



FMPA BOARD OF DIRECTORS AGENDA PACKAGE

April 20, 2023

9:00 a.m. [NOTE TIME]

Dial-in info: 1-321-299-0575

Conference ID Number: 221-599-962-025#

Board of Directors

Barbara Quiñones, Homestead –Chair
Lynne Tejada, Key West – Vice Chair
Larry Mattern, Kissimmee – Secretary
Allen Putnam, Jacksonville Beach – Treasurer
Rodolfo Valladares, Alachua
Bradley Hiers, Bartow
Traci Hall, Blountstown
Christina Simmons, Bushnell
Robert Presnell, Chattahoochee
Lynne Mila, Clewiston
Jan Bagnall, Fort Meade
Javier Cisneros, Fort Pierce
Dino DeLeo, Gainesville
Robert Page, Green Cove Springs
Howard McKinnon, Havana
Ed Liberty, Lake Worth Beach

Mike Beckham, Lakeland
Brad Chase, Leesburg
Vacant, Moore Haven
Steve Langley, Mount Dora
Mike New, Newberry
Joe Bunch, New Smyrna Beach
Doug Peebles, Ocala
Claston Sunanon, Orlando
Rob Nixon, Quincy
Kolby Urban, St. Cloud
Drew Mullins, Starke
Tony Guillen, Tallahassee
James Braddock, Wauchula
Vacant, Williston
Dan D'Alessandro, Winter Park

Meeting Location

**Florida Municipal Power Agency
8553 Commodity Circle
Orlando, FL 32819
(407) 355-7767**



MEMORANDUM

TO: FMPA Board of Directors
FROM: Jacob A. Williams, General Manager and CEO
DATE: April 11, 2023
RE: **FMPA Board of Directors Meeting – 9:00 a.m., April 20, 2023**
PLACE: Florida Municipal Power Agency
 8553 Commodity Circle, Orlando, FL 32819
DIAL-IN: **DIAL-IN INFO 321-299-0575**
Meeting Number 221 599 962 025
LINK: **Click here to join the meeting**
 (If you have trouble connecting via phone or internet, call 407-355-7767)

AGENDA

Chairperson Barbara Quiñones, Presiding

- 1. **Call to Order, Roll Call, Declaration of Quorum** 4
- 2. **Recognition of Guests**..... 5
- 3. **Public Comments (Individual public comments limited to 3 minutes)**..... 6
- 4. **Set Agenda (by vote)** 7
- 5. **Report from the General Manager (Jacob Williams)**..... 9
- 6. **Sunshine Law Update (Dan O’Hagan)**..... 19
- 7. **Consent Agenda**
 - a. **Approval of the Minutes for the Meeting Held March 16, 2023**..... 25
 - b. **Approval of the Projects’ Preliminary Financials as of February 28, 2023**..... 30
 - c. **Approval of the Treasury Reports as of February 28, 2023**..... 32

8. Action Items

- a. Approval of JEA Membership in FMPA (Jacob Williams) 36
- b. Approval of 2023 Strategic Plan Priorities (Jacob Williams) 40
- c. Appointment of a Nominating Committee (Jody Finklea)..... 46

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- b. Human Resources Quarterly Update * (Sharon Adams)..... 83
- c. FMSP Phase III Project Update and Recommendation * (Susan Schumann)91
- d. Finance Committee Items (Linda S. Howard) * 226

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11. Adjournment..... 229

***Also on the Executive Committee agenda.**

JW/su

NOTE: One or more participants in the above referenced public meeting may participate by telephone. At the above location there will be a speaker telephone so that any interested person can attend this public meeting and be fully informed of the discussions taking place either in person or by telephone communication. If anyone chooses to appeal any decision that may be made at this public meeting, such person will need a record of the proceedings and should accordingly ensure that a verbatim record of the proceedings is made, which includes the oral statements and evidence upon which such appeal is based. This public meeting may be continued to a date and time certain, which will be announced at the meeting. Any person requiring a special accommodation to participate in this public meeting because of a disability, should contact FMPA at (407) 355-7767 or (888) 774-7606, at least two (2) business days in advance to make appropriate arrangements.

**AGENDA ITEM 1 - CALL TO ORDER,
ROLL CALL, DECLARATION OF
QUORUM**

**Board of Directors Meeting
April 20, 2023**

**AGENDA ITEM 2 – RECOGNITION OF
GUESTS**

**Board of Directors Meeting
April 20, 2023**

**AGENDA ITEM 3 – PUBLIC
COMMENTS (Individual Public
Comments Limited to 3 Minutes)**

**Board of Directors Meeting
April 20, 2023**

**AGENDA ITEM 4 – SET AGENDA (By
Vote)**

**Board of Directors Meeting
April 20, 2023**

**AGENDA ITEM 5 – REPORT FROM
THE GENERAL MANAGER**

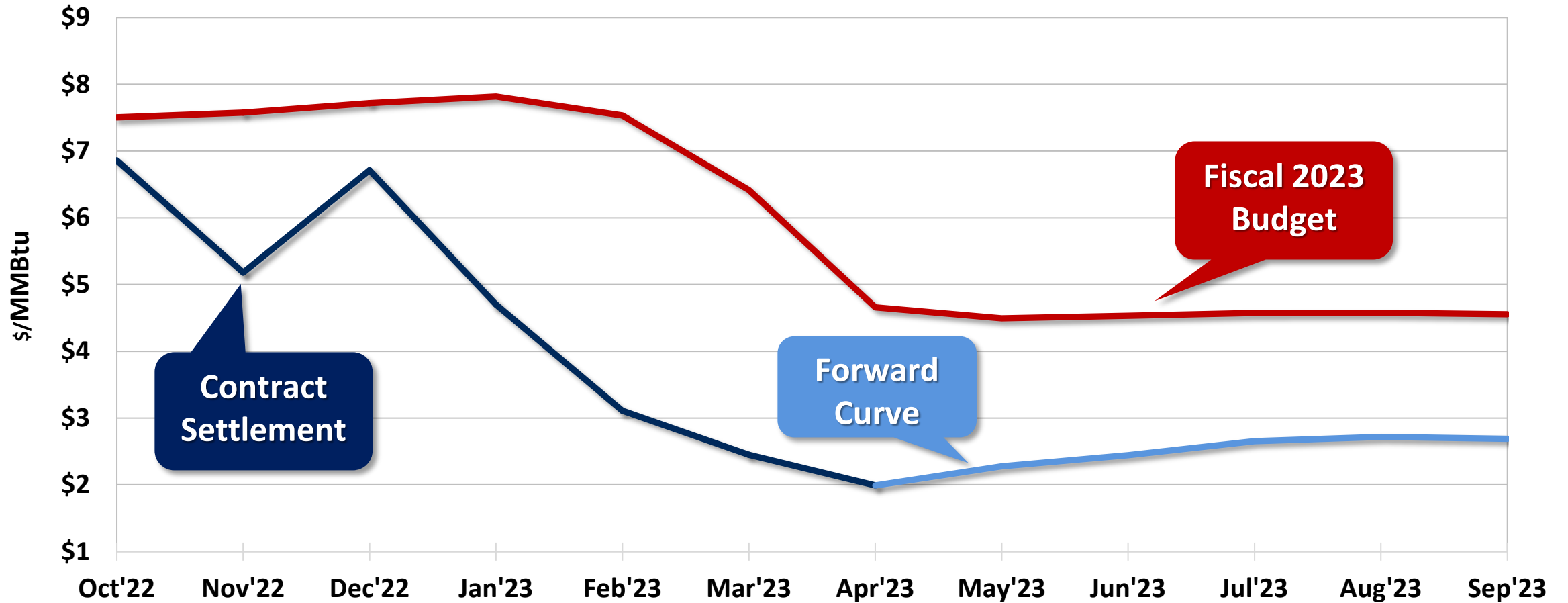
**Board of Directors Meeting
April 20, 2023**

Fiscal Year 2023 Management Goals – March Data

Goal	Status	Actual	YTD Actual	YTD Target	FY 2023 Target	Comment
1. Safety	Lost-time Accidents	0	0	0	0	No lost-time accidents
	OSHA Recordables	0	0	0	0	
2. Compliance	Environmental	0	0	0	0	
	Financial	0	0	0	0	
	Regulatory	0	0	0	0	
3. Low Cost (\$/MWh)	Fiscal Year 2023 Rate Objective	97.43	117.78	122.41	< \$105.99	<ul style="list-style-type: none"> Managed Fuel costs > target due to margin recovery Market-exposed fuel < target is a combination of declining prices and margins on gas sales Non-fuel costs at YTD target primarily due to capacity sales > target
	Managed Fuel	34.24	47.15	37.79	\$29.40	
	Market-Exposed Fuel	9.70	15.23	29.34	\$26.92	
	Non-Fuel	53.49	55.41	55.27	\$49.67	
4. Natural Gas Rate Stability Plan	Discuss need & goals for a structured plan				Complete by June	Workshop conducted on programmatic effort for natural gas/power price stability. Will revisit in the spring after strategic plan and winter impacts are clear.

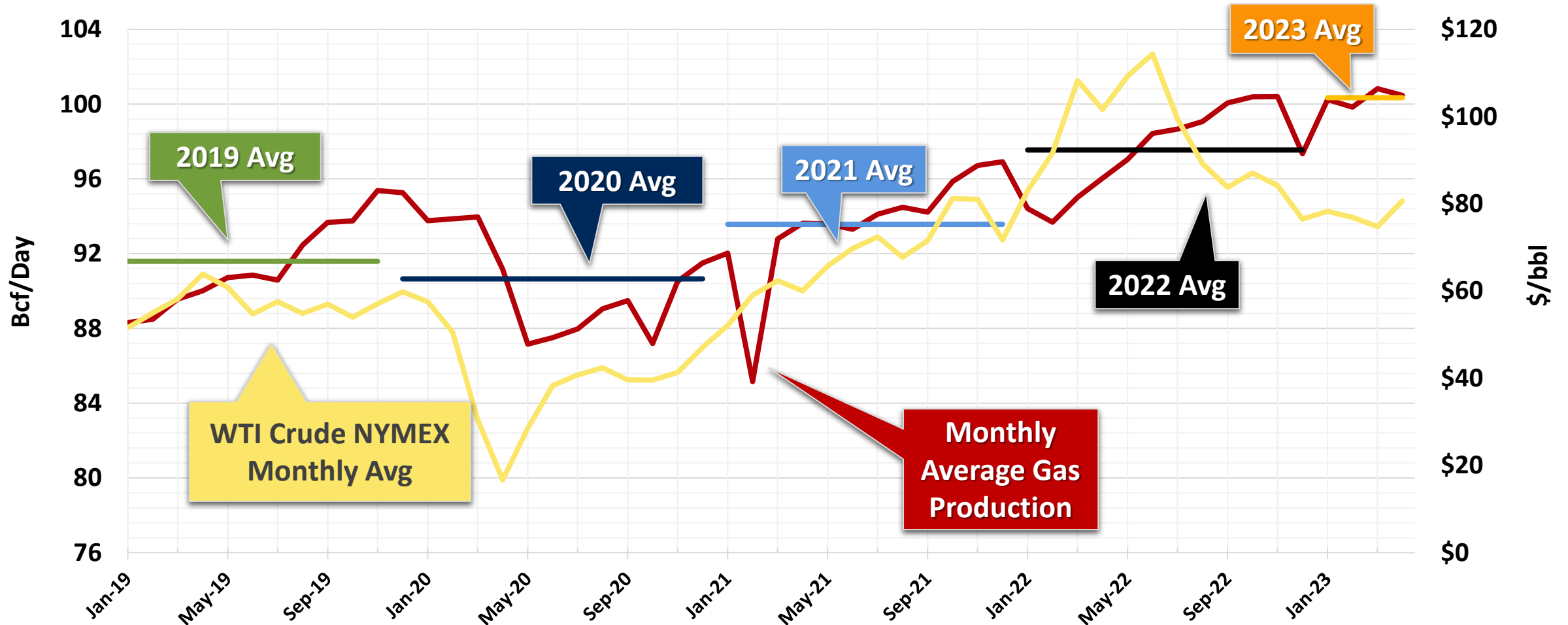
NYMEX Settlement \$2.22/MMBtu Below Budget FYTD

Forward Natural Gas Curve as of April 17



Natural Gas Production Finally Above 2019 Peaks

Gas Demand Up 8.75 Bcf/Day Over 2019

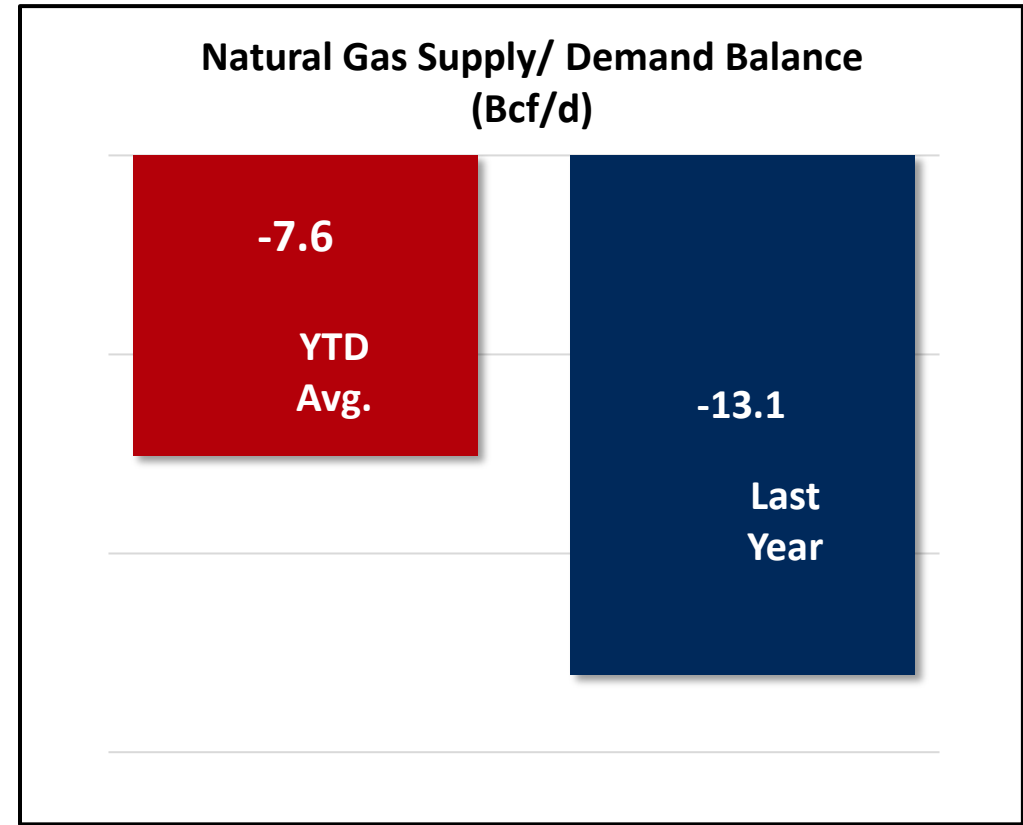


Natural Gas Demand Growth Outpacing Supply Growth

Supply Up 4.2 Bcf/Day, Demand Down 1.3 Bcf/Day

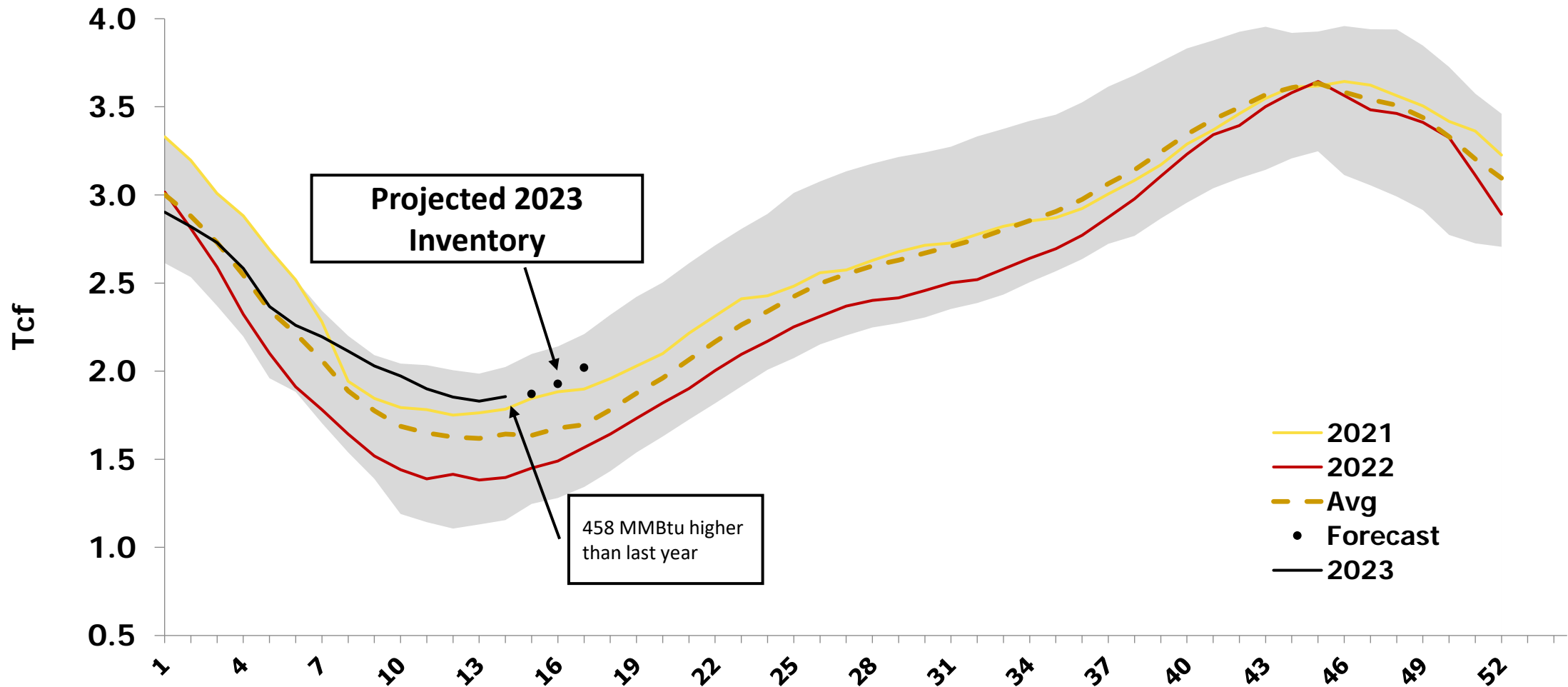
U.S. Gas Generation Increase Driving Growth

Supply / Demand Detail (Bcf/day)		
Updated as of 4/17/2023		
	YTD Avg	YTD Last Year
Production	100.3	95.3
Imports	5.2	6.0
Total Supply	105.5	101.3
Power Demand	-30.4	-27.8
Industrial Demand	-24.1	-24.6
Res / Com Demand	-32.6	-41.2
Exports	-25.9	-20.8
Total Demand	-113.1	-114.4
Net Surplus for Storage	-7.6	-13.1



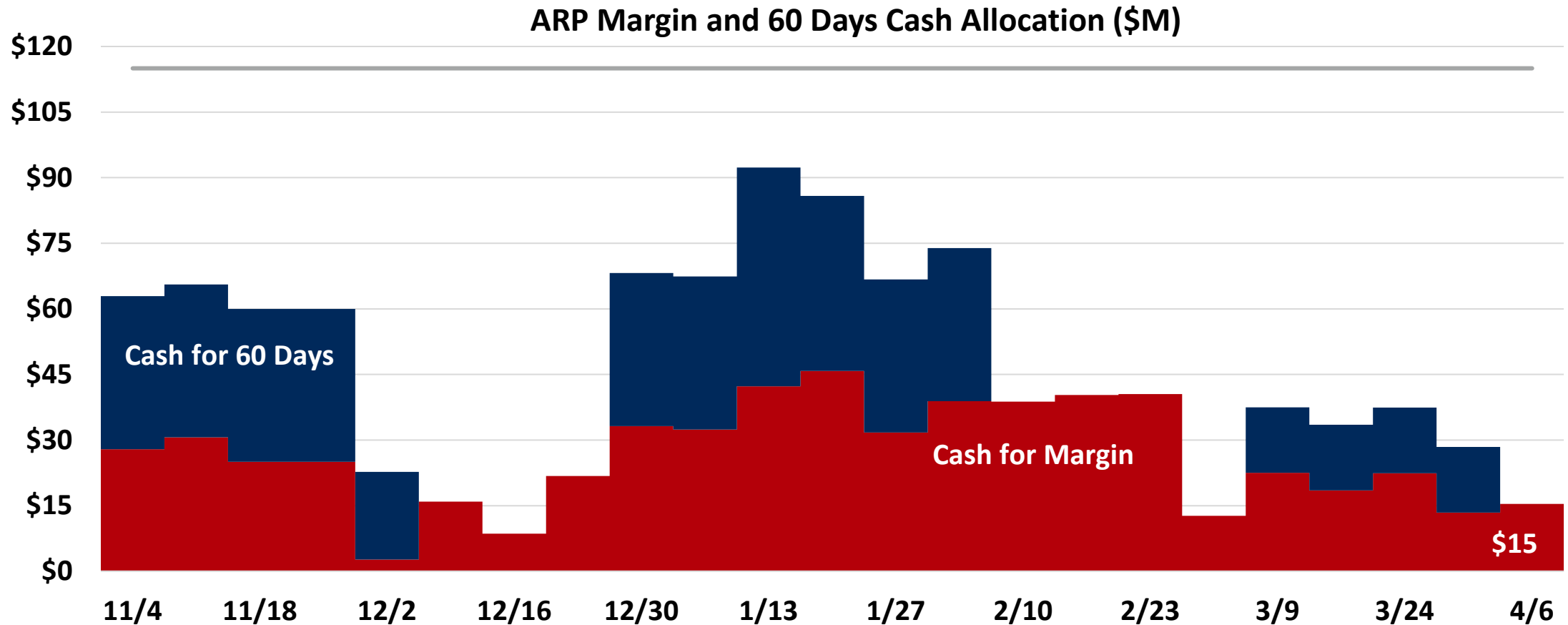
Gas Storage Inventory as of Week Ending April 7

March Storage Averaged 295 bcf Over its Five-year Average



ARP Funding to Manage Margin/Cash Now \$115M

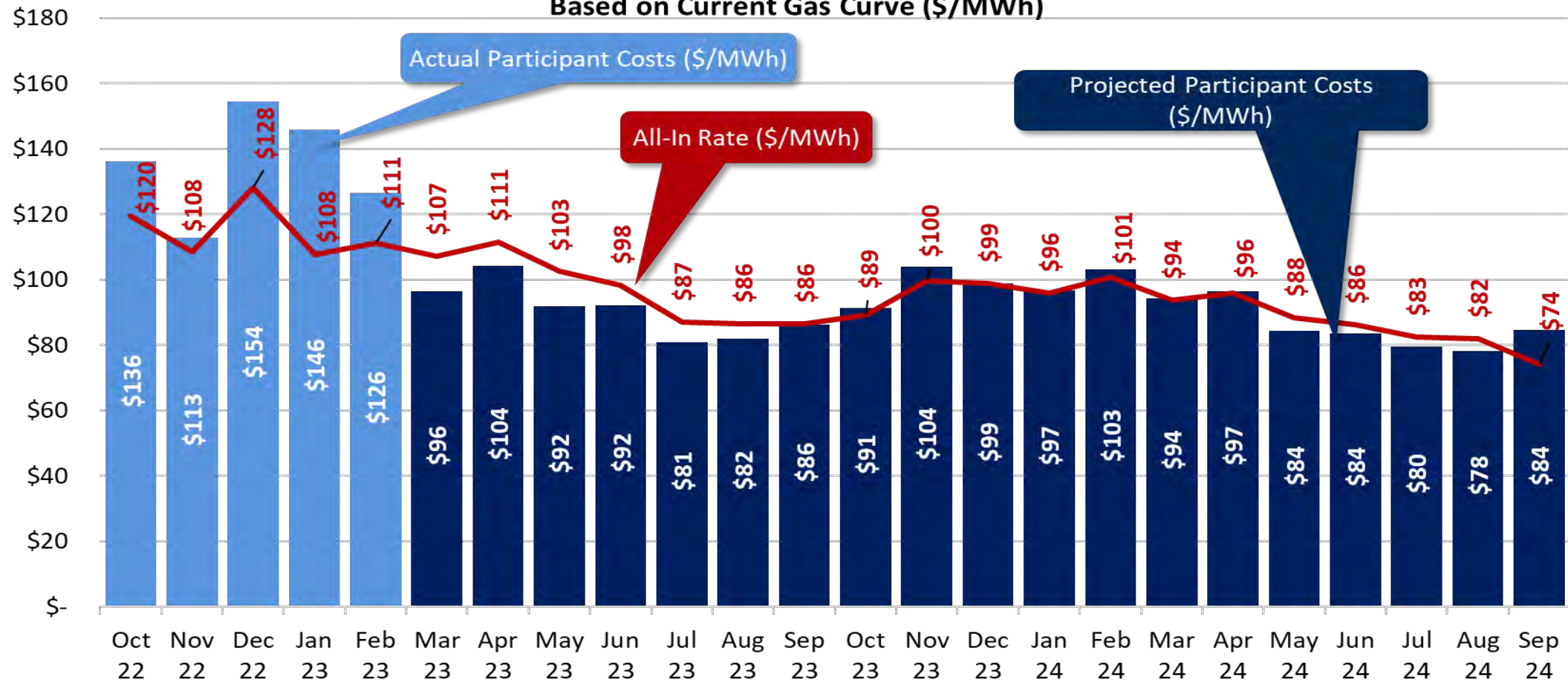
Approved Funding Sufficient to Manage Margin Plus 60 Days



