OF OFFICIAL RECORDS, PAGE 47.</p> <p>ALSO EXCEPTING THEREFROM ALL THAT PORTION GRANTED TO MICHAEL A. BYRNE, ET UX, IN DEED RECORDED MAY 15, 2003 SERIES NO. 2003-0025168 OFFICIAL RECORDS OF NEVADA COUNTY, DESCRIBED AS FOLLOWS:</p> <p>A PORTION OF THE NORTHWEST ONE-QUARTER OF SECTION 11, TOWNSHIP 16 NORTH, RANGE 8 EAST, M.D.B.&amp;M., DESCRIBED AS FOLLOWS:</p> <p>BEGINNING AT THE SOUTHWEST CORNER OF THAT PARCEL OF LAND DESCRIBED IN DEED TO TUCKER RECORDED IN VOLUME 966 AT PAGE 334 OF THE OFFICIAL RECORDS OF NEVADA COUNTY, A POINT ON THE WEST LINE OF SAID SECTION 11 MARKED BY A 5/8" REBAR TAGGED RCE 17403; THENCE ALONG SAID WEST LINE, SOUTH 02 DEGREES 22 MINUTES 10 SECONDS EAST 219.49 FEET; THENCE LEAVING SAID WEST LINE, SOUTH 81 DEGREES 43</p>

		<p>MINUTES 00 SECONDS EAST 356.39 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF STATE HIGHWAY 49; THENCE ALONG SAID SOUTHWESTERLY LINE, NORTH 45 DEGREES 19 MINUTES 00 SECONDS WEST 387.01 FEET TO THE SOUTHEAST CORNER OF SAID TUCKER PARCEL, MARKED BY A 5/8" REBAR TAGGED RCE 17403; THENCE ALONG THE SOUTH LINE OF SAID TUCKER PARCEL, SOUTH 89 DEGREES 00 MINUTES 37 SECONDS WEST 86.59 FEET TO THE POINT OF BEGINNING.</p> <p>APN: 04-140-67</p>
5.	<p>Lake of the Pines Site 10907 Riata Way, Auburn, CA 95602</p>	<p>Real property in the City of Auburn, County of Nevada, State of California, described as follows: LOT 7, OF LAKE OF THE PINES RANCHOS AS SHOWN ON THE OFFICIAL MAP THEREOF, FILED IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF NEVADA, ON SEPTEMBER 19, 1969, IN BOOK 3 OF SUBDIVISIONS, AT PAGE 40.</p> <p>APN: 21-640-09</p>