Monthly Participant Rates Forecasted < \$115/MWh

No Cash Support Used From Bond Proceeds

Actual & Projected ARP Avg. Monthly Participant Costs & Rates
Based on Current Gas Curve (\$/MWh)



Goal		Status	Actual	YTD Actual	YTD Target	FY 2023 Target	Comment
5. Cyber-security	Breaches		0	0	0	0	
	Advance phishing tests		2.9%	2.8%	5%	< 10%	2 clicks in March campaign about an IT internet outage, 12 clicks total YTD
6. Reliability	Large CC EAF		71.9%	83.8%	86.2%	90%	TCEC in planned outage
	SI EAF		97.4%	86.3%	88.1%	92%	Extended planned outages for controls upgrade on MSD 1 and 2
	SI black start and trans. backup		-	-	-	100%	No units operated
7. Member Reliability	Project recommendations Major >8 hrs		1	6	6	12	<ul style="list-style-type: none"> Mount Dora Substation Asset Management - MinMax
	Projects recommendations Minor < 8 hrs		1	9	9	18	<ul style="list-style-type: none"> Winter Park – Relay Alarm Response
8. Member Services	Leadership member visits		15	44	37.5	75	15 Member visits in March
	Member/Community presentations, communications & social media support		2	12	10	20	11 presentations 1 communication support (March – PSC Commissioners LaRosa and Clark to Cane Island)

Goal	Status	Actual	YTD Actual	YTD Target	FY 2023 Target	Comment
9. Strategic Plan & IRP Staff will complete IRP for 20-year planning horizon					Complete by EOFY	<ul style="list-style-type: none"> Key assumptions for IRP agreed upon by EC during strategic plan Staff conducted Phase 2 kickoff with Burns & McDonnell
10. Financing Complete Member Pooled Loans Complete Gas Prepays		1 3	1 3		1 0	Homestead pooled loan closed Nov. 18. Prepay of 4K(W)/24K(S) at average \$0.61/MMBtu discount
11. Solar Phase III Complete contract negotiations on Phase III sites					Complete by EOFY	Four sites, 10 members + ARP for Phase III. Member approvals in progress; target FMPPA approvals at May BOD and EC meetings.
12. People Complete All Team In-House Training Sessions		2	2	1	3	All managers attended training for "Managing a remote workforce" in December. 20 Team members attended 7 Habits

**AGENDA ITEM 6 – SUNSHINE LAW
UPDATE**

**Board of Directors Meeting
April 20, 2023**



Sunshine Law Update

Board of Directors

April 19, 2023

FRIENDS OF THE COURT

Clarence Thomas' Beneficial Friendship With a GOP Megadonor

A decadeslong relationship between Supreme Court Justice Clarence Thomas and Texas real estate billionaire Harlan Crow — including an undisclosed real estate deal and lavish international travel — has raised questions about influence and ethics at the nation's highest court.

Billionaire Harlan Crow Bought Property From Clarence Thomas. The Justice Didn't Disclose the Deal.



Ethics Watchdog Urges Justice Department Investigation Into Clarence Thomas' Trips



In pushing to kick-start an inquiry into



Florida Gift Law for Public Officials

- “Reporting Individuals” prohibited from:
 - Soliciting anything of value from vendor or lobbyist
 - “Lobbyist” = anyone doing business with your agency or attempting to do business or otherwise influence your agency within last 12 months
 - Accepting anything of value from a from anyone giving it to you with the intent of influencing your official action
 - No “quid pro quos”
 - ***Any gift, regardless of intent, in excess of \$100 from a vendor or lobbyist***
- Must report quarterly any gifts in excess of \$100
 - Exception = (1) Gifts from relatives, (2) gifts specifically allowed by statute, (3) prohibited gifts

What is a “gift”?

- “Gift,” means anything of value that is given, directly or indirectly, for one’s benefit by any means, for which equal or greater consideration is not given within 90 days, including:
 - Real property, or use of real property.
 - Tangible or intangible personal property, or the use of tangible or intangible personal property.
 - A preferential rate or terms on a debt, loan, goods, or services, which rate is below the customary rate.
 - Forgiveness of an indebtedness.
 - Transportation.
 - Food or beverage.
 - Membership dues.
 - Entrance fees, admission fees, or tickets to events, performances, or facilities.
 - Plants, flowers, or floral arrangements.
 - Any other similar service or thing having an attributable value not already provided for in this section.
- **Important – 90 days to repay/reduce value below allowable threshold**

Form 9

QUARTERLY GIFT DISCLOSURE (GIFTS OVER \$100)

LAST NAME -- FIRST NAME -- MIDDLE NAME:			NAME OF AGENCY:				
MAILING ADDRESS:			OFFICE OR POSITION HELD:				
CITY:	ZIP:	COUNTY:	FOR QUARTER ENDING (CHECK ONE):		YEAR		
			<input type="checkbox"/> MARCH	<input type="checkbox"/> JUNE	<input type="checkbox"/> SEPTEMBER	<input type="checkbox"/> DECEMBER	20__

PART A — STATEMENT OF GIFTS

Please list below each gift, the value of which you believe to exceed \$100, accepted by you during the calendar quarter for which this statement is being filed. You are required to describe the gift and state the monetary value of the gift, the name and address of the person making the gift, and the date(s) the gift was received. If any of these facts, other than the gift description, are unknown or not applicable, you should so state on the form. As explained more fully in the instructions on the reverse side of the form, you are not required to disclose gifts from relatives or certain other gifts. **You are not required to file this statement for any calendar quarter during which you did not receive a reportable gift.**

DATE RECEIVED	DESCRIPTION OF GIFT	MONETARY VALUE	NAME OF PERSON MAKING THE GIFT	ADDRESS OF PERSON MAKING THE GIFT

**AGENDA ITEM 7 – CONSENT
AGENDA**

- a. Approval of the Minutes for the
Meeting Held March 16, 2023**

**Board of Directors Meeting
April 20, 2023**

MINUTES
FMPA BOARD OF DIRECTORS MEETING
FLORIDA MUNICIPAL POWER AGENCY
THURSDAY MARCH 16, 2023
8553 COMMODITY CIRCLE
ORLANDO, FL 32819
9:00 A.M.

MEMBERS PRESENT Christina Simmons, Bushnell * – virtual
Brad Hiers, Bartow -virtual
Lynne Mila, Clewiston -virtual
Javier Cisneros, Fort Pierce
Dino DeLeo, Gainesville -virtual
Bob Page, Green Cove Springs -virtual
Howard McKinnon, Havana
Barbara Quinones, Homestead
Allen Putnam, Jacksonville Beach -virtual
Lynne Tejada, Key West -virtual
Larry Mattern, Kissimmee
Ed Liberty, Lake Worth Beach -virtual
Mike Beckham, Lakeland -virtual
Brad Chase, Leesburg * – virtual
Steve Langley, Mt. Dora
Timothy Beyrle, New Smyrna Beach
Doug Peebles, Ocala – virtual
Claston Sunanon, Orlando
Kolby Urban, St. Cloud
Drew Mullins, Starke
Tony Guillen, Tallahassee – virtual
James Braddock, Wauchula -virtual
Jonathan Bishop, Williston * -virtual

*Joined after roll call.

OTHERS PRESENT Randy Martin, Clewiston – virtual
Daniel Retherford, Fort Pierce
Anthony Carroll, Gainesville – virtual
Billy Branch, Homestead – virtual
James Terry, Kissimmee – virtual
Brian King, Lake Worth Beach – virtual
Jim Williams, Leesburg – virtual
Efren Chavez, New Smyrna Beach – virtual
Mike Mace, PFM
Craig Dunlap, Dunlap & Associates, Inc.
Scott Feuerborn, 1989 & Co.

Chad Swope, 1989 & Co.
Stephen Henson, 1989 & Co.
Mitch Rapaport, Nixon Peabody – virtual
Liz Columbo, Nixon Peabody – virtual
Steve, Degenaro, Enel X Advisors – virtual

STAFF PRESENT Jacob Williams, General Manager and CEO
Jody Finklea, General Counsel and CLO
Ken Rutter, Chief Operating Officer
Linda S. Howard, Chief Financial Officer
Sue Utley, Executive Asst. /Asst. Secy. to the Board
Mike McCleary, Manager of Member Services Development
Sharon Adams, Chief People and Member Services Officer
Susan Schumann, Manager of External Affairs and Solar Projects
David Schumann, Power Generation Fleet Director
Chris Gowder, Vice President IT/OT and System Ops
Jason Wolfe, Financial Planning Rates and Budget Director
LaKenya VanNorman, Regulatory Compliance Specialist
Rich Popp, Treasurer and Risk Director
Lindsay Jack, Senior Administrative Assistant
Ryan Dumas, Senior Public Relations Specialist
Rachel Ilardi, Public Relations Specialist
Wayne Koback, IT Manager

ITEM 1 - CALL TO ORDER, ROLL CALL AND DECLARATION OF QUORUM

Chair Barbara Quiñones, Homestead, called the Board of Directors meeting to order at 9:00a.m. on Thursday, March 16, 2023, in the Frederick M. Bryant Board Room at Florida Municipal Power Agency, 8553 Commodity Circle, Orlando, Florida. The roll was taken, and a quorum was declared with 20 directors present, representing 31.5 votes out of a possible 47.5 votes. Three additional directors arrived after roll call, bringing the quorum to a total of 23 directors present, representing 36.5 votes of a possible 47.5 votes.

ITEM 2 – Recognition of Guests

Chair, Barbara Quiñones, Homestead, welcomed Kolby Urban with the city of St. Cloud, Mitch Rapaport with Nixon Peabody, Mike Mace with PFM as well as 1989 & Co. staff Scott Feuerborn, Chad Swope and Stephen Henson.

ITEM 3 – PUBLIC COMMENTS (Individual Public Comments Limited to 3 Minutes)

None

ITEM 4 – SET AGENDA (by vote)

MOTION: Javier Cisneros, Fort Pierce, moved approval of the agenda as presented. Howard McKinnon, Havana, seconded the motion. Motion Carried 36.5-0.

ITEM 5 – REPORT FROM THE GENERAL MANAGER

Jacob Williams reported on the following items:

1. Goals Score Card
2. March 30, 2023 Security Training will be held at FMPA.

ITEM 6 – SUNSHINE LAW UPDATE

Jody Finklea reported on the Sunshine Law and Public Records Laws regarding providing public records in a reasonable amount of time and making good faith efforts to fulfill requests.

ITEM 7 – CONSENT AGENDA

- a. Approval of Minutes – Meeting Held February 16, 2022
- b. Approval of the Projects' Preliminary Financials as of January 31, 2023
- c. Approval of the Treasury Reports as of January 31, 2023

MOTION: Larry Mattern, Kissimmee, moved approval of the consent agenda. Javier Cisneros, Fort Pierce, seconded the motion. Motion Carried 36.5-0.

ITEM 8 – ACTION ITEMS

- a. None

ITEM 9 – INFORMATION ITEMS

- a. **Update on Inflation Reduction Act (IRA)**

Mike Mace, PFM, and Mitch Rappaport, Nixon Peabody, presented information on the Inflation Reduction Act (IRA).

- b. **Florida Municipal Solar Project Update***

Susan Schumann gave an update on the Florida Municipal Solar Project.

- c. **Quarterly Compliance Update ***

LaKenya VanNorman provided an update on compliance items.

- d. **2023 Strategic Planning Workshop Report ***

Jacob Williams presented the Strategic Planning Workshop results.

- e. **JEA Membership in FMPA**

Jacob Williams presented the JEA Membership information

ITEM 10 – MEMBER COMMENTS

Drew Mullins, Starke, thanked Jacob Williams and Susan Schuman for attending the Starke Kiwanis lunch and the Starke Commission and Community Workshop on Energy Prices and answering questions on this subject to their community and City Commissioners.

Bob Page, Green Cove Springs, thanked Jacob Williams for his new Chairmanship of FRCC and FCG.

Barbara Quinones, Homestead, reminded everyone of the upcoming FMEA Legislative Rally March 27.

ITEM 11 – ADJOURNMENT

There being no further business, the meeting was adjourned at 10:29 a.m.

Barbara Quiñones
Chairperson, Board of Directors

Larry Mattern
Secretary

Approved: _____

Seal

BQ/LM/su

**AGENDA ITEM 7 – CONSENT
AGENDA**

- b. Approval of the Projects’
Preliminary Financials as of
February 28, 2023**

**Board of Directors Meeting
April 20, 2023**



Linda S. Howard, CPA, CTP
Chief Financial Officer

AGENDA PACKAGE MEMORANDUM

TO: FMPA Board of Directors
FROM: Linda Howard
DATE: April 11, 2023
ITEM: 7b – Approval of Projects’ Financials as of February 28, 2023

Discussion: The summary financial statements and detailed financial statements, which include GASB #62 transactions, of the Projects for the period ended February 28, 2023 are posted on the Document Portal section of FMPA’s website.

Recommended: Move approval of the Projects’ Financial Reports for the month ended February 28, 2023.

LH/GF

**AGENDA ITEM 7 – CONSENT
AGENDA**

- c. Approval of the Treasury Reports
as of February 28, 2023**

**Board of Directors Meeting
April 20, 2023**



AGENDA PACKAGE MEMORANDUM

TO: FMPA Board of Directors
 FROM: Sena Mitchell
 DATE: April 11, 2023
 ITEM: BOD 7(c) – Approval of Treasury Reports as of February 28, 2023

Introduction This agenda item is a quick summary update of the Treasury Department’s functions.

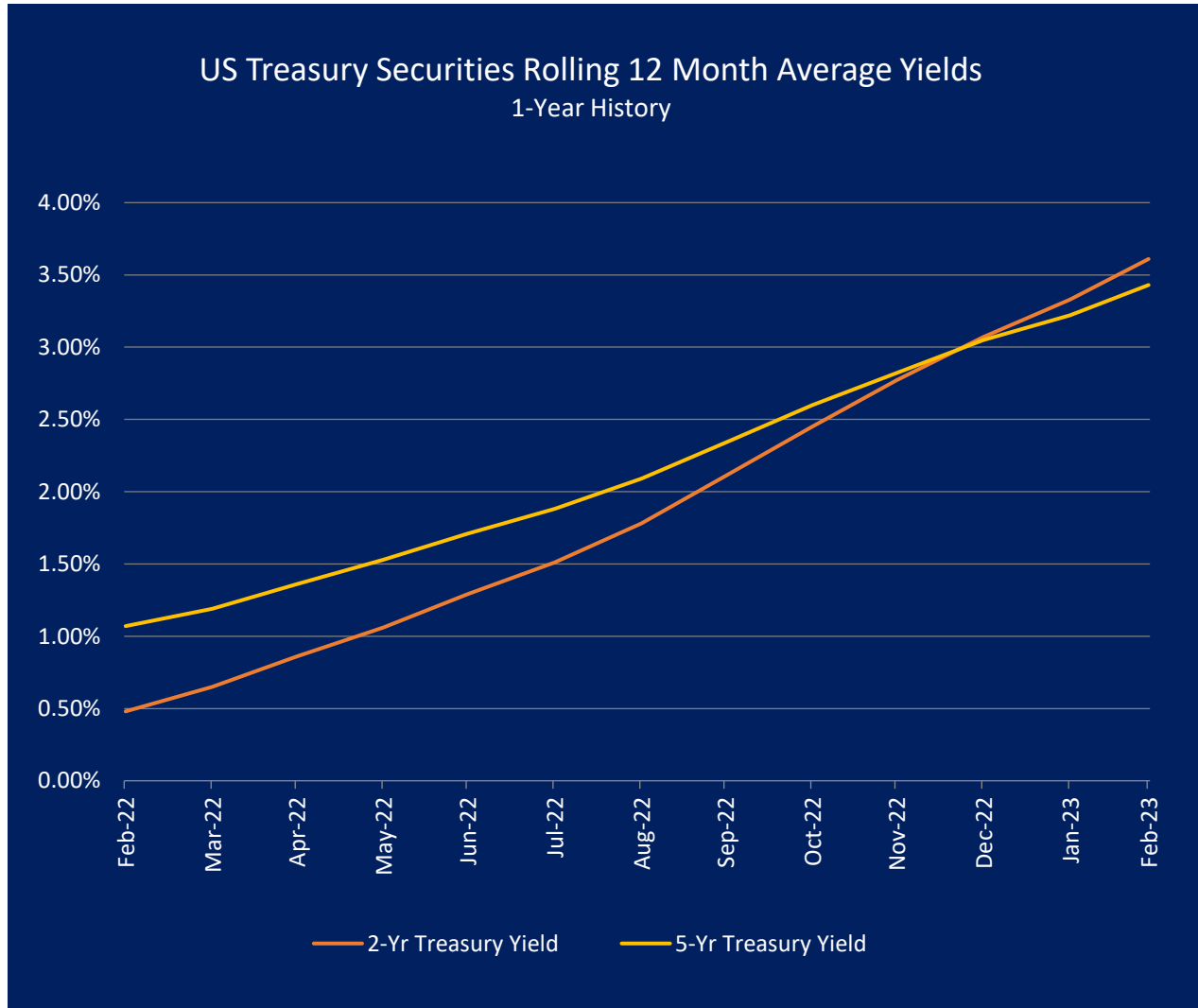
The Treasury Department reports for February are posted in the member portal section of FMPA’s website.

Debt Discussion Below is a summary of the total debt outstanding and the percentage of debt that was fixed, variable or synthetically fixed with interest rate swaps as of February 28, 2023.

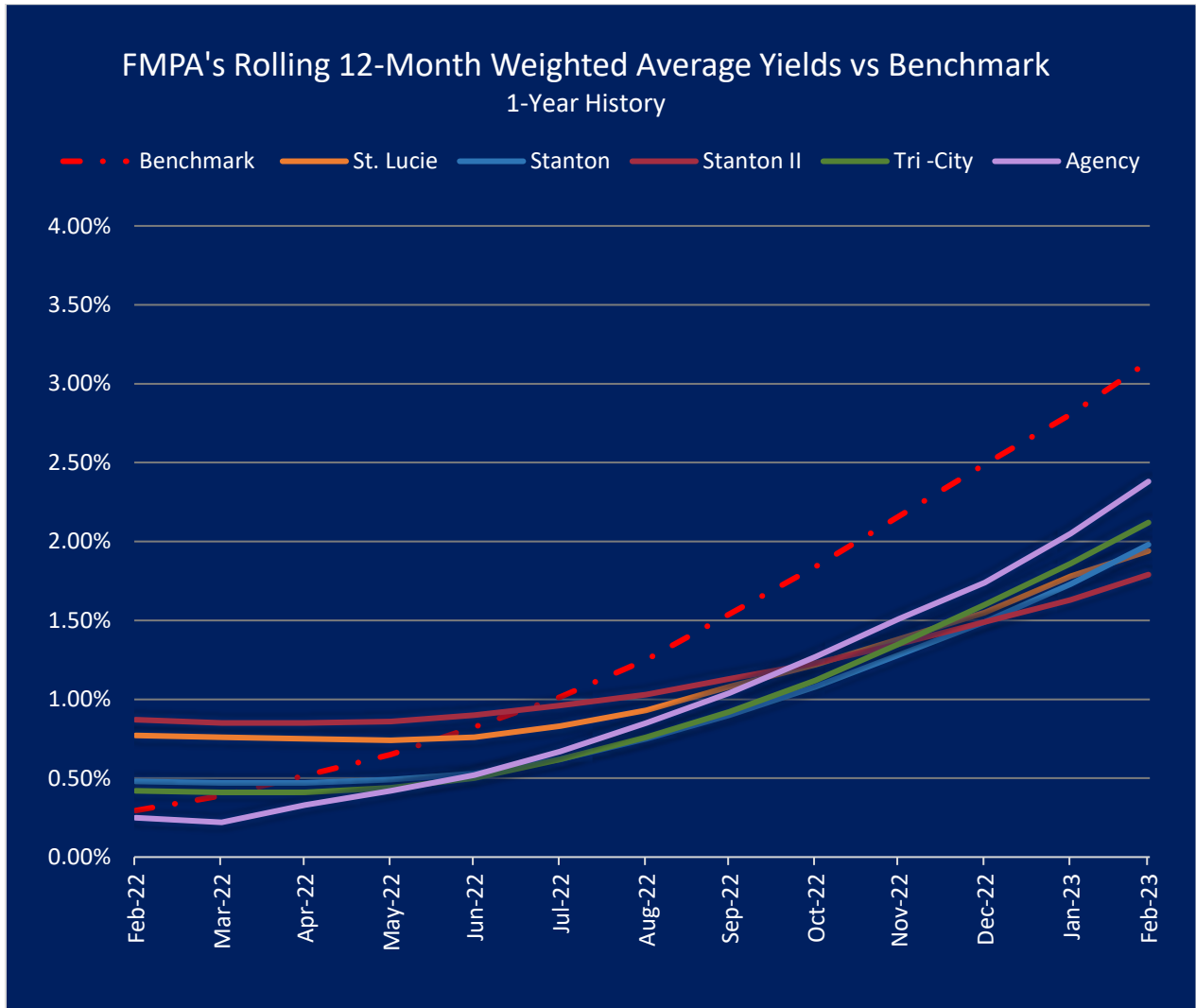
	Total debt Outstanding	Fixed Rate	Variable Rate	Synthetically Fixed
Agency	0.00	0%	0%	0%
St Lucie	53,285,000.00	100%	0%	0%
Stanton	0.00	0%	0%	0%
Stanton II	73,464,376.31	100%	0%	0%
Tri City	0.00	0%	0%	0%

Investment Discussion The investments in the Projects are comprised of debt from the government-sponsored enterprises such as the Federal Farm Credit Bank, Federal Home Loan Bank, Federal Home Loan Mortgage Corporation (Freddie Mac), and Federal National Mortgage Association (Fannie Mae), as well as investments in U.S. Treasuries, Certificates of Deposits, Commercial Paper, Municipal Bonds, Corporate Notes, Local Government Investment Pools and Money Market Mutual Funds.

Below is a graph of the rolling 12-month average US Treasury yields for the past year. The orange line is the 2-year Treasury which had a rolling 12-month average yield on February 28, 2023 of 3.61%. The yellow line is the 5-year Treasury rolling 12-month average yield which was 3.43%.



The rolling 12- month weighted average yields on investments earned as of February 28, 2023, in the Projects, along with their benchmark (Average of Florida Prime Fund and 2-year treasury), are as follows:



Recommended Motion

Move approval of the Treasury Reports for February 28, 2023.

AGENDA ITEM 8 – ACTION ITEMS

- a. Approval of JEA Membership in
FMPA**

**Board of Directors Meeting
April 20, 2023**



8a - JEA Request to Join FMMPA

Board of Directors

April 20, 2023

JEA Seeking to Join FMMPA

Facilitates JEA's Participation in Solar Phase III

- JEA is one of the largest municipal electric utilities in the U.S., serving almost 500,000 electric customers
- JEA is seeking 75–150 MW of solar from FMMPA's Phase III Project
- To facilitate JEA's participation in Phase III, JEA is seeking membership in FMMPA
- The Board of Directors, pursuant to the By-Laws and Interlocal Agreement, are required to approve all new membership requests.
- Once approved by the Board, JEA will become a signatory to the Interlocal Agreement and, with a required filing in Tallahassee, JEA will become FMMPA's 32nd member.

Recommended Motion

- Move approval of JEA as a member of FMPA and signatory to the Interlocal Agreement Creating the Florida Municipal Power Agency, as amended.

AGENDA ITEM 8 – ACTION ITEMS

**b. Approval of 2023 Strategic Plan
Priorities**

**Board of Directors Meeting
April 20, 2023**



8b – Strategic Planning Workshop Report

Board of Directors

March 16, 2023

FMPA's Vision and Mission Statements Reviewed

Great Support for Existing Statements With No Changes

VISION

To sustainably be the lowest cost, and a reliable and clean wholesale power provider in Florida.

MISSION

To provide low-cost, reliable and clean power plus value-added services for FMPA's owner-customers that benefit their communities and customers.

FMPA's Value Statements Reviewed and Discussed

Board Chose to Emphasize 'Low Cost' By Adding It to Values

VALUES

- A culture that values both our employees and operating agents and their safety
- Teamwork among our employees and our public power member-owner-customers
- Trust built through honesty, integrity, transparency, open communications and respect
- Employee development, recognition, reward and empowerment
- Low-cost electricity for all customers
- Environmentally responsible operations and consider impacts of raw materials/processing thereof in new resources decisions
- Member and employee diversity and inclusion
- Innovation and excellence
- The individual needs and desires of FMPA's owner-customers shall be given the strongest consideration consistent with the best interests of all owner-customers

Board of Directors' Top-Ranked Strategic Priorities

Top 6 of 8 Strategic Priorities Ranked in Priority Order

	Board of Directors' Top Strategic Priorities	Score
1	Advocate for abundant natural gas supply and pipeline expansions to keep costs low	6.60
2	Begin engaging in discussions to explore viable nuclear resource opportunities	6.27
3	Explore expanding membership in the Florida Municipal Power Pool	4.87
4	Evaluate capital funding strategies that align debt utilization with competitive rates	4.07
5	Continue gradual pursuit of new solar and battery opportunities	3.80
6	Identify our retail customers' energy priorities regarding electricity needs	3.73

15 Board members responded

Executive Committee's Top-Ranked Strategic Priorities

Top 4 of 6 Strategic Priorities Ranked in Priority Order

	Executive Committee's Top Strategic Priorities	Score
1	Develop systematic approach to reducing exposure to natural gas for power-cost stability	5.00
2	Continue high availability for FMPA's low-cost generating resources	4.18
3	Maximize asset value/minimize costs with significant expansion of the Florida Municipal Power Pool	4.00
4	Pursue more municipal third-party sales that add value to ARP and municipal customers	3.46

11 Executive Committee members responded

AGENDA ITEM 8 – ACTION ITEMS

**c. Appointment of a Nominating
Committee**

**Board of Directors Meeting
April 20, 2023**



8c - Appointment of a Nominating Committee

Board of Directors

April 20, 2023

Appointment of a Nominating Committee

- FMPA By-Laws provide:
 - Board must appoint a Nominating Committee 60 days prior to annual meeting;
 - Nominating Committee to consist of 3 directors – one each from the small, medium and large city FMPA members (see attachment);
 - Committee members serve until resignation or replacement appointed by Board;
 - A Member of the Nominating Committee may not be nominated by the committee for a Board Officer position
- Current small city member (Howard McKinnon, Havana) is willing to continue serving on the committee if appointed
- Lynne Mila, Clewiston, from the medium city members and Doug Peebles, Ocala, from the large city members have also volunteered to serve if appointed
- Other volunteers or appointments may be considered and voted on at the Board meeting

Recommended Motion

- Move approval of appointment of _____, on behalf of the FMPA small cities, _____, on behalf of the FMPA medium cities, and _____, on behalf of the FMPA large cities, to serve on the FMPA Nominating Committee.

FMPA Nominating Committee Candidates 2022-2023
Updated April 11, 2023

Yellow Highlight is Current Nominating Committee Members
Green Highlight is Current Board Officers

Utility Member	Board Rep	kWh Sales (retail)
Small Members		
Bushnell	Christina Simmons	5,601,607
Moore Haven	Vacant	18,174,930
Havana	Howard McKinnon	23,918,997
Blountstown	Traci Hall	30,057,897
Chattahoochee	Robert Presnell	36,280,808
Newberry	Mike New	37,549,216
Fort Meade	Jan Bagnall	42,124,551
Williston	Vacant	42,124,551
Wauchula	James Braddock	62,492,464
Starke	Drew Mullins	69,110,586
Mount Dora	Steve Langley	90,956,240
	Medium Members	
Clewiston	Lynne Mila	100,404,219
Green Cove Springs	Bob Page	107,769,000
Quincy	Rob Nixon	123,847,023
Alachua	Rodolfo Valaderas	133,927,344
Bartow	Brad Hiers	292,667,099
Winter Park	Dan D'Alessandro	422,033,827
New Smyrna Beach	Joe Bunch	447,456,181
Lake Worth Beach	Ed Liberty	474,399,123
Leesburg	Brad Chase	495,831,762
Homestead	Barbara Quiñones	555,480,956
	Large Members	
Fort Pierce	Javier Cisneros	576,927,000
Jacksonville Beach	Allen Putnam	708,043,803
Key West	Lynne Tejada	728,024,651
St. Cloud	Kolby Urban	747,369,172
Ocala	Doug Peebles	1,306,528,144
Kissimmee	Larry Mattern	1,665,932,000
Gainesville	Dino DeLeo	1,796,198,999
Tallahassee	Tony Guillen	2,588,285,532
Lakeland	Mike Beckham	3,251,208,000
Orlando	Claston Sunanon	6,828,878,000

**AGENDA ITEM 9 – INFORMATION
ITEMS**

a. Natural Gas Market Update (TEA)

**Board of Directors Meeting
April 20, 2023**

NATURAL GAS OUTLOOK

MICHAEL GEHRING, CFA – *DIRECTOR, PORTFOLIO MANAGEMENT & ANALYTICS*

➤ U.S. NATURAL GAS

- BASICS
- DEMAND – LNG EXPORTS
- SUPPLY – U.S. PRODUCTION
- FORWARD PRICING

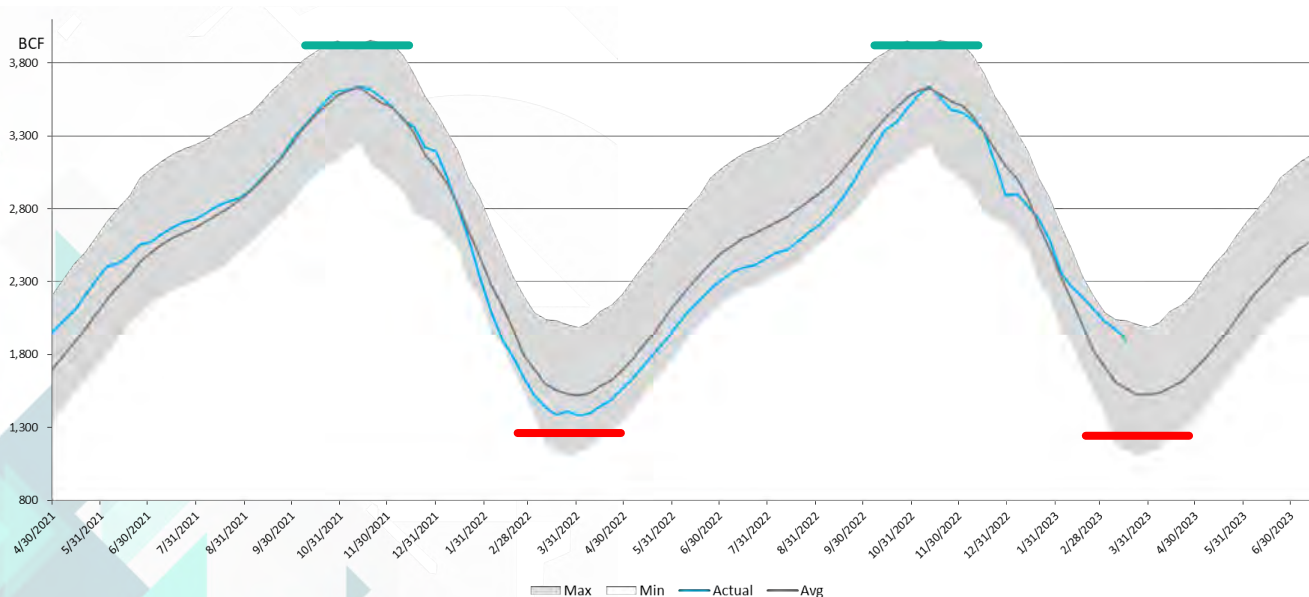
➤ OUTLOOK

U.S. NATURAL GAS

OVERVIEW

- **Historically a closed system with finite full (~4 TCF) and empty (~1 TCF) storage levels**
 - Market constantly gyrating between surplus or scarcity pricing scenarios
 - Generally, prices reflect expected value based on supply / demand projections (*e.g. probability-based*)

- **Significant LNG demand will widen range of possible pricing outcomes**



Surplus prices down to cash **costs of supply**
 (~\$1 in Marcellus = ~\$1.65 Henry Hub)

Scarcity prices up to **costs of demand**
 (e.g. gas → coal \$4-7, LNG exports arb \$15+)

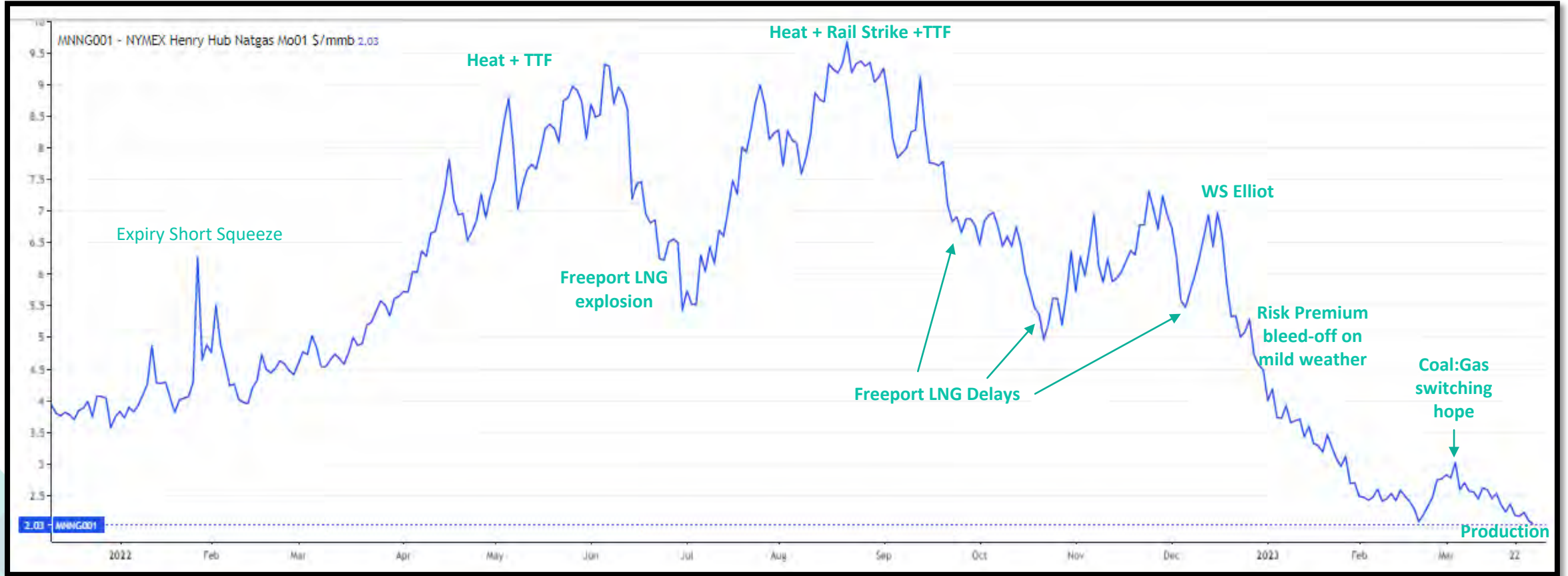
Example: Export arb is \$50... 10% chance of needing to “buy” the LNG demand to prevent stock-out
 $\$50 \times 10\% = \$5/\text{mmbtu}$ risk premium

WHAT HAPPENED LAST YEAR?

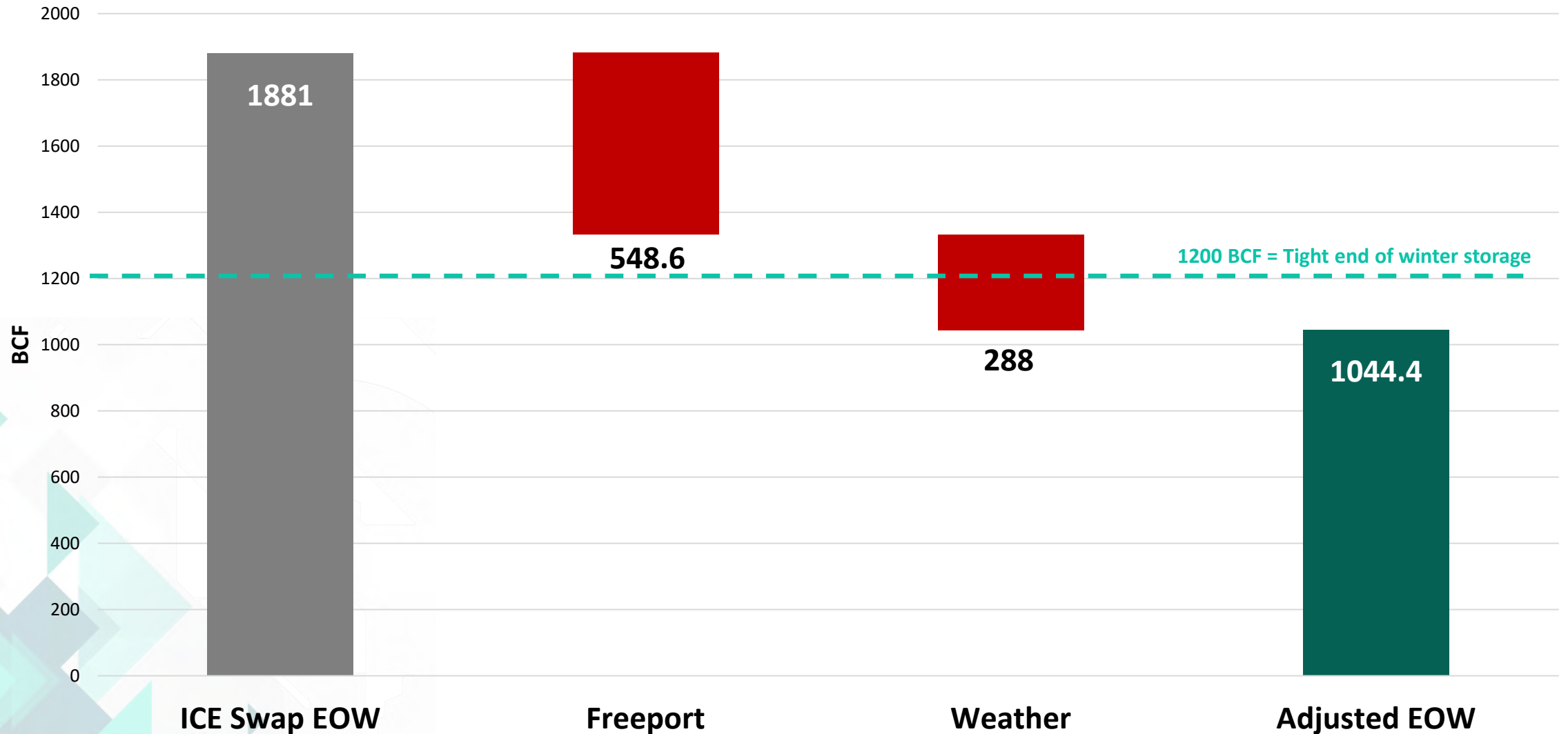
- **Almost** everything went right for the U.S. natural gas bulls in 2022
 - + 4Q '21: Nord Stream 2 approvals held up by regulators... kickstarting TTF bid
 - + March '22: Below average end of winter storage (~1400 TCF)
 - + 2Q '22: Russia starts periodically cutting flows to Europe
 - + 2/3Q '22: 190MB crude SPR release mutes pace of Permian production growth (via price)
 - + Summer 22: Weather was downright HOT
 - + Summer 22: Coal gen preserve dwindling piles for winter
 - + 3Q '22: Calcasieu Pass LNG achieves full start-up earlier than expected
 - + September '22: Rail strike (round 1)
 - + December '22: Rail strike (round 2)
 - + December '22: Winter Storm Elliot
- **Almost...**
 - **FREEPORT LNG explosion** June 6th (2 BCFD)
 - **Winter verifying warmer** than normal



WHAT HAPPENED LAST YEAR?



NETTING OUT FREEPORT AND WEATHER... WOULD BE SUPER TIGHT



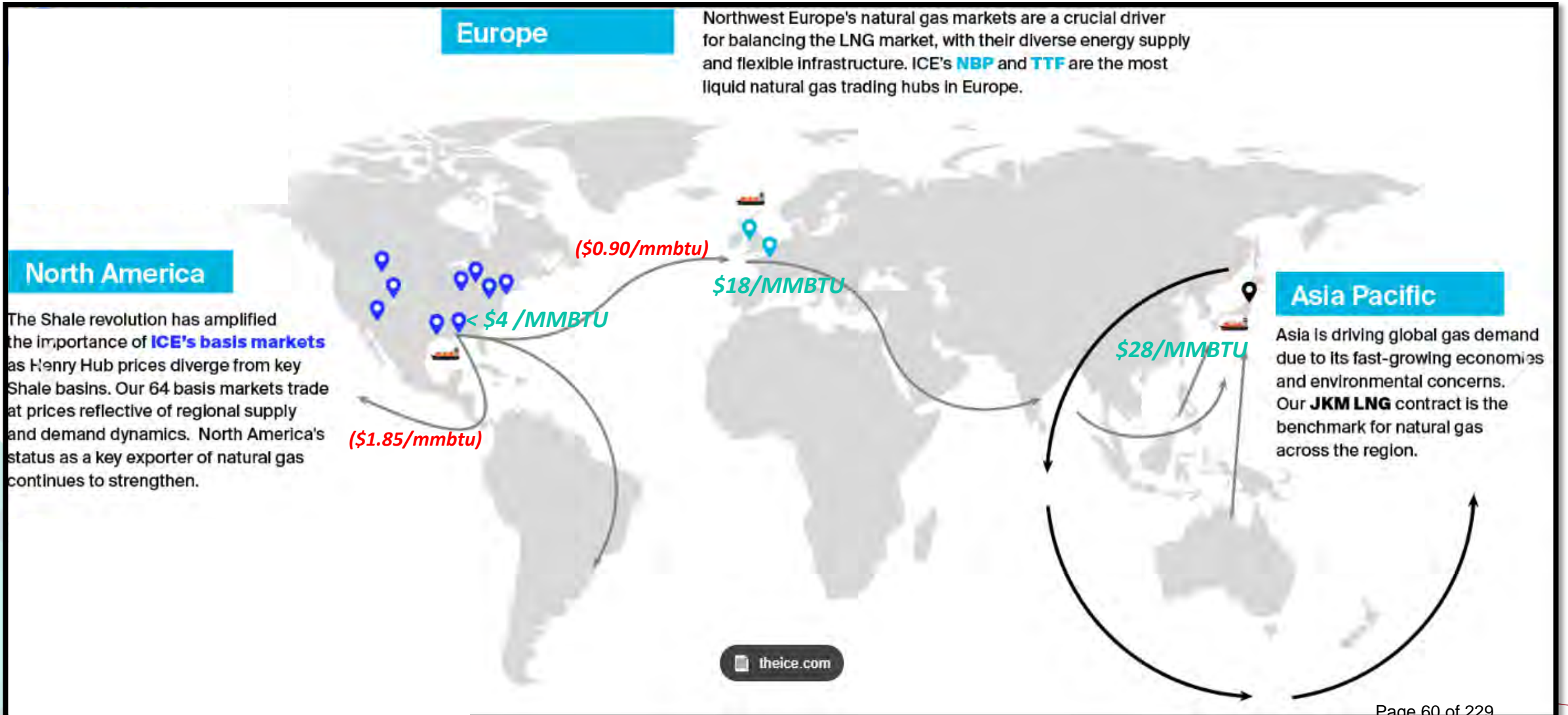
TEA
MARKET INSIGHTS

#1 – WE GOT “LUCKY”

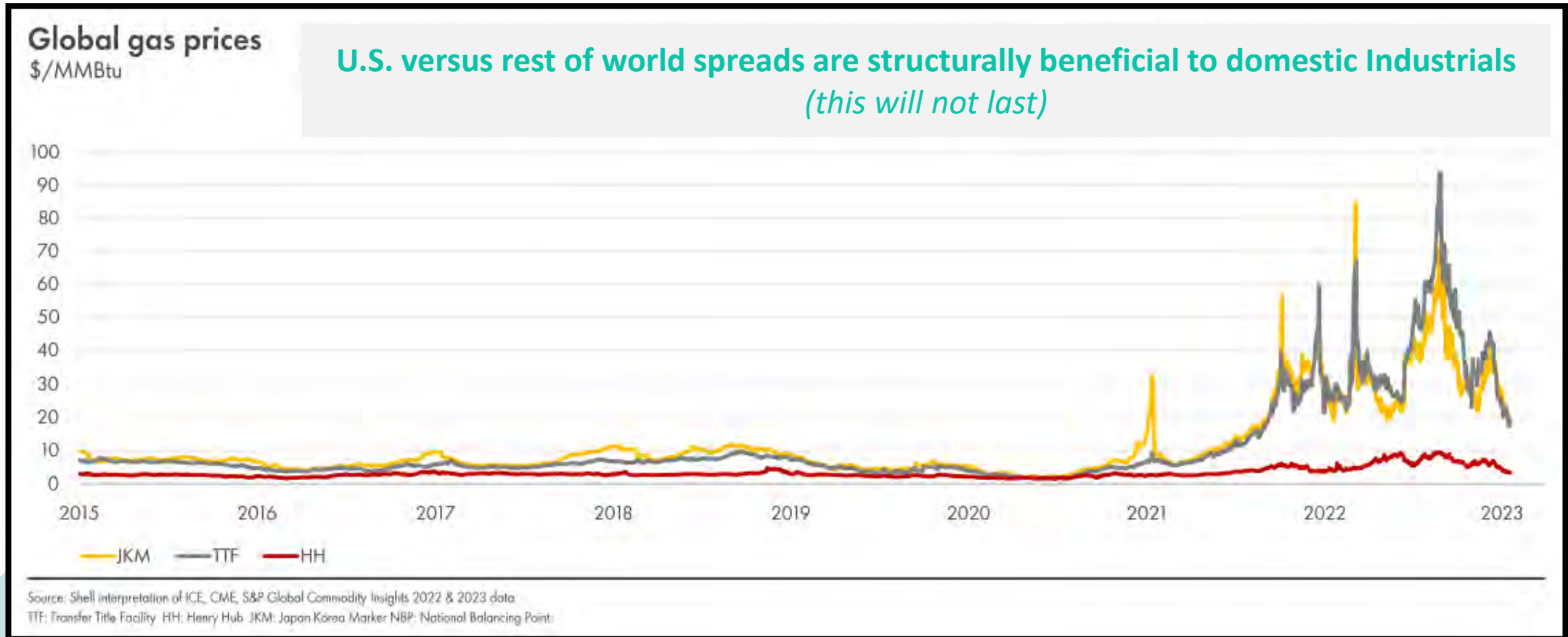
U.S. NATURAL GAS

DEMAND – LNG

LEVEL SET – GLOBAL GAS MARKETS (WINTER STRIP PRICING 3/29/22) *(transportation costs @ \$55k/d LNGC)*



GAS PRICES ABROAD HAVE BEEN MUCH HIGHER THAN U.S.



LNG CAPACITY GROWTH – EXPECTATIONS

- **Growth to 2025 is real**, with projects under construction from **experienced, deep-pocket Sponsors**
 - **CP2 / Plaquemines** – Venture Global
 - **Golden Pass** – ExxonMobil + Qatar
 - **Corpus Christi Stage 3** – Cheniere
- Beyond 2025 is **much less certain** but TEA Market Insights can **risk many out beyond 2028**
- **Remaining projects are highly likely** to be sanctioned for 2026-7 s/u

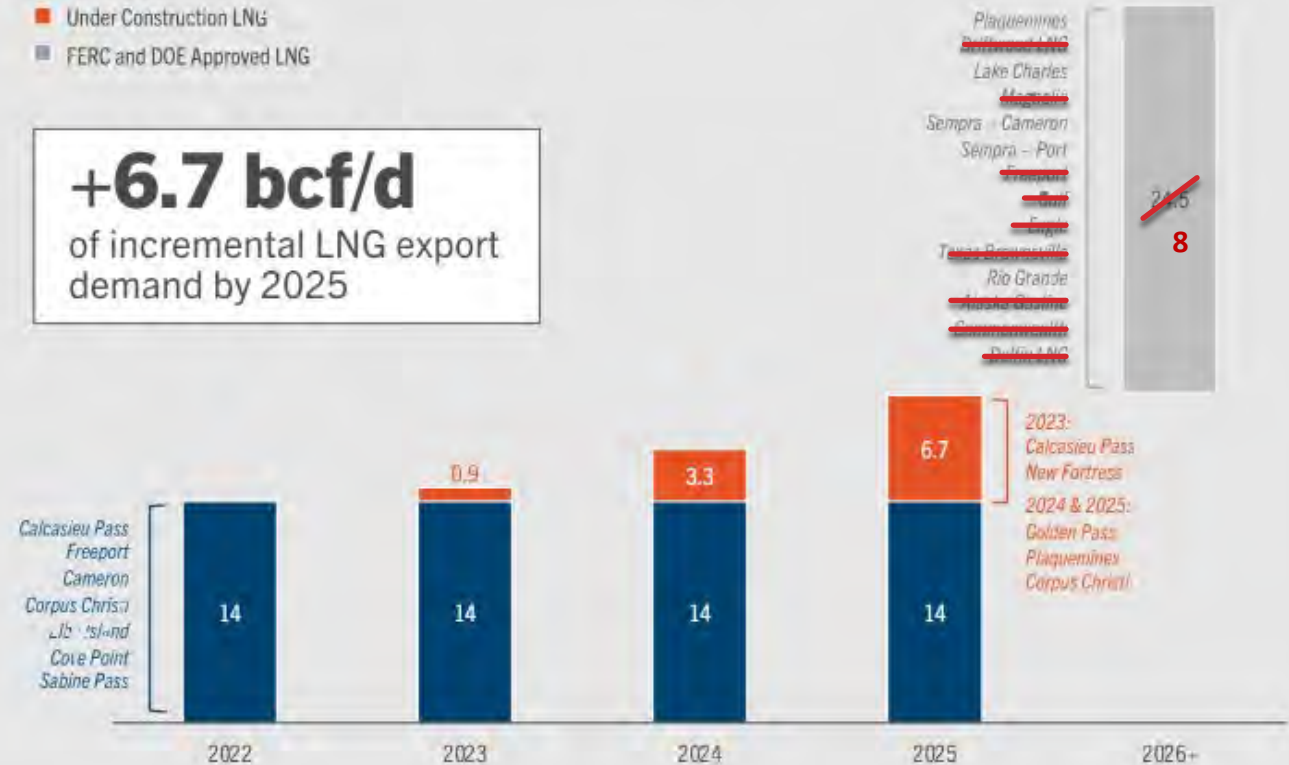
Chesapeake 4Q22 Earnings Deck (Feb 21, 2023)

Growing Exports Will be Significant to U.S. Gas Demand

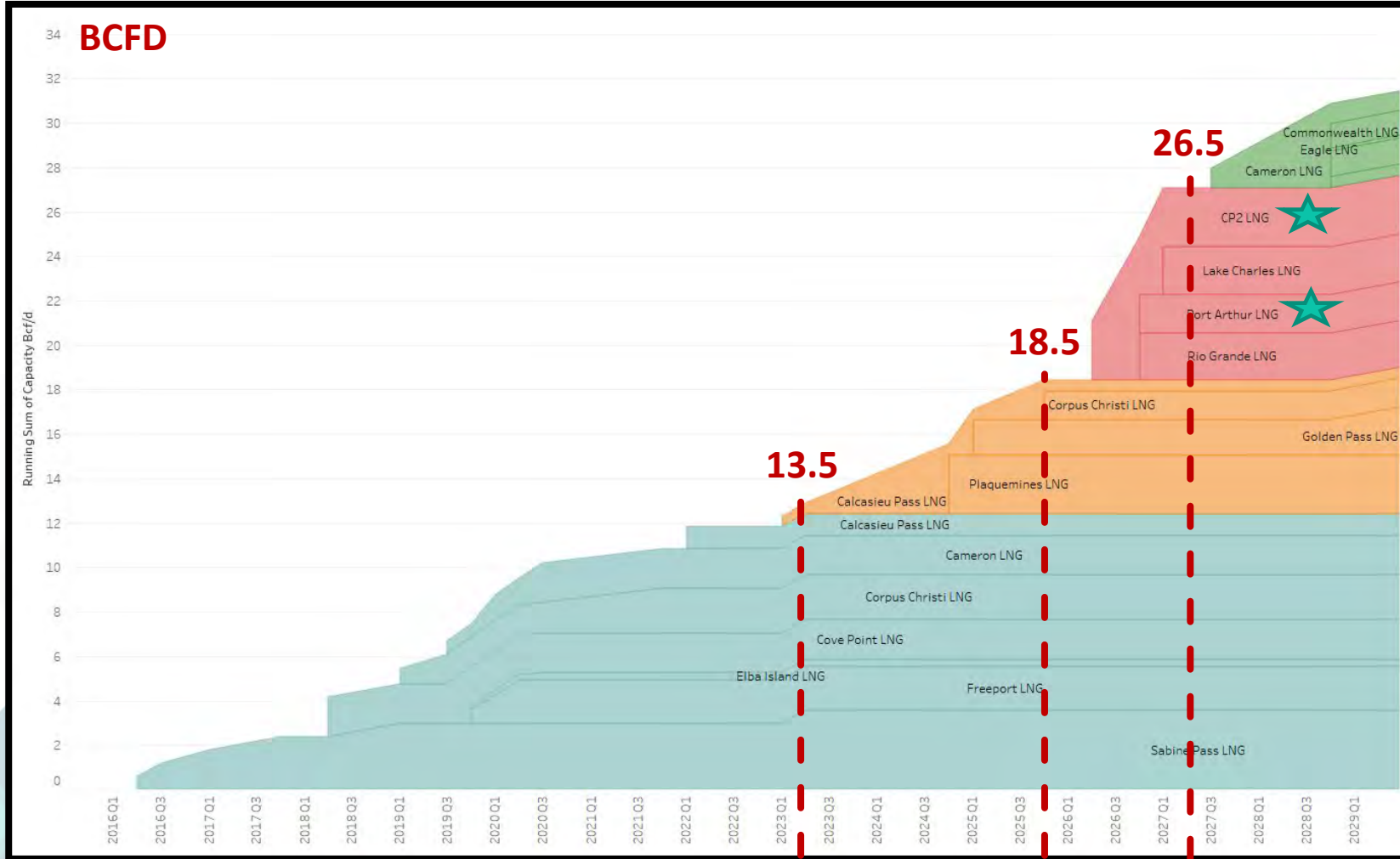
(U.S. LNG Capacity, bcf/d)¹²

- Online LNG
- Under Construction LNG
- FERC and DOE Approved LNG

+6.7 bcf/d
of incremental LNG export demand by 2025



LNG CAPACITY GROWTH – TEA FORECAST



Unlikely

Likely

Under Construction

Operating

★ Recent FID Announcements

current

end-2026 mid-2027

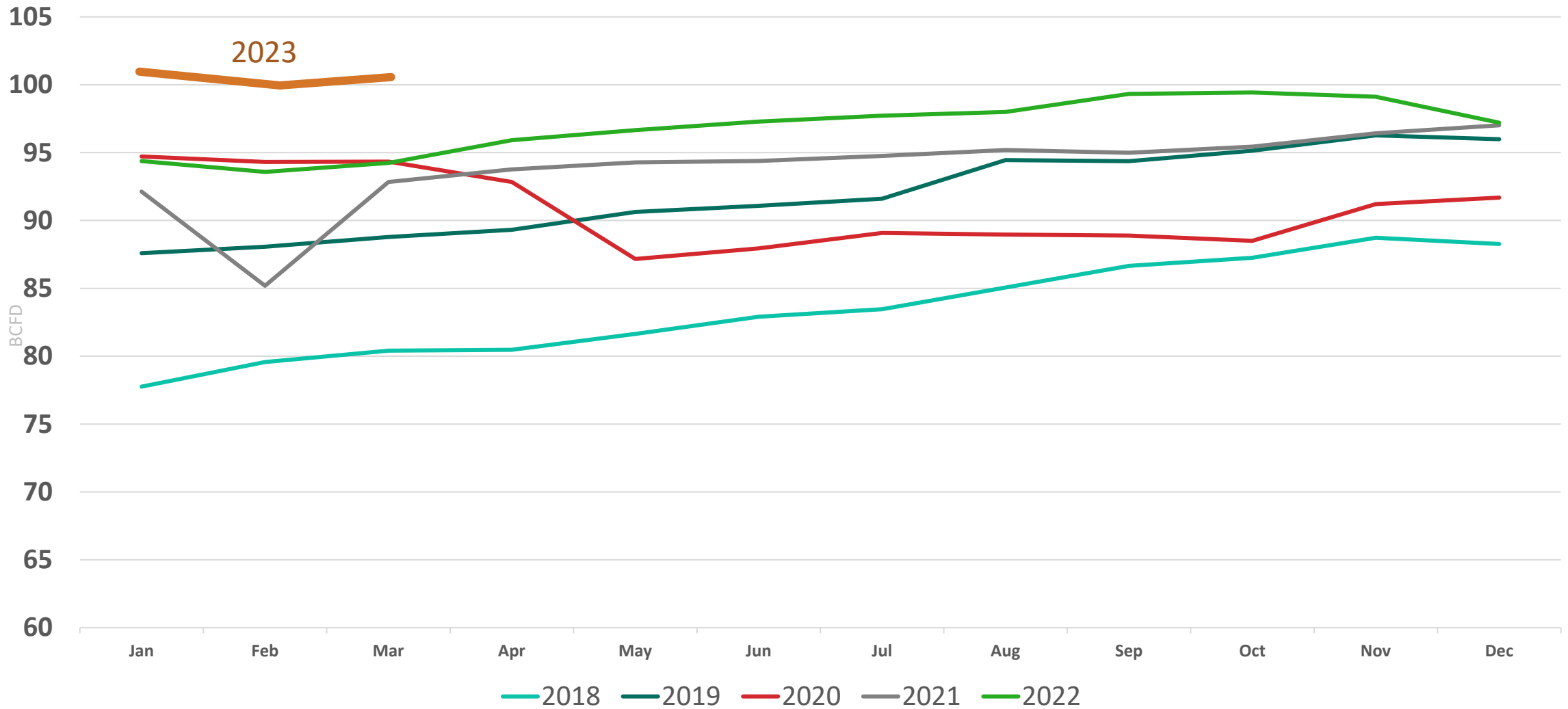


#2 – GLOBAL LNG MARKETS MATTER TO YOU

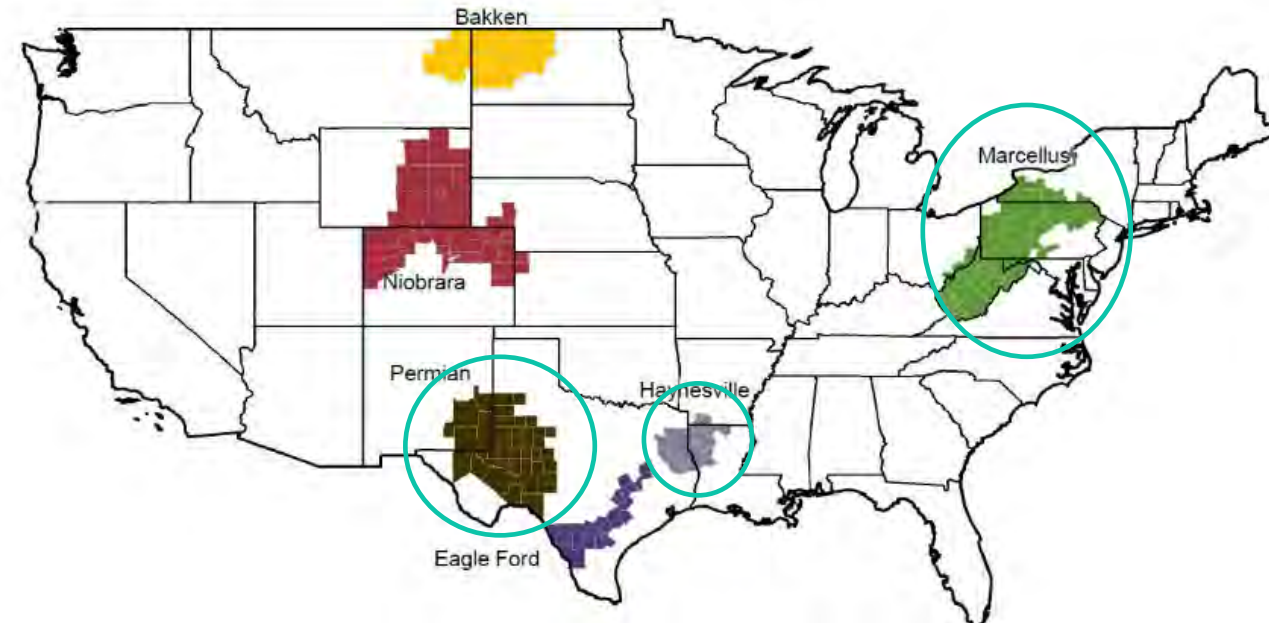
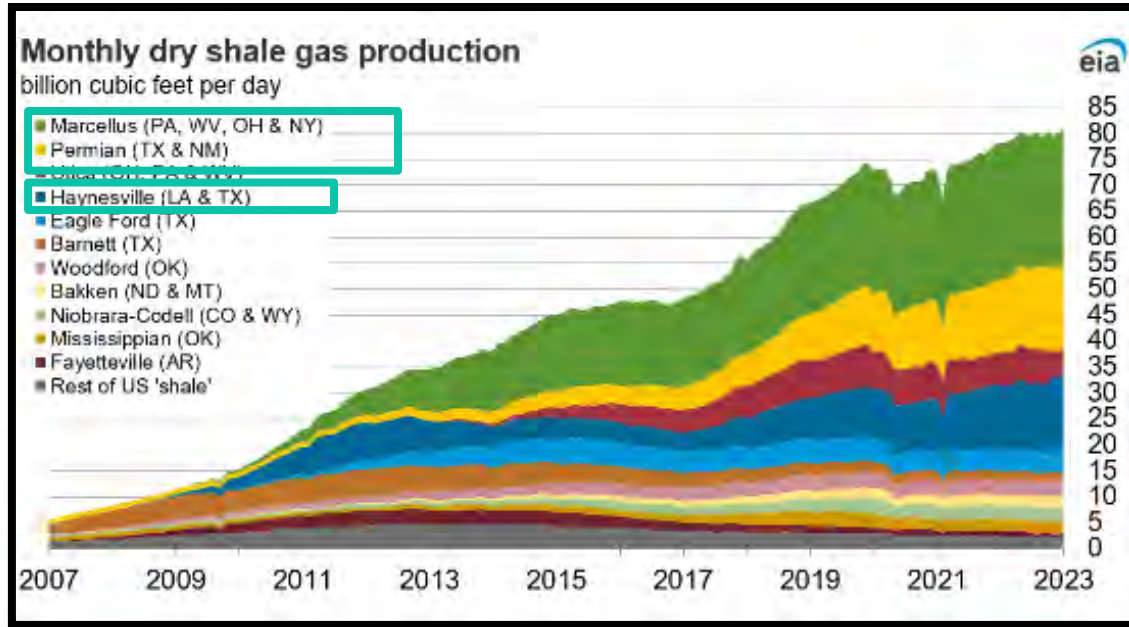
U.S. NATURAL GAS

SUPPLY – PRODUCTION

PRODUCTION IN CONTEXT



3 BASINS ARE CRITICAL FOR FORECASTING...



- **Producer decision criteria and economics is key**
- **Rig count, DUC count, and DAC count** all mean different things
- **Game theory, prisoner's dilemma, and production solidarity**

PRODUCER EARNINGS RECAP – 2023 GUIDANCE

- **Broad ACCEPTANCE that market will remain soft into 2024...**
 - Slightly lower (-3%) Haynesville; flat in Marcellus... *not enough to firm 2023*
 - Largely “stuck” in rig and frac crew contracts for 2023
 - Haynesville producers dropping 20% of drilling rigs... *points to firmer 2024*
 - Frac crews flat to slightly down... *points to increasing DUCs*
- **Capital efficiency is declining... higher breakevens**
 - Drilling costs are increasing... *producers seeing 25-45% increases y/y*
 - Productivity is decreasing... *moving to lower prolific areas of Marcellus and Haynesville*
- **Remain bullish Winter-2024+ prices commensurate LNG demand**
 - No one is selling forward at current strip... calling it “LNG ready”...
 - Financial wherewithal now to sustain low prices + decreasing production without impacting liquidity



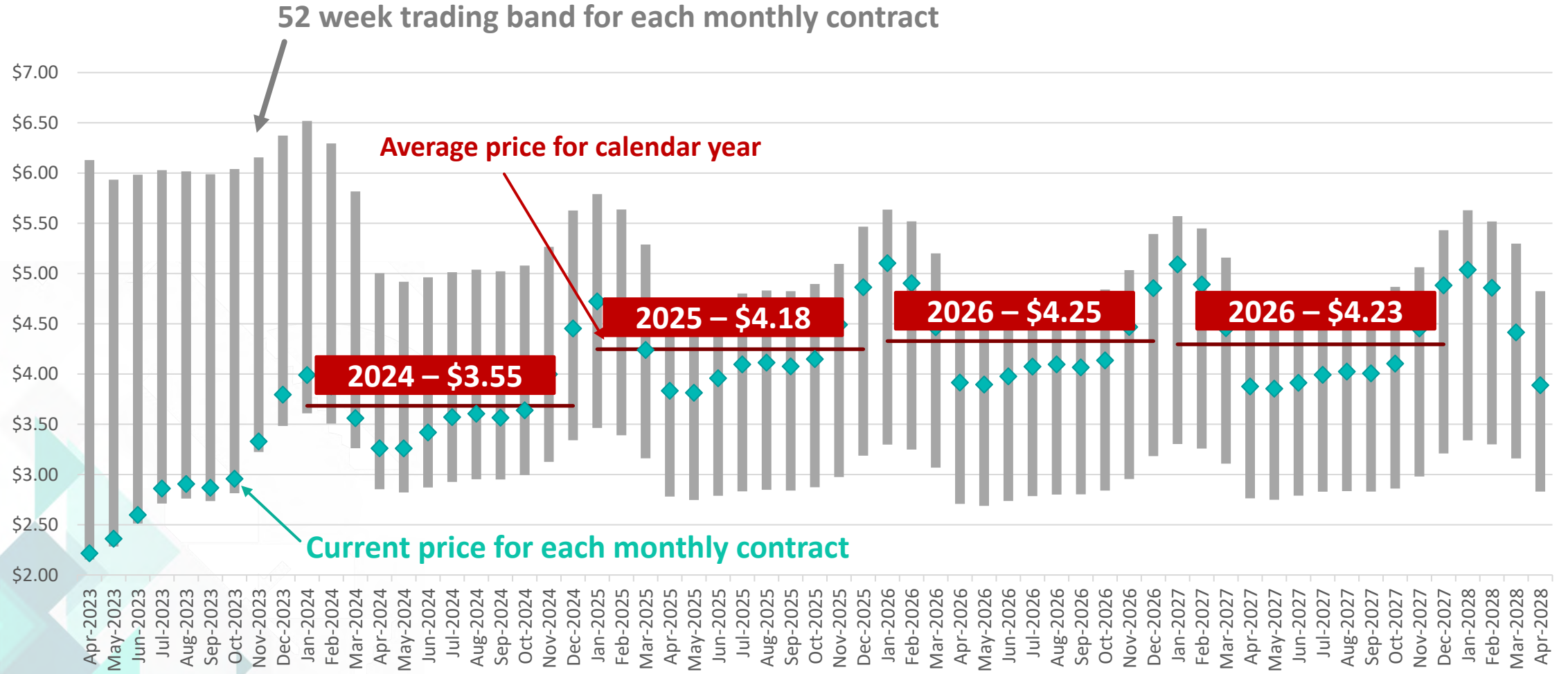
TEA
M A R K E T I N S I G H T S

#3 – PRODUCERS WILL PROBABLY TRY TO JAM THE MARKET FOR LNG

U.S. NATURAL GAS

FORWARD PRICING

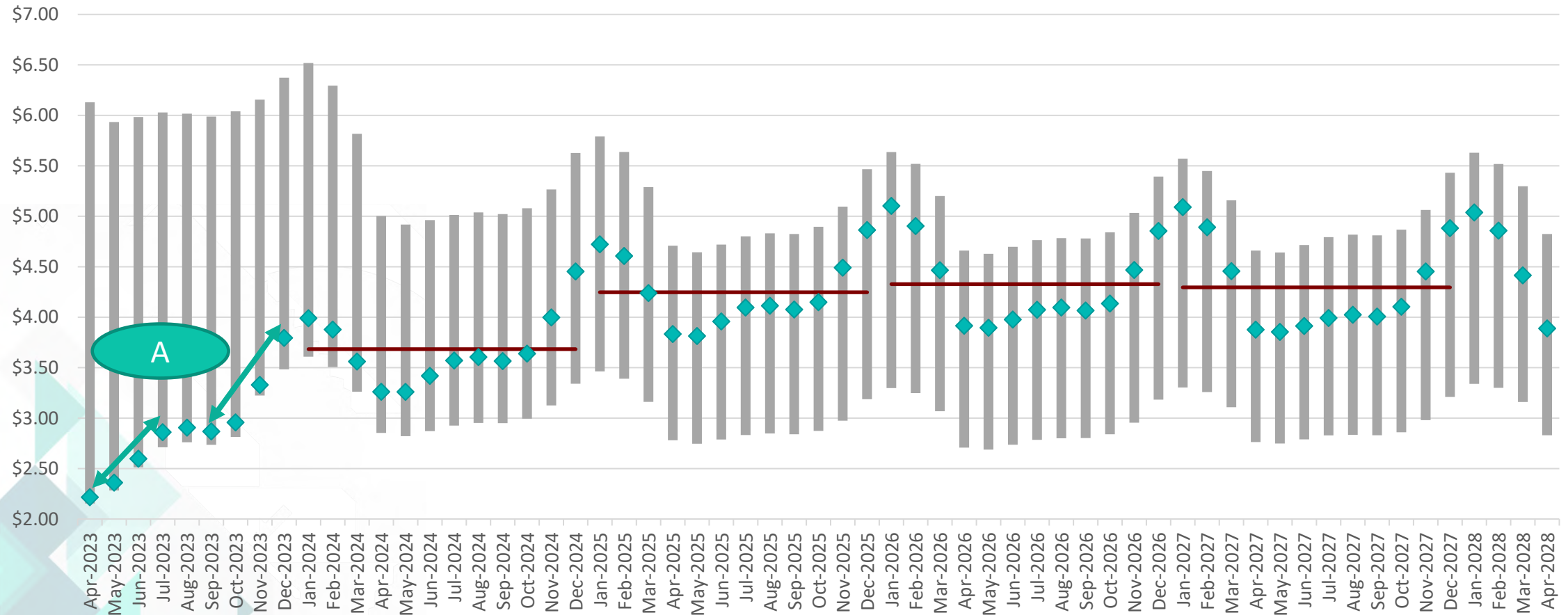
WHAT IS THE FORWARD CURVE TELLING US?



WHAT IS THE FORWARD CURVE TELLING US?

A. Steep contango from prompt → summer will drive producer actions... but will it be enough?

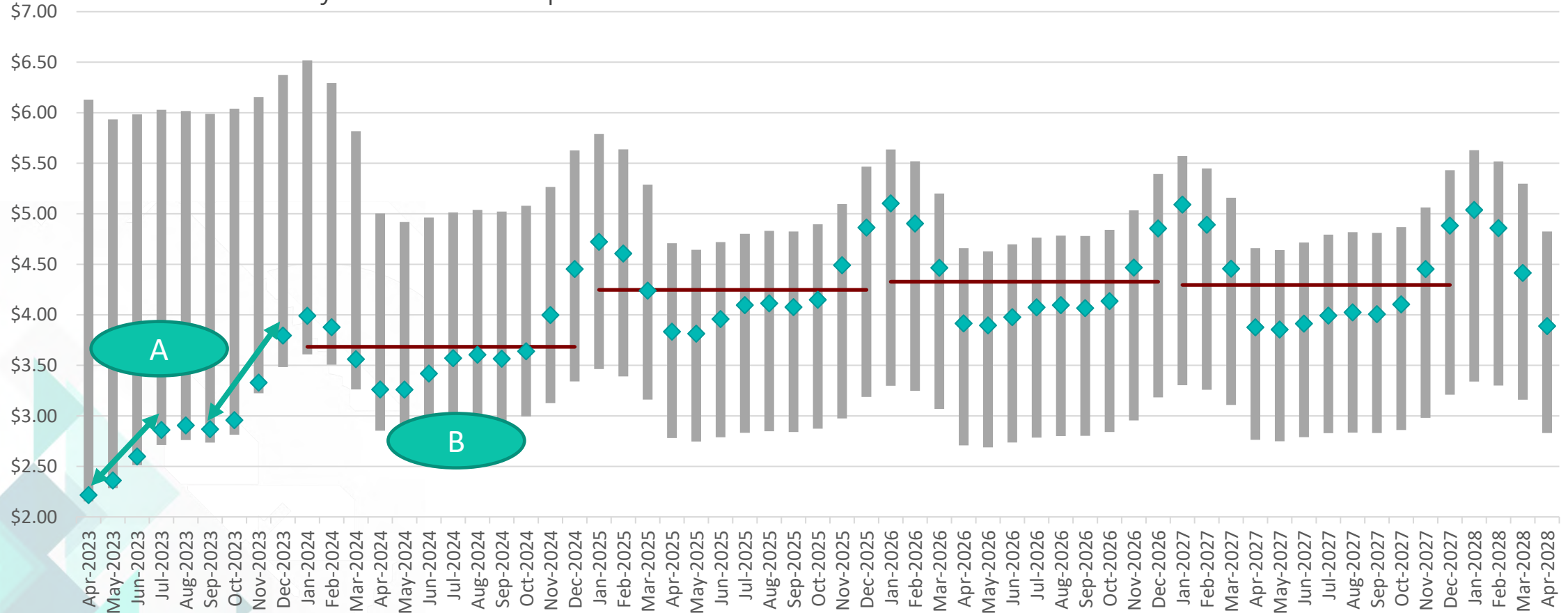
- Anticipate deferrals of new well flows to summer (and again to winter)... flattening the curve



WHAT IS THE FORWARD CURVE TELLING US?

B. Cal-24 at \$3.55 ~fair value given Producer marginal cost of new drilling (\$3.50a)

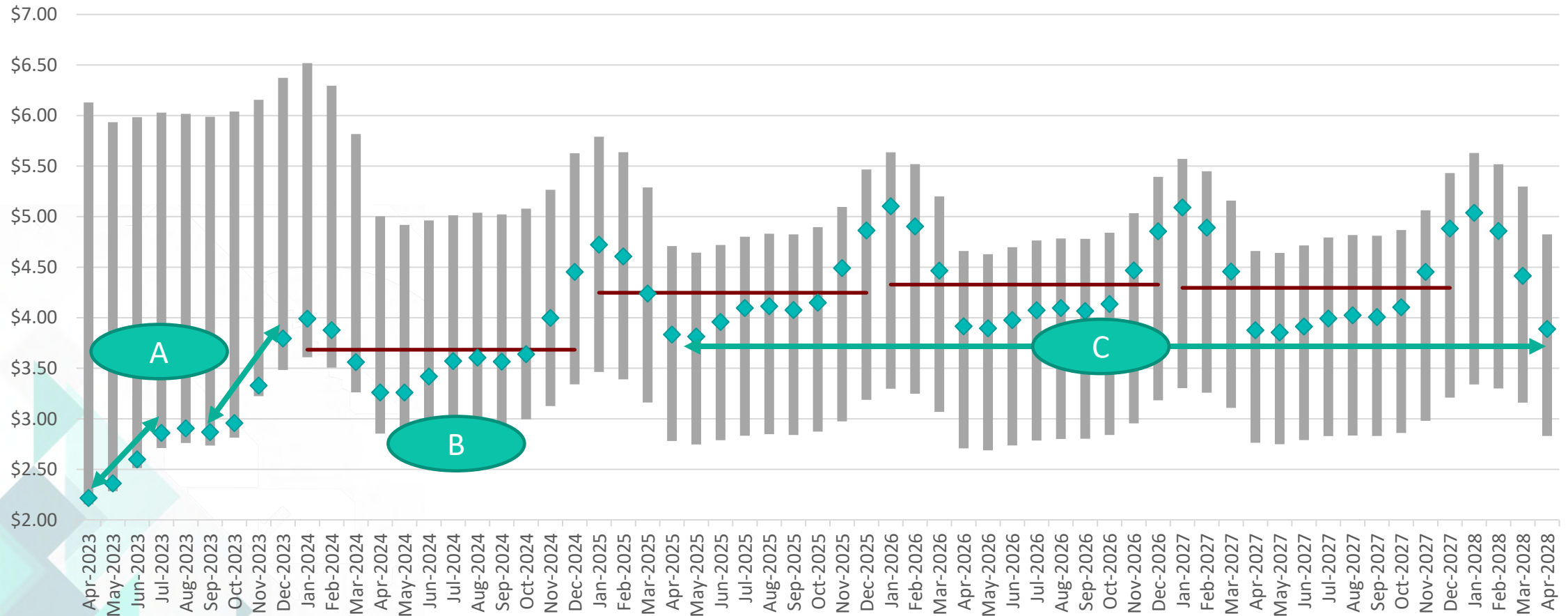
- Cutting Haynesville rigs in 2023 signals market that higher price is needed for new activity
- Potential for TTF rally and Producer discipline leans bullish



WHAT IS THE FORWARD CURVE TELLING US?

C. Cal-25 thru Cal-27 at ~\$4 assigns 50c premium to new supply cost

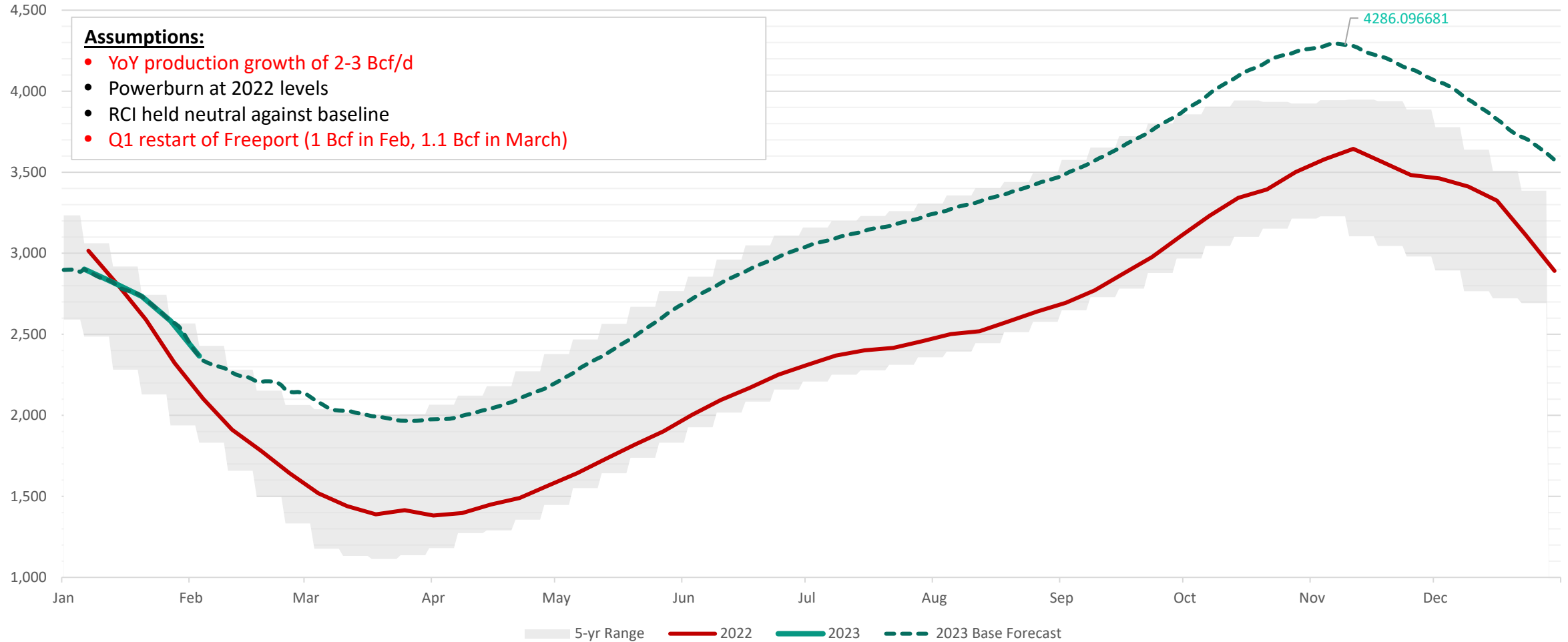
- TEA view that this **underprices** risk that Producers “mis-time” the +6BCFD demand growth



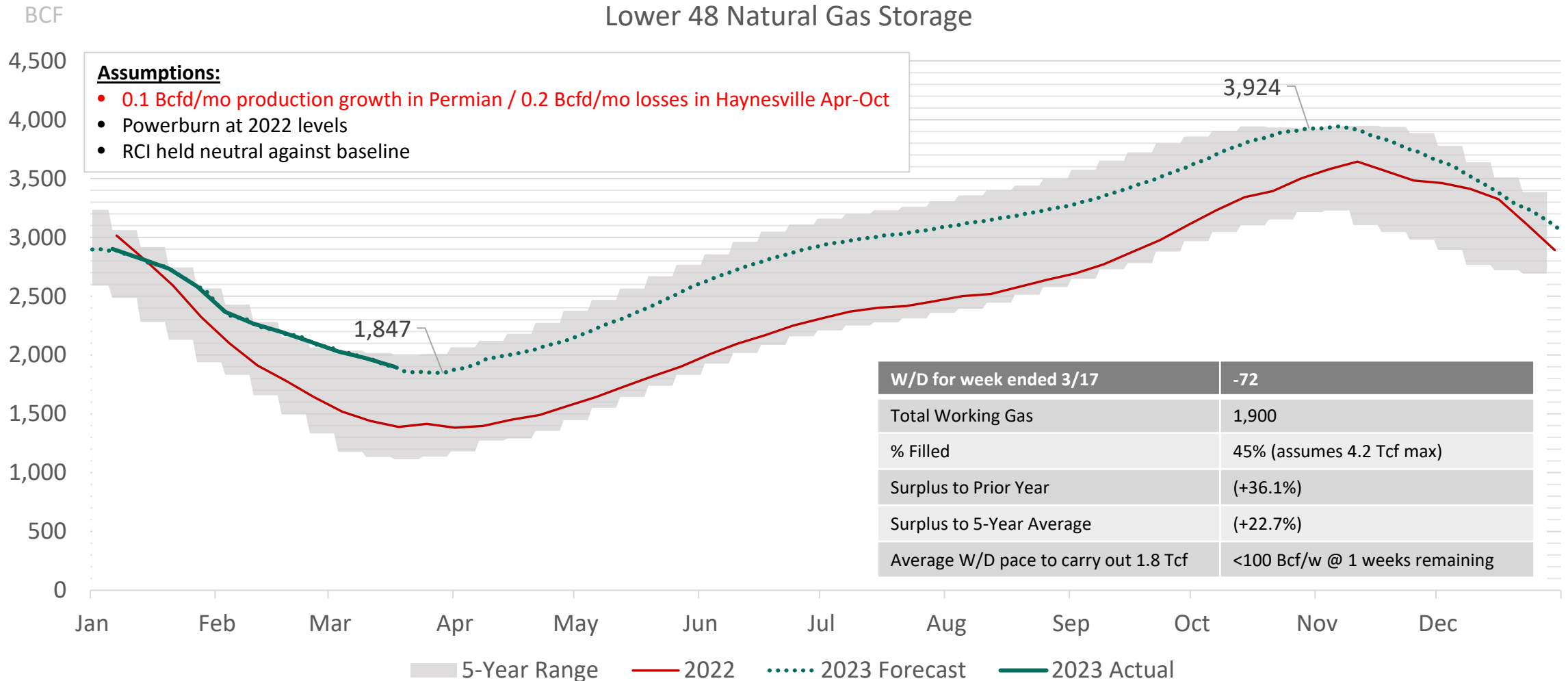
U.S. NATURAL GAS OUTLOOK

TEA FORECAST – FLAT PRODUCTION

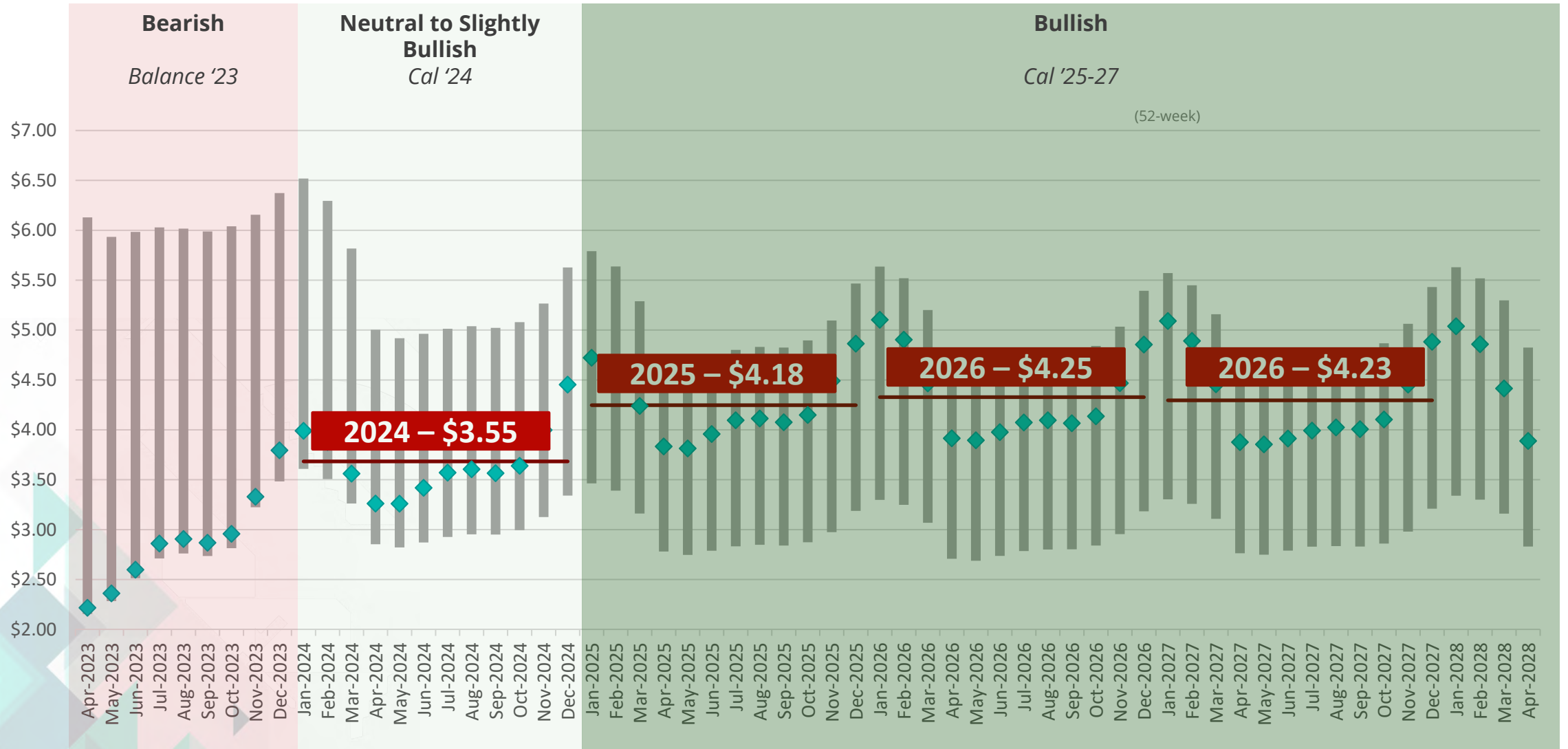
Lower 48 Storage



TEA FORECAST – ECONOMIC PRODUCTION DEFERRALS TEA MARKET INSIGHTS



SUMMARY – HENRY HUB





#4 – BULLISH 2025-2027 OUTLOOK

RECAP OF KEY MESSAGES

1. WE GOT LUCKY
2. GLOBAL LNG MARKETS MATTER TO YOU
3. PRODUCERS WILL PROBABLY TRY TO JAM THE MARKET FOR LNG
4. BULLISH 2025-2027 OUTLOOK

THANK YOU

EXPECT VOLATILITY & PREPARE

**AGENDA ITEM 9 – INFORMATION
ITEMS**

**b. Human Resources Quarterly
Update**

**Board of Directors Meeting
April 20, 2023**



9b - HR Quarterly Report

Board of Directors

April 20, 2023

Recent Resignations

Created Five Promotional Opportunities for Team

Vice President of IT/OT and Systems Operations

- Leads IT/OT, cyber security and Power Pool

Manager of Systems Operations

- Oversees Power Pool and Systems Operations team

Asset and Strategic Planning Director

- Added transmission planning to current role

Generation Project and Engineering Manager

- Leads electrical engineering team

Generation Support and Environmental Manager

- Oversees environmental compliance

Recent Resignations

Created Three Growth Opportunities for Team

Regulatory Compliance Specialist

- Taking on more of a lead role in Internal Compliance

Member Services Manager

- Taking on oversight of SCADA and engineering team that were currently supporting member projects

Treasurer and Risk Director

- Added directing natural gas portfolio to current role

Retirements and Succession Plans

Strong Team Provides Growth Opportunities for Succession Plans

10 team members eligible for FMPA retirement benefits

5 currently eligible to retire

Succession plan in place for 3 positions

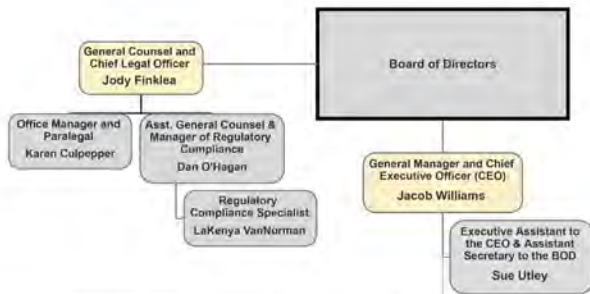
Supporting Other Staffing Needs

TCEC
succession plan

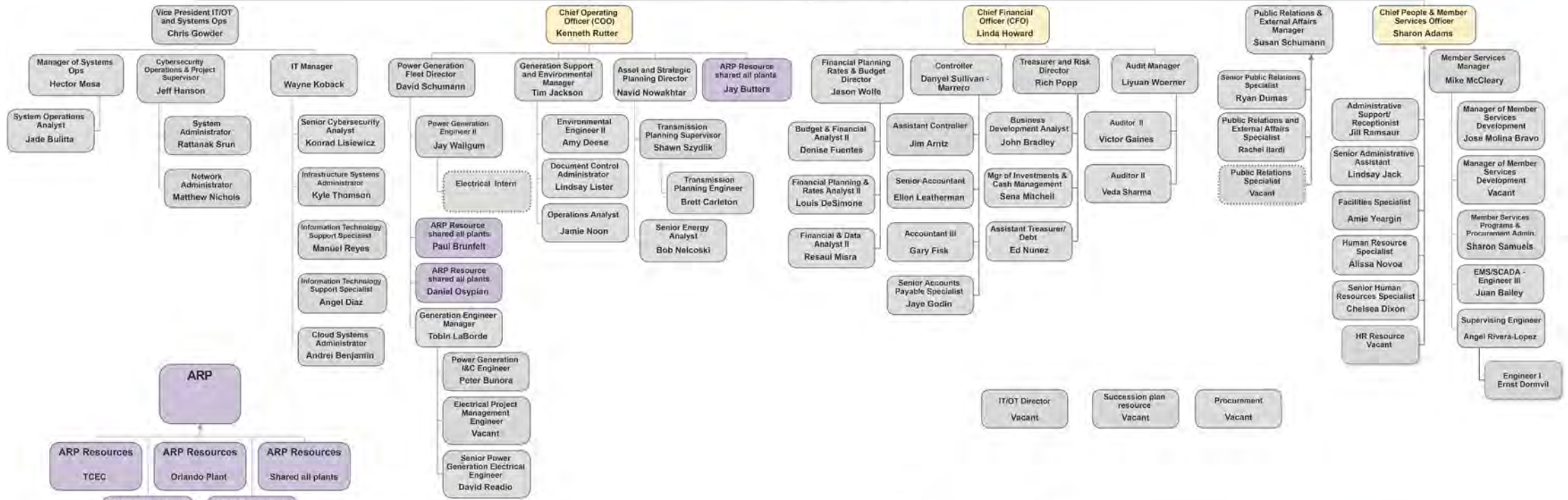
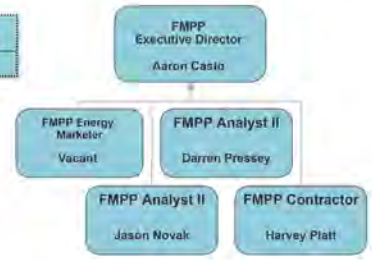
FMPP

New position hired
for integration
coordination

Future staffing
for new resources



Total FMPP Employees	5
FMPA employees	5



Site	Total Employees	FMPA Employees
Stock Island	10	0
Cane Island	45.5	0
Orlando Plant	11	11
TCEC	17	4
Shared all plants	3	1
Total	88	16

Position Type	Count
Full Time	70
Part Time	1
Intern	1
Total	72



Ongoing Human Resource Activities

- Employee Appreciation Day
- In-house training for all team members
- Top Employer survey
- "Power on" training for new managers/supervisors
- Salary survey for members complete
- First-responder training
- Hurricane deployment lists and preparation

**AGENDA ITEM 9 – INFORMATION
ITEMS**

**c. FMSP Phase III Project Update
and Recommendation**

**Board of Directors Meeting
April 20, 2023**



9c – Florida Municipal Solar Project Phase III Update and Recommendation

Board of Directors

April 20, 2023

Florida Municipal Solar Project

Phase III Update and Approval Process

- Florida Municipal Solar Project Background, Update and Schedule
- Power Purchase Agreement (PPA) Structure
- Participant Local Governing Board Approvals Required
- Solar III Project – FMMPA Board Approvals
- ARP Solar III Participants – Executive Committee Approvals
- Solar III Project Governance
 - Solar III Project Committee and Charter
- Recommended Motions for May Board and Executive Committee Meetings



Florida Municipal Solar Project Background, Update and Schedule

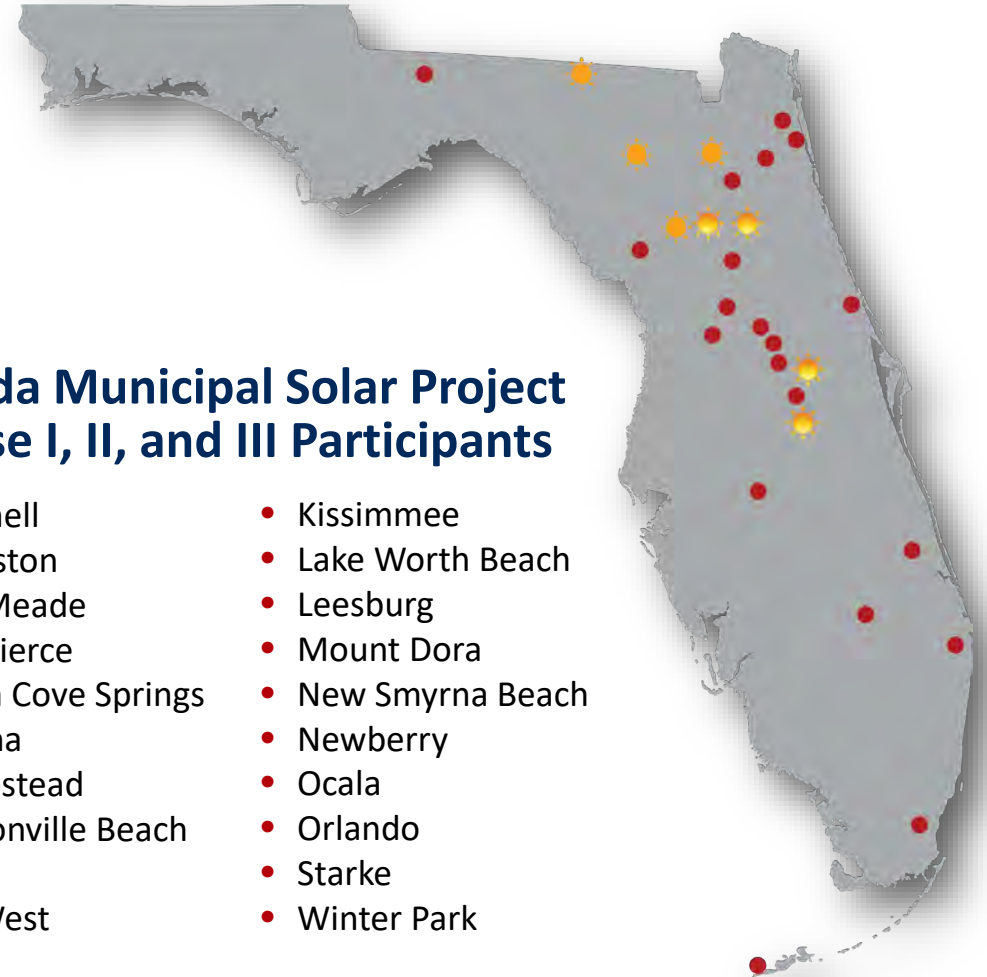
FMPA to Provide 20 Cities Low-Cost Solar

Growing Solar from 1% Today to 7% by 2027

- Florida Municipal Solar Project **Phase I**
 - Two sites totaling 149 MW
 - Enough to power 30,000 homes
- Two **Phase II** sites coming in 2023-2024
- Four additional **Phase III** solar sites
 - COD 2025 and 2026

Florida Municipal Solar Project Phase I, II, and III Participants

- | | |
|----------------------|--------------------|
| • Bushnell | • Kissimmee |
| • Clewiston | • Lake Worth Beach |
| • Fort Meade | • Leesburg |
| • Fort Pierce | • Mount Dora |
| • Green Cove Springs | • New Smyrna Beach |
| • Havana | • Newberry |
| • Homestead | • Ocala |
| • Jacksonville Beach | • Orlando |
| • JEA | • Starke |
| • Key West | • Winter Park |



Phase III Would More than Double the Size of FMSP

Pricing Competitive with Traditional Generation

- Power Purchase Agreement price < \$45/MWh
 - 20-year term
 - 2% annual escalation for term of PPA
 - Does not include incremental cost of transmission service needed for delivery, e.g. point-to-point for JEA
 - Nominal FMPA A&G adder
- Developed by Origis Energy
- Three Duke and two FPL-interconnected facilities
- Network upgrade costs (if any) paid by project, refundable from transmission provider
- Five proposed facilities with diverse geographical locations
- COD Dec. 2025 (Duke), Dec. 2026 (FPL)

Participant	Total MW
FMPA Board / ARP	50.6
Fort Meade	1.0
Fort Pierce**	0.9
Homestead* **	10.0
JEA*	149.8
Key West**	15.2
KUA**	9.1
Lake Worth Beach* **	30.0
Leesburg	10.0
Ocala**	3.0
Winter Park* **	20.0

Non-ARP Participant *
Former Poinsett Participant **

Participant Approval Schedule

Target May 18 FMPA Board and Executive Comm Meetings

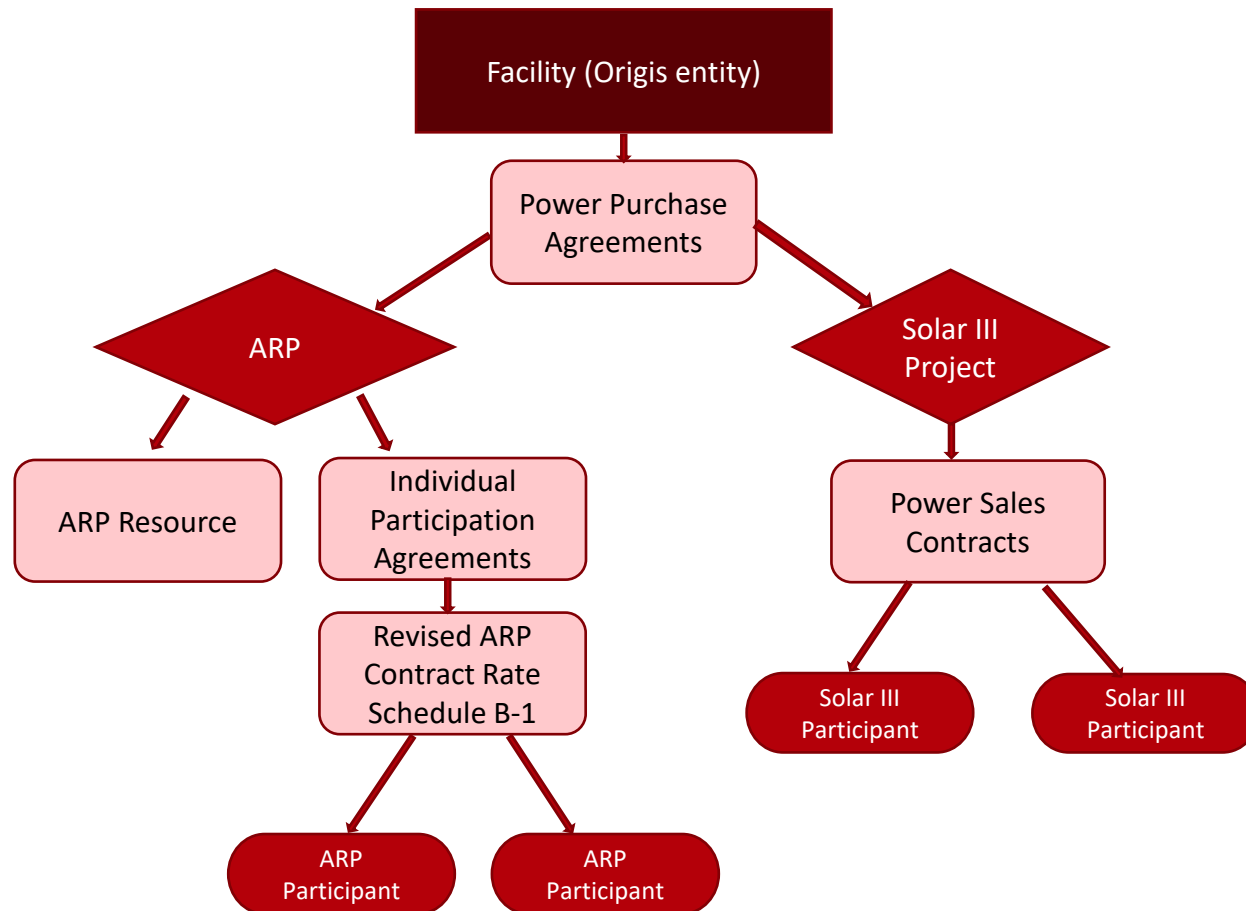
Participant (* former Poinsett)	Total MW	Meeting Schedule	Potential Approval Dates (**confirmed)	FMPA Support Requested
FMPA Board / ARP	50.6	3 rd Thursday 9am	May 18**	
Fort Meade	1.0	2 nd and 4 th Tuesday 6pm	April 25, May 9	
Fort Pierce*	0.9	1 st and 3 rd Tuesday 4pm	May 2**	Yes
Homestead*	10.0	2 nd Tuesday 5:30pm (COW) 3 rd Wednesday 6pm (Council)	April 19**	Yes
JEA	149.8	XX (Finance and Operating Committee) 4 th Tuesday 9am (Commission)	June xx June 27**	Possibly No
Key West*	15.2	2 nd and 4 th Wednesday 5pm	Wednesday, April 26**	No
KUA*	9.1	1 st Wednesday 3:30pm	May 3**	No
Lake Worth Beach*	30.0	4 th Tuesday (Utility) 6pm	Tuesday, April 25**	Yes
Leesburg	10.0	2 nd and 4 th Monday 5:30pm	Monday, April 10**	Yes / Approved
Ocala*	3.0	1 st and 3 rd Tuesday 4pm	TBD	
Winter Park*	20.0	2 nd and 4 th Wednesday 3:30pm	April 26**	No



Power Purchase Agreement (PPA) Structure

Project PPA Structure

ARP and Solar III Project Will Have Separate PPA's



Solar III Project to include Homestead, JEA, Lake Worth Beach and Winter Park



Participant Local Governing Board Approvals Required

Participant Local Board Approvals Needed

Target: May 17 for Participant Governing Board Approvals

- Each **Solar III Project** (4 participants) governing board will approve:
 - **Power sales contract** between FMPA and participant
 - Other associated or enabling agreements, as needed
 - Homestead, JEA, Lake Worth Beach, Winter Park
- Each **ARP Solar III** (6 individual participants) governing board will approve:
 - **Solar III participation agreement** between FMPA ARP and Solar III participants
 - FPUA, Fort Meade, KEYS, KUA, Leesburg, Ocala (includes former Poinsett participants)
- Forms of resolutions to facilitate approvals have been provided



Solar III Project – FMIPA Board Approvals

FMPA Board Approvals

Documents Required for Final Approval on May 18

Board Approvals:

- **Power Purchase Agreements** between FMPA Solar Project III and Origis
- Solar Project **Power Sales Contracts** between FMPA and Solar Project III participants (following confirmation of individual member approvals)
- **Resolution 2023-Bxx** to form FMPA Solar Project III

PPA Key Terms

Pricing Terms Confidential

Key Term	Definition
20-Year Term	Term extension subject to mutual agreement
Delivery Point	Two facilities Duke Interconnect; two facilities FPL Interconnect
Commercial Operation Date (COD)	Dec. 31, 2025 or 2026 with permitted extensions; Origis pays for delays after permitted COD extensions
Production Guarantee	Damages paid for under-performance measured over rolling two years
Network Upgrades	Cost not included in price; If network upgrades are required, payment will be refunded by DEF and/or FPL via transmission service credits
Energy Price	<\$45/MWh (exact pricing trade secret) over 20-year PPA term

Solar III Project Power Sales Contract Terms

Approval by FMPA Board of Directors

Key Terms	Definition
Power Entitlement Share	Percent of solar energy produced by the facility
Term of Agreement	Date of signature until termination of PPA with Origis
Costs	Participant pays PPA energy costs plus project related A&G costs
Step-up Provision	In the event a participant defaults, non-defaulting participants may agree to take and pay for a pro-rata share of defaulting participant's power entitlement
Exit Provision	If a participant wishes to exit the Solar III Project, FMPA will facilitate transfer of energy to other willing participants or sell to others. Participant remains responsible for costs not covered.
Solar III Project Committee	Will be created, consisting of one representative from each Solar III participant. All recommendations are subject to approval by the Board of Directors.

Board Resolution 2023-Bxx

Approval by Board of Directors

Designates Solar III Project as a project under the Interlocal Agreement

Establishes Solar III Project participants' power entitlement share in the Solar III Project

Approves Solar III Project PPAs between FMPA (Solar III Project) and Origis Energy entity(ies)

Approves separate power sales contracts between FMPA and the Solar III Project participants

Designates authorized officers

Provides for severability

Provides an effective date



ARP Solar III Participation Agreement Executive Committee Approvals

FMPA Executive Committee Approvals

Documents Required for Final Approval on May 18

- ARP Approvals for Individual Solar III Participants (Fort Pierce, Fort Meade, Jax Beach, KEYS, KUA, Leesburg, Ocala):
 - **Power Purchase Agreements** between FMPA ARP and Origis
 - **Solar III Participation Agreements** between ARP and Solar Project III Participants (Following confirmation of individual Member approvals)
 - **ARP Rate Schedule B-1**
- Executive Committee Approval for ARP participation of ~110 MW
- Energy Exchange Agreements

PPA Key Terms

Pricing Terms Confidential

Key Terms	Definition
20-Year Term	Term extension subject to mutual agreement
Delivery Points	Two facilities Duke Interconnect
Commercial Operation Date (COD)	Dec. 31, 2025 or 2026 with permitted extensions; Origis pays for delays after permitted COD extensions
Production Guarantee	Damages paid for under-performance measured over rolling two years
Network Upgrades	Cost not included in price; If network upgrades are required, payment will be refunded by DEF and/or FPL
Energy Price	<\$45/MWh (exact pricing confidential) over 20-year PPA term

ARP Solar III Participation Agreement Terms

Approval by Executive Committee

Key Terms	Definition
Power Entitlement Share	Percent of solar energy produced by the facility
Term of Agreement	Date of signature until termination of the PPA with Origis
Costs	Participant pays PPA energy cost plus nominal project related costs (A&G)
Exit Provision	If a participant wishes to exit the solar participation agreement, FMPA will facilitate transfer of energy to other willing participants or sell to others. Participant remains responsible for costs not covered.
ARP Solar Participants Advisory Committee	Consists of one representative from each ARP solar participant. All recommendations will be subject to approval of the Executive Committee

Rate Schedule B-1 (for Individual ARP Participants)

Approval by Executive Committee

- Solar energy surcharge shall equal the difference between the adjusted energy rate and the actual monthly cost per MWh of the solar energy plus associated costs.
 - Language revised to distinguish between Phase I, Phase II and Phase III Projects and individual participants

Energy Exchange Agreements

Allows optimal allocation between Duke and FPL-interconnected facilities

- Exchange Agreement allows JEA and Lake Worth Beach to avoid transmission wheeling charges from Duke-interconnected facilities
 - Limited additional cost risk to JEA and LWB if exchange cannot be delivered or received for rare load conditions or unit issues
 - Several options for addressing, including no-cost approaches
- Similar to Phase II Exchange Agreement between LWB and ARP
 - ARP receives JEA and LWB solar energy from DEF facility
 - ARP delivers equal amount of energy to the FPL transmission system



Solar III Project Governance

Solar III Project Committee and Charter

Key Terms (Based on Solar I and Solar II Project Templates)

- Key Terms:
 1. Purpose – to govern project
 2. Mission – oversee administration and establish budget
 3. Organization and Term – termination of Solar Power Sales Contracts
 4. Membership – representative for each participating member
 5. Meetings – public notice, frequency and details determined by Committee members
 6. Quorum – Discretionary Term Decisions (in PPA), budget, minutes, other Committee business
 7. Voting – Discretionary Term Decisions, other decisions
 8. Election of Chair – selection, term of service
 9. Changes to Charter – unanimous consent of Committee

- All Committee recommendations subject to Board and/or Executive Committee final approval



Recommended Motions for May Board of Directors and Executive Committee Meetings

Recommended Motion for May Board Meeting

No Action Required Today

- Move approval of
 - Resolution 2023-Bxx establishing the FMPA Solar III Project;
 - the Power Purchase Agreement between FMPA and Origis Energy, LLC; and
 - the Power Sales Contracts between FMPA and Solar III Project Participants, and authorizing FMPA's CEO and General Manager to execute the agreements, subject to receiving each participant's local governing board approval of the Power Sales Contracts between FMPA and each such Solar III Project Participant.

Recommended Motion for May Executive Committee

No Action Required Today

- Move approval of:
 - the Power Purchase Agreements between FMPA and Origis Energy, LLC;
 - the ARP Solar III Participation Agreements;
 - revised Rate Schedule B-1;
 - the Energy Exchange Agreements between FMPA and JEA; and
 - the Energy Exchange Agreement between FMPA and Lake Worth Beach,and authorize FMPA's CEO and General Manager to execute the agreements, subject to receiving each applicable participant's local governing board approval of the ARP Solar III Participation Agreement.

Solar III Project

Power Sales Contract

Between

**Florida Municipal Power Agency,
Solar III Power Project**

and

[MEMBER]

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**SOLAR III PROJECT
POWER SALES CONTRACT**

This POWER SALES CONTRACT is made and entered into as of [DATE], by and between FLORIDA MUNICIPAL POWER AGENCY, a legal entity organized under the laws of the State of Florida ("FMPA") and the [MEMBER], a public agency of the State of Florida and a member of FMPA (the "Project Participant").

WITNESSETH:

WHEREAS, FMPA was created to, among other things, provide a means for the Florida municipal corporations and other entities which are members of FMPA to cooperate with each other on a basis of mutual advantage in the generation of Electric Energy; and

WHEREAS, FMPA is authorized and empowered, among other things, (i) to plan, finance, acquire, construct, reconstruct, own, lease, operate, maintain, repair, improve, extend or otherwise participate jointly in one or more electric projects; (ii) to issue its bonds, notes or other evidences of indebtedness to pay all or part of the costs of acquiring such electric projects; and (iii) to exercise all other powers which may be necessary and proper to further the purposes of FMPA which have been or may be granted to FMPA under the laws of the State of Florida; and;

WHEREAS, Origis Energy, including its successors or assigns, ("Seller") is developing solar photovoltaic single-axis tracking electric generating facilities having nameplate capacities of 74.9 MW alternating current ("ac"), which will be designed, financed, constructed and operated by Seller in [COUNTIES] Counties, Florida ("Solar Facility"); and

WHEREAS, FMPA has entered into Power Purchase Agreements between Seller and FMPA on behalf of the Solar III Project ("Solar PPA"), a copies of which are attached to this Power Sales Contract as "Attachment A," and FMPA will purchase and receive a portion of the as-available net Electric Energy output and associated Renewable Energy Attributes and Facility Attributes produced by Solar Facility (referred to cumulatively in this Power Sales Contract as the "Solar Product"); and

WHEREAS, FMPA will take or cause to be taken all steps necessary for delivery to Project Participant and the other Project Participants of their respective share of the Solar Product produced from or attributable to the Solar Facility and delivered to FMPA under the Solar PPA, and will sell the Solar Product from the Solar Facility pursuant to this Power Sales Contract and pursuant to contracts substantially similar to this contract with such other Project Participants; and

WHEREAS, the execution of the Solar PPA for the supply of Solar Product produced by or attributable to the Solar Facility to the Project Participant and the other Project Participants contracting with FMPA therefore is authorized by the Interlocal Agreement creating the Florida Municipal Power Agency FMPA, as amended to date and as such Interlocal Agreement has been supplemented by a resolution adopted by the Board of FMPA at a meeting duly called and duly held on December 12, 2019, which Interlocal Agreement, as so amended and supplemented, constitutes "an agreement to implement a project" and a "joint power agreement" for the Solar III Project, as such terms are used in Chapter 361, Part II, Florida Statutes, as amended; and

WHEREAS, in order to pay the cost of acquiring the Solar Product produced by or attributable to the Solar Facility under the Solar PPA, it is necessary for FMPA to have substantially similar binding contracts with the Project Participant and such other Project Participants purchasing Solar Product produced by or attributable to the Solar Facility.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, it is agreed by and between the parties hereto as follows:

SECTION 1. Definitions and Explanations of Terms. As used herein:

Allocable A&G Costs shall mean administrative and general costs incurred by FMPA that have been allocated to the Solar III Project by the FMPA Board of Directors. The initial allocation of Allocable A&G Costs is attached to this Power Sales Contract as "Attachment B," as it may be amended from time to time at the discretion of the FMPA Board of Directors.

Annual Budget means the budget adopted by the Board of FMPA pursuant to paragraph (a) of SECTION 4 hereof which itemizes the estimated Monthly Energy Costs and Project Related Costs for the following Contract Year, or, in the case of an amended Annual Budget adopted by the Board of FMPA, during the remainder of a Contract Year, and the Project Participant's share, if any, of each.

Board shall mean the Board of Directors of FMPA, or if said Board shall be abolished, the board, body, commission or agency succeeding to the principal functions thereof.

Contract Year shall mean the twelve (12) month period commencing at 12:01 a.m. on October 1 of each year, except that the first Contract Year shall commence on 12:01 a.m. on [date], and shall expire at 12:00 a.m. the next succeeding October 1.

Discretionary Term Decision shall have the meaning set forth in SECTION 7(a) of this Power Sales Contract.

Downgrade Event shall have the meaning set forth in the Solar PPA.

Effective Date shall have the meaning set forth in SECTION 2 of this Power Sales Contract.

Electric Energy shall mean kilowatt hours (kWh).

Energy Price means the price (\$/MWh) to be paid by FMPA under the Solar PPA for Solar Product produced by the Solar Facility and delivered by Seller to FMPA.

Energy Share shall mean FMPA's 53.55 MW share under the Solar PPA in the Solar Product produced by or associated with the Solar Facility.

Facility Attributes has the meaning given in the Solar PPA.

Initial Energy Delivery Date shall have the meaning provided for in the Solar PPA.

Interlocal Agreement means the Interlocal Agreement creating the Florida Municipal Power Agency, as amended and supplemented to date, and as the same may be amended or supplemented in the future.

Month shall mean a calendar month.

Monthly Energy Costs shall mean, with respect to each Month of each Contract Year, the product of (i) the Energy Price and (ii) the quantity of Solar Product delivered by Seller to FMPA.

Point of Delivery shall mean the high side of the generator step-up transformer of the Solar Facility.

Power Sales Contracts shall mean this Power Sales Contract and the other Power Sales Contracts, dated the date hereof, between FMPA and the other Project Participants, all relating to the Solar PPA and Solar Facility, as the same may be amended from time to time, and any substantially similar contract entered into by FMPA in connection with any transfer or assignment in accordance with this Power Sales Contract.

Project Development Fund Costs shall mean those costs incurred by FMPA and funded by the FMPA Project Development Fund used for the establishment of the FMPA Solar III Project. The Project

Development Fund Costs as of the Effective Date are set forth in “Attachment D” of this Power Sales Contract.

Project Related Costs shall mean the costs incurred under the Solar PPA other than Monthly Energy Costs, as well as any other costs incurred by FMPA directly attributable to the Solar III Project, including, without limitation, Allocable A&G Costs, any amounts to reimburse FMPA Project Development Fund Costs, a Working Capital Allowance, any costs associated with real-time monitoring of the output from the Solar Facility to facilitate Project Participants’ transmission scheduling requirements, any credit or payment assurance amounts that may be required under the Solar PPA due to a Downgrade Event, as such term is defined in the Solar PPA, among others.

Project Participants shall mean the parties, including the Project Participant, other than FMPA, to Power Sales Contracts substantially similar hereto.

Renewable Attributes has the meaning given in the Solar PPA.

Schedule of Project Participants shall mean the Schedule of Project Participants contained in Schedule 1 attached hereto, as the same may be amended or supplemented from time to time in accordance with the provisions hereof.

Seller shall have the meaning set forth in the Recitals of this Power Sales Contract.

Solar Entitlement Share shall mean, with respect to each project Participant, that percentage of FMPA's Energy Share from the Solar Facility shown opposite the name of such Project Participant in the Schedule of Project Participants as the same may be adjusted from time to time in accordance with the provisions hereof.

Solar III Project shall mean the contractual arrangements and agreements for the purchase of Solar Product by FMPA pursuant to the Solar PPA and sale of the Solar Product to Project Participant pursuant to this Power Sales Contract.

Solar III Project Committee has the meaning set forth in SECTION 7 of this Power Sales Contract.

Solar Facility shall have the meaning set forth in the recitals of this Power Sales Contract.

Solar Product shall have the meaning set forth in the recitals of this Power Sales Contract.

Solar PPA shall have the meaning set forth in the recitals of this Power Sales Contract.

Transmission Service Provider shall mean the transmission service provider(s) to which the Solar Facility is interconnected.

Uniform System of Accounts shall mean the Federal Energy Regulatory Commission (or its successor in function) Uniform Systems of Accounts prescribed for Class A and Class B Public Utilities and Licensees, as the same may be modified, amended or supplemented from time to time.

Working Capital Allowance shall mean funds acquired by the Solar III Project in such amounts as shall be deemed reasonably necessary by the FMPA Board of Directors to provide for any working capital needs, including providing for the Solar III Project’s ability to pay the Seller in the event of non-payment by one or more Project Participants. The initial Working Capital Allowance and the method of funding is described in “Attachment C” to this Power Sales Contract.

SECTION 2. Term & Termination.

(a) Effective Date. This Power Sales Contract shall become effective upon the last date of execution and delivery of all Power Sales Contracts by all Project Participants originally listed in the Schedule of Project Participants and by FMPA (the “Effective Date”) and shall, unless this Power Sales

Contract is terminated early pursuant hereto, continue until the expiration or earlier termination of the Solar PPA. Unless a Project Participant terminates this Agreement pursuant to Section 19(a) by paying all stranded cost obligations, neither termination nor expiration of this Power Sales Contract shall affect any accrued liability or obligation hereunder. Notwithstanding the foregoing, in the event it is ultimately determined that any other Project Participant failed to duly and validly execute and deliver its Power Sales Contract, or if any other Power Sales Contract, or any portion thereof, shall be deemed invalid or unenforceable for any other reason whatsoever, such determination shall in no way affect the commencement, term or enforceability of this Power Sales Contract or the Project Participant's obligations hereunder.

(b) Early Termination. Project Participant may terminate this Power Sales Contract pursuant to SECTION 19 of this Power Sales Contract.

SECTION 3. Sale and Purchase.

Commencing on the Initial Energy Delivery Date of the Solar Facility, FMPA shall purchase from Seller in accordance with the terms and conditions of the Solar PPA, and FMPA agrees to and does sell, and the Project Participant agrees to and does hereby purchase, the Project Participant's Solar Entitlement Share. The Project Participant shall, in accordance with and subject to the provisions of SECTION 5 hereof, pay FMPA (i) for its Solar Entitlement Share, an amount determined by multiplying Monthly Energy Costs by the Project Participant's Solar Entitlement Share, and (ii) for its share of monthly Project Related Costs, an amount determined by multiplying the Project Related Costs for such Month by Project Participant's Solar Entitlement Share. FMPA shall provide documentation evidencing the conveyance of the Renewable Attributes associated with the Solar Product to Project Participant in a form acceptable to FMPA and Project Participant.

SECTION 4. Project Budget.

(a) In accordance with the FMPA Board of Directors' annual schedule for budget development, the Solar III Project Committee shall develop and approve a budget for the Solar III Project and submit the same to the FMPA Board of Directors for approval. As part of the budget process, the Solar III Project Committee will review Project Related Costs, including the Allocable A&G and the Working Capital Allowance, to ensure the appropriate amount of resources are allocated the Solar III Project.

(b) On or before [date], and on or before August 1 prior to the beginning of each Contract Year thereafter, the Board of FMPA shall review the proposed Solar III Project budget submitted by the Solar III Project Committee, and shall adopt and submit to the Project Participant an Annual Budget for the following Contract Year which shall provide an estimate of the Project Participant's monthly payments hereunder and serve as a basis for Project Participants' payments hereunder for Monthly Energy Costs and Project Related Costs for such Contract Year.

(c) During each Contract Year, the Solar III Project Committee or Board may review its Annual Budget for the remainder of the Contract Year at any time as it shall deem desirable. In the event such or any other review indicates that such Annual Budget will not substantially correspond with actual Monthly Energy Costs, or actual Project Related Costs, or if at any time during such Contract Year there are or are expected to be extraordinary receipts, credits or costs substantially affecting the Monthly Energy Costs, or Project Related Costs, the Solar III Project Committee shall recommend and the Board of FMPA shall adopt and submit to each Project Participant an amended Annual Budget applicable to the remainder of such Contract Year which shall provide an estimate of the Project Participant's monthly payments hereunder for the remainder of such Contract Year and serve as the basis for the Project Participant's monthly payments for Monthly Energy Costs and Project Related Costs hereunder for the remainder of such Contract Year.

SECTION 5. Billing, Payment, Disputed Amounts.

(a) On or before the 10th day of each Month beginning with the second Month of the first Contract Year following the Effective Date, FMPA shall render to the Project Participant a monthly statement showing, in each case with respect to the prior Month, the amount of energy delivered for each hour and the amounts payable by Project Participant in respect of the following (i) the Monthly Energy Costs; (ii) the Project Related Costs; and (iii) any amount, if any, to be credited to or paid by the Project Participant pursuant to the terms of this Power Sales Contract.

(b) Monthly payments required to be paid to FMPA pursuant to this SECTION 5SECTION 4 shall be due and payable to FMPA on the 25th day of the Month in which the monthly statement was rendered. The Project Participant shall make payment to FMPA by the transfer of funds from the Project Participant's bank account, using an ACH Push or domestic Wire Transfer, through instructions to be provided by FMPA to the Project Participant.

(c) If payment in full is not made on or before the close of business on the due date, a delayed payment charge on the unpaid amount due for each day overdue will be imposed at a rate equal to the annual percentage prime rate of interest plus 5%, or the maximum rate lawfully payable by the Project Participant, whichever is less. If said due date is Saturday, Sunday or a holiday, the next following business day shall be the last day on which payment may be made without the addition of the delayed payment charge.

(d) In the event of any dispute that is known by Project Participant, or should have reasonably been known, as to any portion of any monthly statement, the Project Participant shall nevertheless pay the full amount of such disputed charges when due and shall give written notice of such dispute to FMPA not later than the date such payment is due. Such notice shall identify the disputed bill, state the amount in dispute and set forth a full statement of the grounds on which such dispute is based. No adjustment shall be considered or made for disputed charges unless notice is given as aforesaid. FMPA shall give consideration to such dispute and shall advise the Project Participant with regard to its position relative thereto within thirty (30) days following receipt of such written notice. Upon final determination (whether by agreement, adjudication or otherwise) of the correct amount, any difference between such correct amount and such full amount shall be properly reflected in the statement next submitted to the Project Participant after such determination. If it is determined that the disputed amount is in the favor of the Participant, to the extent that FMPA earned any interest on the amount withheld, then interest actually earned shall be applied to the overpaid amount.

(e) The obligation of the Project Participant to make the payments under this SECTION 5 shall constitute an obligation of the Project Participant payable as an operating expense of the Project Participant's electric utility system solely from the revenues and other available funds of the electric utility system. The obligation of the Project Participant to make payments under this Power Sales Contract shall not be subject to any reduction, whether by offset, counterclaim, or otherwise, and shall not be otherwise conditioned upon performance of FMPA or Seller under the Solar PPA or the performance by FMPA under this or any other agreement or instrument or the validity or enforceability of any other Power Sales Contract or any other agreement between FMPA and any other Project Participant; provided, however, that the Monthly Energy Costs payable by Project Participant shall reflect the Project Participant's Solar Entitlement Share of the quantity of Solar Product made available by the Seller at the Point of Delivery, and payable by FMPA under the Solar PPA, during that month. The obligation of the Project Participant to make payments under this SECTION 5SECTION 4 shall not constitute a debt of the Project Participant within the meaning of any constitutional or statutory provision or limitation or a general obligation of or pledge of the full faith and credit of the Project Participant, and neither the Project Participant nor the State of Florida or any agency or political subdivision thereof shall ever be obligated or compelled to levy ad valorem taxes to make the revenues provided for in this SECTION 5, and the obligation of the Project

Participant to make payments pursuant to this SECTION 5 shall not give rise to or constitute a lien upon any property of the Project Participant or any property located within its boundaries or service area.

SECTION 6. Scheduling of Deliveries; Transmission.

(a) FMPA shall cause Seller, or Seller's agent, to schedule and deliver FMPA's Energy Share to the Point(s) of Delivery in accordance with standard scheduling and dispatching procedures. Unless otherwise agreed to in writing by FMPA and Project Participant, Project Participant shall be responsible for scheduling the delivery of its Solar Entitlement Share of Electric Energy, as well as the associated transmission service, from the Point(s) of Delivery to Project Participant's electric system. Upon request, FMPA, or its agent, shall provide such Project Participant with the Seller's daily forecasted output of the Solar Facility as provided by Seller pursuant to the Solar PPA. FMPA, or its agent, shall maintain communication with the Project Participant regarding Solar Facility forecasts and real-time output in order to enable Project Participant to modify its transmission schedules with its transmission service provider to align with the Solar Facility's actual output.

(b) Project Participant shall be responsible for securing transmission service necessary to deliver the Solar Energy from the Point of Delivery to Project Participant's electric system. To the extent this transmission service requires upgrades to Project Participant's transmission service provider's transmission system, Project Participant shall be responsible for ensuring all upgrades are complete and Project Participant is able to receive its Solar Entitlement Share prior to the Initial Energy Delivery Date, as defined in the Solar PPA, or otherwise arrange for alternative transmission arrangement for, or disposal of, its Solar Entitlement Share until such time as Project Participant can receive it. Project Participant shall be responsible for enforcing its rights under its transmission service agreement(s) and its transmission service provider's Open Access Transmission Tariff ("OATT") regarding the transmission service provider's obligation to make such upgrades.

(c) All of the provisions of this SECTION 6 are subject to the provisions of the Solar PPA, and in the event of any inconsistencies between this SECTION 6 and the provisions of the Solar PPA governing scheduling, the terms of the Solar PPA shall govern.

SECTION 7. Solar PPA Early Termination and Term Extension, other Solar PPA Business Matters, and Solar III Project Committee.

(a) The Solar PPA includes several provisions that allow the Solar III Project to exercise discretion regarding whether to extend the Term of the Solar PPA or to continue the existing Term of the Solar PPA despite a triggering event under the terms of the Solar PPA that permit early termination (hereinafter referred to as "Discretionary Term Decisions"). Such Discretionary Term Decisions may include, for example but without limitation, options for extension of the Term of the Solar PPA beyond the Initial Term, options for continuing or terminating obligations related to portions of the solar capacity that do not make commercial operation deadlines, and options for early termination of the Solar PPA if certain conditions precedent are not met. Project Participant and all other Project Participants will each designate a representative to serve on the Solar III Project Committee. The Committee will meet in advance of any Discretionary Term Decisions provided for under the Solar PPA, and as FMPA or any Project Participant may request, with 30 day advance Notice (or less if the matter at hand so requires). The Solar III Project Committee shall meet not less than 180 days prior to the expiration of the Initial Term or a Renewal Term, as defined in the Solar PPA, if any, to decide whether to extend the Term of the Solar PPA. In making any Discretionary Term Decision, the Solar III Project Committee will vote on the matter. If the Solar III Project Committee unanimously decides to exercise a Discretionary Term Decision, then such unanimous consent shall be presented to the FMPA Board of Directors as a recommendation for action on the matter. If one or more Solar III Project Participants do not wish to exercise a Discretionary Term Decision, then the other Solar III Project Participants may elect to assume the Solar Entitlement Share of those Project Participant(s)

that do not wish to exercise the Discretionary Term Decision. In such event, the non-exercising Project Participant(s)' Solar III Project Power Sales Contract shall be terminated, and the Power Sales Contract of the assuming Project Participant(s)' shall be amended to reflect the revised Solar Entitlement Shares. In the event that the Project Participant(s) that wish to exercise the Discretionary Term Decision cannot agree to assume 100% of the terminating Project Participant(s)' Solar Entitlement Share, then the Discretionary Term Decision shall not be exercised.

(b) All other, non-Discretionary Term Decisions made by the Solar III Project Committee shall be by a simple majority, with each Project Participant having one equally-weighted vote on Solar III Project matters. After formation of the Solar III Project, each Project Participant shall designate a representative to serve on the Solar III Project Committee. The Solar III Project Committee shall develop a Solar III Project Committee Charter for review and approval of the Board of Directors.

SECTION 8. Availability of Entitlement Shares.

Except as provided otherwise by this Power Sales Contract, and subject to the provisions of the Solar PPA, the Project Participant's Solar Entitlement Share shall be made available for delivery to each Project Participant by FMPA in accordance with this Power Sales Contract during the term of this Power Sales Contract; provided, however, that, regardless of the amount of Solar Product actually delivered in any given month, Project Participant shall be obligated to make its payments under SECTION 5 hereof all for non-energy related Project Related Costs.

SECTION 9. Accounting.

(a) FMPA agrees to keep accurate records and accounts relating to the Solar III Project and relating to Monthly Energy Costs, and Project Related Costs, in accordance with the Uniform System of Accounts, separate and distinct from its other records and accounts. Said accounts shall be audited annually, which audit may be conducted as part of and in connection with the normal year-end audit of FMPA, by a firm of certified public accountants, experienced in public finance and electric utility accounting and of national reputation, to be employed by FMPA. A copy of each annual audit, including all written comments and recommendations of such accountants, shall be furnished by FMPA to the Project Participant not later than 120 days after the end of each Contract Year.

(b) The Project Participant shall supply to FMPA upon request a copy of the Project Participant's annual financial audit. Project Participant shall notify FMPA in writing immediately upon becoming aware of any event that may negatively affect the Project Participant's credit rating or cause a Downgrade Event, as defined in the Solar PPA.

SECTION 10. Information to be Made Available.

(a) Based, in each case, upon the data most recently available to FMPA pursuant to the Solar PPA, at intervals requested by Project Participant, FMPA will prepare and issue to the Project Participant the following reports:

- (1) status of the Solar III Project annual budget,
- (2) status of construction of the Solar Facility during construction, as received from Seller, and
- (3) operating statistics relating to Solar III Project, as received from Seller

(b) Upon request, FMPA shall furnish or otherwise make available to the Project Participant all other information which FMPA receives from Seller pursuant to the Solar PPA.

(c) FMPA shall promptly provide Project Participant copies of any notices made or received by FMPA pursuant to the Solar PPA.

(d) Project Participant shall, upon request, furnish to FMPA all such information as is reasonably required by FMPA to carry out its obligations under this Power Sales Contract and the Solar PPA. As the Solar III Project is obligated to demonstrate creditworthiness as a requirement of the Solar PPA and report to Seller any Downgrade Event, Project Participants will cooperate with FMPA and will promptly notify FMPA of any event experienced by Project Participant that may cause or contribute to a Downgrade Event.

SECTION 11. Covenants.

(a) Project Participant Covenants. Project Participant agrees (1) to maintain its electric utility system in good repair and operating condition; (2) to cooperate with FMPA in the performance of the respective obligations of such Project Participant and FMPA under this Power Sales Contract; (3) to establish, levy and collect rents, rates and other charges for the products and services provided by its electric utility system, which rents, rates, and other charges shall be at least sufficient (i) to meet the operation and maintenance expenses of such electric utility system, (ii) to comply with all covenants pertaining thereto contained in, and all other provisions of, any resolution, trust indenture, or other security agreement relating to any bonds or other evidences of indebtedness issued or to be issued by the Project Participant, (iii) to generate funds sufficient to fulfill the terms of all other contracts and agreements made by the Project Participant, including, without limitation, this Power Sales Contract, and (iv) to pay all other amounts payable from or constituting a lien or charge on the revenues of its electric utility system; and (4) take such action and execute and deliver all documents and information reasonably necessary to enable FMPA to perform its obligations under the Solar PPA.

Project Participant agrees that any power purchase agreement entered into by Project Participant after the Effective Date of this Power Sales Contract, including, without limitation, any full-requirements power supply agreement, with any third party shall permit Project Participant to purchase and receive Solar Product pursuant to this Power Sales Contract.

(b) FMPA Covenants. FMPA covenants that it shall administer and enforce against the Seller the terms and conditions of the Solar PPA, including complying with any covenants required therein, as advised by the Solar III Project Committee and directed by the FMPA Board of Directors.

SECTION 12. Event of Default – Project Participant.

(a) Failure of the Project Participant to make to FMPA when due any of the payments for which provision is made in this Power Sales Contract shall constitute an immediate default on the part of the Project Participant.

(b) Continuing Obligation, Right to Discontinue Service. In the event of any default referred to in this SECTION 12 hereof, the Project Participant shall not be relieved of its liability for payment of the amounts in default, plus reasonable attorney's fees and costs, and FMPA shall have the right to recover from the Project Participant any amount in default. In enforcement of any such right of recovery, FMPA may bring any suit, action, or proceeding in law or in equity, including mandamus, injunction, specific performance, declaratory judgment, or any combination thereof, as may be necessary or appropriate to enforce any covenant, agreement or obligation to make any payment for which provision is made in this Power Sales Contract against the Project Participant, and FMPA shall, upon ten (10) days written notice to the Project Participant, cease and discontinue, either permanently or on a temporary basis, providing all or any portion of the Project Participant's Solar Entitlement Share, at the discretion of the Solar III Project Committee.

(c) Transfer of Solar Entitlement Shares Following Default. In the event of a default by any Project Participant and permanent discontinuance of service pursuant to this SECTION 12 of such Project Participant's Power Sales Contract, FMPA is hereby appointed the agent of such Project Participant for the

purpose of disposing of such Project Participant's Solar Entitlement Share and as such agent, FMPA shall proceed to dispose of such defaulting Project Participant's Solar Entitlement Share as follows:

(1) FMPA shall first offer to transfer to all other non-defaulting Project Participants a pro rata portion of the defaulting Project Participant's Solar Entitlement Share which shall have been discontinued by reason of such default. Any part of such Solar Entitlement Share of a defaulting Project Participant which shall be declined by any non-defaulting Project Participant shall be reoffered pro rata to the non-defaulting Project Participants which have accepted in full the first such offer; such reoffering shall be repeated until such defaulting Project Participant's Solar Entitlement Share has been reallocated in full or until all non-defaulting Project Participants have declined to take any portion or additional portion of such defaulting Project Participant's Solar Entitlement Share.

(2) In the event less than all of a defaulting Project Participant's Solar Entitlement Share shall be accepted by the other non-defaulting Project Participants pursuant to clause (1), FMPA shall, to the extent permitted by law, use commercially reasonable efforts to sell the remaining portion of a defaulting Project Participant's Solar Entitlement Share for the remaining term of such defaulting Project Participant's Power Sales Contract with FMPA. The agreement for such sale shall contain such terms and conditions, including provisions for discontinuance of service upon default, and as are otherwise acceptable to the Solar III Project Committee.

(3) Any portion of the Solar Entitlement Share of a defaulting Project Participant transferred pursuant to SECTION 12(c)(1) to a non-defaulting Project Participant shall become a part of and shall be added to the Solar Entitlement Share of such Project Participant(s), and each such Project Participant(s) shall be obligated to pay for its Solar Entitlement Share increased as aforesaid, as if the Solar Entitlement Share of such Project Participant(s), increased as aforesaid, had been stated originally as the Solar Entitlement Share of such Project Participant(s) in its Power Sales Contract with FMPA; provided, however, that the Project Participant assuming the defaulting Project Participant's Power Entitlement share shall not be liable for, and the defaulting Project Participant shall remain liable for, any amounts owed by the defaulting Project Participant prior to the assignment and assumption of the defaulting Project Participant's Power Entitlement Share.

(4) The defaulting Project Participant shall remain liable for all payments to be made on its part pursuant to the Power Sales Contract, except that the obligation of the defaulting Project Participant to pay FMPA shall be reduced to the extent that payments shall be received by FMPA, net of any administrative and reasonable attorney's fees and costs incurred by FMPA that is caused by the default, for that portion of the defaulting Project Participant's Solar Entitlement Share which may be transferred or sold or for the Solar Product associated therewith which may be sold as provided in clauses (1), (2), or (3) of this SECTION 12. Notwithstanding the foregoing, to the extent a defaulting Project Participant has failed to pay its Solar III Project invoice, in order to prevent FMPA from defaulting under the Solar PPA, the non-defaulting Project Participants' monthly Solar III Project invoices shall be increased on a pro rata basis, based on such Project Participants Solar Entitlement Shares, unless and until FMPA shall recover from the defaulting Project Participants amounts owed, upon which FMPA shall reimburse the non-defaulting Project Participants.

(d) Other Default by Project Participant. In the event of any default by the Project Participant under any other covenant, agreement or obligation of this Power Sales Contract which has not been cured within thirty (30) days after receipt of notice by FMPA, FMPA may bring any suit, action, or proceeding in law or in equity, including mandamus, injunction, specific performance, declaratory judgment, or any combination thereof, as may be necessary or appropriate to enforce any covenant, agreement or obligation

of this Power Sales Contract against the Project Participant. Such remedies shall be in addition to all other remedies provided for herein.

SECTION 13. Default by FMPA.

In the event of any default by FMPA under any other covenant, agreement or obligation of this Power Sales Contract, Project Participant may bring any suit, action, or proceeding in law or in equity, including mandamus, injunction, specific performance, declaratory judgment, or any combination thereof, as may be necessary or appropriate to enforce any covenant, agreement or obligation of this Power Sales Contract against FMPA. Such remedies shall be in addition to all other remedies provided for herein.

SECTION 14. Abandonment of Remedy.

In case any proceeding taken on account of any default shall have been discontinued or abandoned for any reason, the parties to such proceedings shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of FMPA and the Project Participant shall continue as though no such proceedings had been taken.

SECTION 15. Waiver of Default.

Any waiver at any time by either FMPA or the Project Participant of its rights with respect to any default of the other party hereto, or with respect to any other matter arising in connection with this Power Sales Contract, shall not be a waiver with respect to any subsequent default, right or matter.

SECTION 16. Relationship to and Compliance with Other Instruments.

The performance of FMPA under this Power Sales Contract is made subject to the terms and provisions of the Solar PPA.

SECTION 17. Measurement of Electric Energy.

FMPA will or will cause Seller to install, maintain, and operate the metering equipment, required to measure the quantities of Electric Energy produced and delivered from the Solar Facility in accordance with the Solar PPA. Each meter used pursuant to this SECTION 17 shall be tested and calibrated in accordance with the Solar PPA.

SECTION 18. Liability of Parties.

Any liability which is incurred by FMPA pursuant to the Solar PPA and not covered, or not covered sufficiently, by insurance shall be paid solely from the revenues of FMPA derived from the Solar III Project, and any payments made by FMPA, or which FMPA is obligated to make, to satisfy such liability shall become part of Monthly Energy Costs, as required in order to satisfy the obligation of FMPA to make such payments as provided in the Solar PPA.

SECTION 19. Assignment or Sale of Project Participant's Solar Entitlement Share.

(a) Project Participant may terminate this Power Sales Contract upon 90 days advance written notice to FMPA and provided that Project Participant pay, prior to the termination date, the amounts set forth in this SECTION 19(a). Prior to the termination date, Project Participant shall pay to FMPA all stranded cost obligations, as determined by FMPA, to hold the other, non-terminating, Project Participants harmless from the costs associated with Project Participant's termination. For purposes of this SECTION 19(a), stranded cost obligations are defined as an estimate of the solar energy costs that FMPA will pay for the terminating Project Participant's Solar Entitlement Share during each remaining month of the remaining Initial Term of the Solar PPA based on a forecast of expected solar production. The forecast of expected solar production is defined as a P50 (probability of exceedance is 50 percent) production estimate under typical meteorological year conditions using an industry standard modeling tool (PVsyst or its

successor/peer products) reflective of a degradation rate of 0.5% per year relative to the original nominal alternating current capacity of the solar resource in the current year (prorated over a partial year as applicable) and each subsequent remaining year of the Solar PPA Initial Term. Upon such payment and termination, Project Participant shall have no further obligation to the Solar III Project or other Project Participants under this Power Sales Contract. The terminating Project Participant's Solar Entitlement Share shall be allocated to the remaining Project Participants on a pro rata basis based on their Solar Entitlement Shares.

(b) Project Participant may assign this Power Sales Contract to another Project Participant or another FMPA member, provided that such assignee agrees to fully assume, and fully accept all terms and conditions of, this Power Sales Contract for the Term hereof. If assigned to a FMPA member that is not a Project Participant, such assuming FMPA member shall become a Project Participant upon its assumption of the Power Sales Contract. Upon such assignment and assumption, this Power Sales Contract shall terminate, and Project Participant shall have no further obligation to the Solar III Project or other Project Participants under this Power Sales Contract.

(c) In the event the Project Participant shall determine that all or any amount of the Solar Product which can be produced from the Project Participant's Solar Entitlement Share are in excess of the requirements of the Project Participant, or Project Participant no longer desires to purchase and receive its Solar Entitlement Share, at the written request of the Project Participant, FMPA shall use commercially reasonable efforts to sell and transfer on behalf of such Project Participant for any period of time all or any part of such excess Solar Product to such other Project Participant or Participants as shall agree to take such Solar Product at such prices as may be agreed to, provided, however, that in the event the other Project Participants do not agree to take the entire amount of such excess, FMPA shall have the right, to the extent permitted by law, to dispose of such excess to other utilities. If all or any portion of such excess of the Project Participant's Solar Entitlement Share is sold pursuant to this SECTION 19(c), then the Project Participant's Solar Entitlement Share shall not be reduced, and the Project Participant shall remain liable to FMPA to pay the full amount due as if such sale had not been made; except that such liability shall be discharged to the extent that FMPA shall receive payment for such excess from the purchaser or purchasers thereof and that any amounts received by FMPA as payment for such excess which is greater than the liability owed by the Project Participant to FMPA in respect of such excess shall be promptly paid or credited by FMPA to the Project Participant.

SECTION 20. Consent to Assignment of Power Sales Contract, Sale of Project Participant's System.

(a) This Power Sales Contract shall inure to the benefit of and shall be binding upon the respective successors and assigns of the parties to this Power Sales Contract; provided, however, that, except as provided in (1) SECTION 12 hereof in the event of a default; (2) SECTION 19(a), and (3) SECTION 20(b), neither this Power Sales Contract nor any interest herein shall be transferred or assigned by either party hereto except with the consent in writing of the other party hereto, which consent shall not be unreasonably withheld. The Solar III Project Committee shall make a recommendation on any assignment of a Power Sales Contract hereunder to the FMPA Board of Directors for their action.

(b) Project Participant agrees that it will not sell, lease, abandon or otherwise dispose of all or substantially all of its electric utility system except upon ninety (90) days prior written notice to FMPA and, in any event, will not sell, lease, abandon or otherwise dispose of the same unless the following conditions are met: (i) the Project Participant shall, subject to the Solar PPA, assign this Power Sales Contract and its rights and interest hereunder to the purchaser or lessee of said electric system, if any, and any such purchaser or lessee shall assume all obligations of the Project Participant under this Power Sales Contract; and (ii) FMPA shall by affirmative vote of the FMPA Solar III Project Committee reasonably determine that such

sale, lease, abandonment or other disposition will not materially adversely affect FMPA's ability to meet its obligations under the Solar PPA.

SECTION 21. Termination or Amendment of Contract.

(a) This Power Sales Contract shall not be terminated by either party under any circumstances, whether based upon the default of the other party under this Power Sales Contract or any other instrument or otherwise except as specifically provided in this Power Sales Contract.

(b) This Power Sales Contract may be terminated by FMPA by notice to the Project Participant upon an event of default by Project Participant that has not been cured in accordance with this Power Sales Contract.

(c) No Power Sales Contract entered into between FMPA and another Project Participant may be amended so as to provide terms and conditions different from those herein contained except upon written notice to and written consent or waiver by each of the other Project Participants, and upon similar amendment being made to the Power Sales Contract of any other Project Participants requesting such amendment after receipt by such Project Participant of notice of such amendment.

SECTION 22. Notice and Computation of Time.

Any notice or demand by the Project Participant to FMPA under this Power Sales Contract shall be deemed properly given if sent by overnight mail or courier, or by facsimile or email transmission to the following:

Florida Municipal Power Agency
Attn: Chief Operating Officer
8553 Commodity Circle
Orlando, FL 32819
Email: ken.rutter@fmpa.com
Fax: 407-355-5794

With a required copy to:
FMPA Office of the General Counsel
2061-2 Delta Way
P.O. Box 3209 (32315-3209)
Tallahassee, FL 32303
Email: jody.lamar.finkea@fmpa.com
dan.ohagan@fmpa.com
Fax: 850-297-2014

Any notice or demand by FMPA to the Project Participant under this Power Sales Contract shall be deemed properly given if sent by overnight mail or courier, or by facsimile or email transmission, and addressed to the Project Participant at the address set forth on Schedule 1 hereto.

A notice sent by facsimile transmission or e-mail will be recognized and shall be deemed received on the business day on which such notice was transmitted if received before 5:00 p.m. (and if received after 5:00 p.m., on the next business day) and a notice of overnight mail or courier shall be deemed to have been received two (2) business days after it was sent or such earlier time as is confirmed by the receiving Party.

The designations of the name and address to which any such notice or demand is directed may be changed at any time and from time to time by either party giving notice as above provided.

SECTION 23. Applicable Law; Construction.

This Power Sales Contract is made under and shall be governed by the laws of the State of Florida. Headings herein are for convenience only and shall not influence the construction hereof.

SECTION 24. Severability.

If any section, paragraph, clause or provision of this Power Sales Contract shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this Power Sales Contract shall remain in full force and effect as though such section, paragraph, clause or provision or any part thereof so adjudicated to be invalid had not been included herein.

SECTION 25. Solar III Project Responsibility

This Power Sales Contract is a liability and obligation of the Solar III Project only. No liability or obligation under this Power Sales Contract shall inure to or bind any of the funds, accounts, monies, property, instruments, or rights of FMPA generally, any individual FMPA member other than Project Participant, or any of any other "project" of FMPA as that term is defined in the Interlocal Agreement

IN WITNESS WHEREOF, the parties hereto have caused this Power Sales Contract to be executed by their proper officers respectively, being thereunto duly authorized, and their respective seals to be hereto affixed, as of the day and year first above written.

FLORIDA MUNICIPAL POWER AGENCY

(SEAL)

By: _____
General Manager & CEO

Attest:

Date: _____

Secretary or Assistant Secretary

[MEMBER]

(SEAL)

By:

Title:

Attest:

Date: _____

By:

Approved as to form and legal sufficiency:

By:

ATTACHMENT A
POWER PURCHASE AGREEMENTS

ATTACHMENT B

FMPA PROCESS FOR DETERMINING ALLOCABLE A&G COSTS

FMPA uses a process to determine the Administrative and General costs (A&G) that will be incurred to effectively manage its non-ARP power supply projects. FMPA's Board approves the process and the allocations to power supply project participants when the Board approves each annual power supply project budget. The process is subject to annual review and approval by the Board, and thus, may change from time to time.

The total A&G allocated to the Solar III Project will not exceed 100% of the cost associated with the single highest cost non-executive level FMPA position essential to the effective management of the Projects, and annual increases in total A&G allocated shall be commensurate with annual salary increases of such highest costs non-executive level FMPA position. Any revision to this approach shall require the approval of the Solar III Project Committee. As of the Effective Date of this Agreement, the amount equal to 100% of the cost associated with the single highest cost non-executive level FMPA position essential to the effective management of the Projects is \$\$\$\$.

The following describes the power supply project A&G cost determination process for the FY2023 Budget and provides an example of how A&G costs will be allocated to Solar III Project and ARP Solar Participants, starting with the FY2024 budget:

- 1) Staff determines the FMPA positions that are essential to effective management of the Projects.
- 2) Staff determines the percent time each position spends serving the needs of each the Projects and the ARP.
- 3) The allocable cost of each position to each of the Projects is the percent time this position spends serving the needs of each the Projects determined in 2) multiplied by the current mid-point of the salary range of the position as maintained by FMPA's Human Resources Department and approved by the Board, and multiplied by FMPA's overhead adder percentage.
- 4) The total A&G allocated to each Project is the sum of the allocable costs of each position essential to effective management of the Project.
- 5) Once the annual A&G costs to be allocated to the Solar III Project is determined, the amount is divided by 12 to arrive at the monthly allocable A&G costs.
- 6) For Solar III Project, the monthly allocable A&G costs will be divided by the total amount of the solar energy received by the Solar III Project for the billing month to determine a monthly allocable A&G rate (\$/MWh). Each Solar III Project pays this rate times the amount of solar energy each Participant received during the billing month.
- 7) The table below is an example of the calculation of annual and monthly allocable A&G costs to each power supply project and the Solar III Project for the FY2023 Budget using cost data and the process approved for the FY2023 Budget. This allocation process is subject to Board approval each year.

Example A&G Allocation for FY 2020 Budget								
Position	FY 2019 Mid Point Salary	ARP	STN	Tri-City	STN 2	St Lucie	Solar	Solar 2
General Manager	\$225,000	19.2%	19.2%	19.2%	19.2%	19.2%	2.0%	2.0%
Admin Asst.	\$57,712	19.2%	19.2%	19.2%	19.2%	19.2%	2.0%	2.0%
Director of Engineering	\$196,197	19.2%	19.2%	19.2%	19.2%	19.2%	2.0%	2.0%
Engineer	\$116,129	18.0%	18.0%	18.0%	18.0%	18.0%	5.0%	5.0%
Engineering Assistant	\$57,712	19.2%	19.2%	19.2%	19.2%	19.2%	2.0%	2.0%
Director of Finance	\$185,092	16.0%	16.0%	16.0%	16.0%	16.0%	10.0%	10.0%
Mgr. Contracts Compliance	\$123,097	16.0%	16.0%	16.0%	16.0%	16.0%	10.0%	10.0%
Accountant III	\$116,129	16.0%	16.0%	16.0%	16.0%	16.0%	10.0%	10.0%
Accounting Clerk	\$43,126	16.0%	16.0%	16.0%	16.0%	16.0%	10.0%	10.0%
Payroll Clerk PT	\$45,714	19.2%	19.2%	19.2%	19.2%	19.2%	2.0%	2.0%
Total	\$1,165,908	\$207,503	\$207,503	\$207,503	\$207,503	\$207,503	\$64,198	\$64,198
Overhead Adder	88.83%	88.83%	88.83%	88.83%	88.83%	88.83%	88.83%	88.83%
Annual Allocable A&G	\$2,201,616	\$391,833	\$391,833	\$391,833	\$391,833	\$391,833	\$121,226	\$121,226
Monthly Allocable A&G	\$183,468	\$32,653	\$32,653	\$32,653	\$32,653	\$32,653	\$10,102	\$10,102

<<Note: This table to be updated with numbers from 2023 Budget when complete>>

ATTACHMENT C

WORKING CAPITAL ALLOWANCE

In order to provide for working capital for the Solar III Project, and to provide for the Solar III Project's ability to pay Seller in the event that of non-payment by one or more Project Participants, the Solar III Project shall maintain a working capital fund in the principal amount of \$\$\$\$ as cash on hand, or other financial instrument as determined by the Solar III Project Committee. The working capital fund will be funded at the time solar energy starts to be provided under the Solar PPA and will remain in place for the remaining term of this Power Sales Contract. Working capital expenses, including payment of interest on any amounts drawn on any financial instruments, shall constitute Project Related Costs.

ATTACHMENT D

PROJECT DEVELOPMENT FUND COSTS

As of the Effective Date of this Agreement, FMPA has incurred zero dollars (\$00.00) in Project Development Fund costs related to the Solar III Project.

The amount of Project Development Fund costs allocable to Project Participants shall be calculated by dividing the total balance of Development Fund Costs incurred for solar development by the total expected energy production allocated to the Solar III Project over the first 20 years of the Solar PPA. The resulting dollar per MWh cost shall be allocated as a Project Related Cost.

Project Development Fund Cost	Units	Value
Total Development Fund Expenditure	\$	
Participant Capacity	MW-AC	
Est. Annual Capacity Factor	%	
Est. Annual Project Energy	MWh	
20 Year Buy down Per Year	\$	
20 Year Buy down Per MWh	\$/MWh	

SCHEDULE 1
SCHEDULE OF PROJECT PARTICIPANTS

<u>Name of Project Participant</u>	<u>Solar Entitlement Share (MW)</u>	<u>Solar Entitlement Share (%)</u>
Homestead Public Services	10	4.8%
JEA	149.8	71.4%
City of Lake Worth Beach	30	14.3%
Winter Park Electric Utility	20	9.5%
Total	209.8	100%

Notice Information of Project Participants

<p><u>Homestead Public Services</u> George Gretsas, City Manager The City of Homestead 100 Civic Court Homestead, FL 33033</p>	<p><u>City of Lake Worth Beach</u> City of Lake Worth Beach Electric Utilities Director 1900 2nd Avenue North Lake Worth, FL 33461 Tel: (561) 586-1670</p> <p>With a copy to: City of Lake Worth Attn: City Attorney 7 N. Dixie Highway Lake Worth, FL 33460</p>
<p><u>JEA</u> [TBD]</p>	
<p><u>Winter Park Electric Utility</u> City of Winter Park Randy Knight, City Manager 401 South Park Avenue Winter Park, FL 32789-4386</p>	

SOLAR POWER PURCHASE AGREEMENT

between

**Florida Municipal Power Agency
(Solar III Project)**

as Buyer

and

as Seller

dated as of

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**SOLAR POWER PURCHASE AGREEMENT
(Solar III Project)**

This SOLAR POWER PURCHASE AGREEMENT (this “**Agreement**”) is made this [REDACTED] day of [REDACTED], 202[REDACTED], (the “**Effective Date**”), by and between **the Florida Municipal Power Agency**, a separate governmental legal entity creating and existing pursuant to Section 163.01, Florida Statutes, and exercising powers under that provision or Part II, Chapter 361, Florida Statutes or both (“**Buyer**”) and [REDACTED], a [REDACTED] (“**Seller**”). Buyer and Seller are each individually referred to herein as a “**Party**” and collectively as the “**Parties**.”

RECITALS

WHEREAS, Seller intends to develop a photovoltaic solar energy generation facility of approximately 74.9 MW aggregate nameplate capacity on a site located in [REDACTED] County, Florida, as further described in Exhibit B (the “**Project**”); and

WHEREAS, Seller desires to sell, and Buyer desires to purchase and receive, all of the electric Energy and associated Capacity Attributes and Environmental Attributes from Buyer’s Share of the Project, on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the promises and of the mutual covenants herein set forth, and other good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, the Parties hereto, intending to be legally bound, do hereby agree as follows:

**ARTICLE 1
DEFINITIONS AND INTERPRETATION**

1.1 Definitions.

“**AC**” means alternating current.

“**Abandon**” means after having commenced construction of the Project, Seller stops construction of the Project for more than ninety (90) consecutive days excluding cessation of construction work caused by the occurrence of a Force Majeure Event, Permitting Delay, or Transmission Delay and because of such stoppage Seller cannot reasonably demonstrate to Buyer that it will nonetheless be able to complete the Facility within the timeframe contemplated by this Agreement.

“**Adjustment Period**” has the meaning set forth in Section 5.2.

“**Affiliate**” means, with respect to any Person, any entity controlled, directly or indirectly, by such Person, any entity that controls, directly or indirectly, such Person or any entity directly or indirectly under common control with such Person. For the purposes of this definition, “control” (including, with correlative meanings, the terms “controlled by” and “under common control with”), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and

policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

“Agreement” has the meaning set forth in the first paragraph hereof.

“Annual Energy Output Guarantee” has the meaning set forth in Exhibit D.

“Applicable Law” means, with respect to any Person or the Project, all laws, statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, Governmental Approvals, directives and requirements of all regulatory and other Governmental Authorities, in each case applicable to or binding upon such Person or the Project (as the case may be).

“Applicable REC Program” means, except as otherwise agreed by the Parties, the Green-e Renewable Energy Standard for the United States published by the Center for Resource Solutions, as may be amended, restated, supplemented, or otherwise modified from time to time, and any successor voluntary renewable energy program established as a replacement for such program.

“Bankrupt” means, with respect to a Party, such Party (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) is generally unable to pay its debts as they fall due, (v) been adjudicated bankruptcy or has filed a petition or an answer seeking an arrangement with creditors, (vi) taken advantage of any insolvency law or shall have submitted an answer admitting the material allegations of a petition in bankruptcy or insolvency proceeding, (vii) become subject to an order, judgment or decree for relief, entered in an involuntary case, without the application, approval or consent of such Party by any court of competent jurisdiction appointing a receiver, trustee, assignee, custodian or liquidator, for a substantial part of any of its assets and such order, judgment or decree shall continue unstayed and in effect for any period of one hundred eighty (180) consecutive Days, (viii) failed to remove an involuntary petition in bankruptcy filed against it within one hundred eighty (180) Days of the filing thereof, or (ix) become subject to an order for relief under the provisions of the United States Bankruptcy Act, 11 U.S.C. § 301.

“Business Day” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday. A Business Day commences at 8:00 a.m. and ends at 5:00 p.m. local time for the location of the Site.

“Buyer” has the meaning set forth in the first paragraph of this Agreement.

“Buyer Curtailment Cap” means █ % of the Buyer’s Share of the Annual Energy Output listed in Table A of Exhibit D.

“Buyer Curtailment Order” means the instruction from Buyer to Seller to reduce Buyer’s Share of generation from the Project by the amount, and for the period of time set forth in such order, for reasons unrelated to a Planned Outage, Forced Outage, Force Majeure and/or Curtailment Period.

“Buyer Curtailment Period” means the period of time during which Seller reduces generation from the Project pursuant to a Buyer Curtailment Order. The Buyer Curtailment Period shall be inclusive of the time required for the Project to ramp down and ramp up.

“Buyer Excuses” has the meaning set forth in Section 3.5(b).

“Buyer’s Share” means _____%.

“Capacity Attributes” means any current or future defined characteristic, certificate, tag, credit, or ancillary service attribute, whether general in nature or specific as to the location or any other attribute of the Project intended to value any aspect of the capacity of the Project to produce Energy or ancillary services. Notwithstanding any other provision hereof, Capacity Attributes do not include Environmental Attributes or Tax Attributes.

“Capacity Shortfall” means the difference between Buyer’s Share of the Expected Project Capacity and Buyer’s Share of the amount of Project capacity that has achieved Commercial Operation as of the applicable date.

“Capacity Shortfall Damages” has the meaning set forth in Section 4.4(b).

“Change of Law” means any enactment, adoption, promulgation, modification or repeal of any Applicable Law, or in the administration, interpretation or application thereof by any Governmental Authority occurring on or after the Effective Date.

“Commercially Reasonable” or **“Commercially Reasonable Efforts”** means, with respect to any purchase, sale, decision, or other action made, attempted or taken by a Party, such efforts as a reasonably prudent business would undertake for the protection of its own interest under the conditions affecting such purchase, sale, decision or other action, consistent with Prudent Operating Practices, including, without limitation, electric system reliability and stability, state or other regulatory mandates relating to renewable energy portfolio requirements, the cost of such action (including whether such cost is reasonable), the amount of notice of the need to take a particular action, the duration and type of purchase or sale or other action, and the commercial environment in which such purchase, sale, decision or other action occurs. “Commercially Reasonable” or “Commercially Reasonable Efforts” shall be reviewed and determined based upon the facts and circumstances known, or which could have been known with the exercise of reasonable efforts, at the time that a sale, purchase, or other action is taken and shall not be based upon a retroactive review of what would have been optimal at such time.

“Commercial Operation” means that (a) Seller has delivered to Buyer the Performance Assurance required under Section 9.3; (b) Seller has received all material Governmental

Approvals as may be required prior to commencing commercial operations by Applicable Law for the construction, operation and maintenance of the Project; and (c) the Project or any portion thereof, as applicable, is operating and able to produce and deliver, or make available for delivery, Energy at the Delivery Point.

“Commercial Operation Date” means the earlier of (a) the date on which Commercial Operation has occurred with respect to the full Expected Project Capacity and Seller has provided written notice of the Commercial Operation Date to Buyer; (b) 180 days after the Target Commercial Operation Date (as may be extended by Permitted Extensions); and (c) the date the Termination Option is exercised.

“Compliance Cost Cap” has the meaning set forth in Section 3.18.

“Compliance Costs” means all reasonable out-of-pocket costs and expenses, including registration fees, volumetric fees, license renewal fees, external consultant fees and capital costs necessary for compliance, incurred by Seller and paid directly to third parties in connection with Seller’s compliance with obligations under any Applicable Law in connection with, as applicable, the qualification of the Project as a renewable energy resource, the certification and transfer of Environmental Attributes, and compliance with the Transmission Owner and Transmission Provider regulations and requirements applicable to the Project due to a Change of Law after the Effective Date which requires Seller to incur additional costs and expenses in connection with any of such obligations, in excess of the costs and expenses incurred for such obligations under Applicable Law in effect as of the Effective Date.

“Confidential Information” has the meaning set forth in Section 13.1.

“Connecting Utility” means the Person that owns the portion of the electric transmission system at the Interconnection Point.

“Continuation Option” has the meaning set forth in Section 4.4.

“Contract Price” has the meaning set forth in Exhibit A.

“Contract Year” means, after the Commercial Operation Date, a calendar year commencing HE 0100 on January 1 and ending on HE 2400 on December 31 of the same year; provided that, if this Agreement is terminated prior to its expiration, the Contract Year in which such termination occurs will end at HE 2400 on the termination date and if the Commercial Operation Date occurs a date other than January 1, the first Contract Year shall commence HE 0100 on the Commercial Operation Date, and all related provisions of this Agreement shall be adjusted for such condensed Contract Years on a pro rata basis.

“Costs” means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third party transaction costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace a Terminated Transaction; and all

reasonable attorneys' fees and expenses incurred by the Non-Defaulting Party in connection with such Terminated Transaction.

“Credit Rating” means, (a) with respect to Seller, the rating then assigned to Seller's unsecured, senior long-term debt obligations (not supported by third-party credit enhancements) or if Seller does not have a rating for its senior unsecured long-term debt, then the rating then assigned to Seller as an issues rating by the Rating Agencies; and (b) with respect to Buyer, the rating then assigned to Buyer's long-term bonds secured by revenues of the FMPA Solar III Project or, if Buyer does not have a rating for its long-term bonds or no such bonds are issued and outstanding, then either (i) the rating then assigned to the electric or integrated utility system of each FMPA Solar III Project Participant or (ii) the rating then assigned to the municipality of which the FMPA Solar III Project Participant is a department.

“Creditworthy Entity” means an entity has a Credit Rating of BBB- from S&P or Baa3 from Moody's with a stable outlook.

“Curtailment Period” means the period of time during which there is any curtailment of delivery of the Product resulting from a reduction (including curtailment to zero output or non-dispatch) of the net electrical output of the Project from levels of net electrical output the Project would otherwise be capable of producing, including during a Transmission Interruption that prevents Buyer from receiving Energy at or Seller from delivering Energy to the Delivery Point, as directed or caused by the Transmission Provider, a Governmental Authority, or Transmission Owner not due to actions or omissions of Seller or an Affiliate of Seller.

“Daily Delay Damages” [REDACTED]

“Damages Rate” has the meaning set forth in Exhibit D.

“Day” or “day” means a period of twenty-four (24) consecutive hours beginning at 00:00 hours local time at the Site location on any calendar day and ending at 24:00 hours local time at the Site location on the same calendar day.

“Deemed Delivered Energy” means the amount of Energy expressed in MWh that the Project would have produced and delivered to the Delivery Point, but that is not produced by the Project and delivered to the Delivery Point during a Buyer Curtailment Period, which amount shall be determined using relevant Project availability, weather and other pertinent data for the period of time during the Buyer Curtailment Period.

“Default Commercial Operation Date” means [REDACTED].

“Delivered Energy” means Buyer's Share of all Energy produced from the Project and delivered or made available at the Delivery Point, which shall be net of all Station Service

and electrical losses associated with the transmission of the Energy to the Delivery Point, including, if applicable, any transmission or transformation losses between the Metering System and the Delivery Point.

“Delivery Term” means the period of time commencing upon the Initial Energy Delivery Date and terminating at the end of the Term.

“Delivery Point” means the point, more specifically described in Exhibit C, where Seller’s Interconnection Facilities connect to the Transmission Owner’s Interconnection Facilities, which shall be the point of interconnection under the Interconnection Agreement.

“Disclosing Party” has the meaning set forth in Section 13.1.

“Dispute” has the meaning set forth in Section 17.1.

“Downgrade Event” refers to any point in time (a) with respect to either Party or its Guarantor’s Credit Rating falls below Investment Grade; and (b) with respect to Buyer, (i) any Credit Rating of Buyer’s long-term bonds secured by the revenues of the FMPA Solar III Project falls below Investment Grade; (ii) if Buyer does not have a Credit Rating for its long-term bonds or no such bonds are issued and outstanding, then (A) less than 65% of the FMPA Solar III Project Participant Entitlement Shares are held by FMPA Solar III Project Participants that have a Credit Rating, or (B) the Credit Ratings then assigned to the electric or integrated utility systems of FMPA Solar III Project Participants with Credit Ratings equals at least ## percent (XX%) of the Expected Project Capacity or Installed Capacity, as applicable, falls below Investment Grade; or (iii) if the FMPA Solar III Project Participant Covenants in any FMPA Solar III Project Power Sales Contract are amended, modified or altered in a manner which materially adversely impacts the ability of the FMPA Solar III Project to perform and pay its obligations under this Agreement and Seller does not consent thereto, such consent not to be unreasonably withheld, conditioned or delayed.

“Early Termination Date” has the meaning set forth in Section 7.2(a).

“Effective Date” has the meaning set forth in the first paragraph of this Agreement.

“Energy” means electric energy generated by the Project, which shall be in the form of three (3)-phase, sixty (60) Hertz, alternating current and expressed in units of megawatt-hours.

“Environmental Attribute” means any and all presently existing or future benefits, emissions reductions, environmental air quality credits, emissions reduction credits, greenhouse gas emissions, Renewable Energy Credits, offsets and allowances, green tag or other transferable indicia attributable to the Project during the Term, howsoever entitled or named, resulting from the generation of renewable energy or the avoidance, reduction, displacement or offset of the emission of any gas, chemical or other substance, including

any of the same arising out of presently existing or future legislation or regulation concerned with oxides of nitrogen, sulfur or carbon, with particulate matter, soot or mercury, or implementing the United Nations Framework Convention on Climate Change (“UNFCCC”) or the Kyoto Protocol to the UNFCCC or crediting “early action” emissions reduction, or laws or regulations involving or administered by the Clean Air Markets Division of the Environmental Protection Agency, or any successor state or federal agency given jurisdiction over a program involving transferability of Environmental Attributes, and any renewable energy certificate reporting rights to such Environmental Attributes. Notwithstanding any other provision hereof, Environmental Attributes do not include: (a) any Tax Attributes, (b) state, federal or private grants related to the Project, (c) Energy, or (d) Capacity Attributes.

“**Equitable Defenses**” means any bankruptcy, insolvency, reorganization or other laws affecting creditors’ rights generally and, with regard to equitable remedies, the discretion of the court before which proceedings may be pending to obtain same.

“**Event of Default**” has the meaning set forth in Section 7.1.

“**Executives**” has the meaning set forth in Section 17.2(a).

“**Expected Project Capacity**” has the meaning set forth in Section 3.4.

“**Fair Market Value**” means the amount that would be paid in an arm’s length, free market transaction, for cash, between an informed, willing seller and an informed willing buyer, neither of whom is under compulsion to complete the transaction, taking into account, among other things, the age, condition and performance of the Project and advances in solar technology, provided that installed equipment shall be valued on an installed basis, shall not be valued as scrap if it is functioning and in good condition and costs of removal from a current location shall not be a deduction from the valuation.

“**FMPA Solar III Project**” means the joint-action solar project created by the FMPA Board of Directors pursuant to FMPA Resolution 2023-B##, dated XXXX, 2023.

“**FMPA Solar III Project**” [TBD]

“**FMPA Solar III Project Participant Covenants**” [TBD]

“**FMPA Solar III Project Participant**” [TBD]

“**FMPA Solar III Project Participant Entitlement Share**” [TBD]

“**FMPA Solar III Project Power Sales Contract**” [TBD]

“**Forced Outage**” means any unplanned reduction or suspension of the electrical output from the Project or unavailability of the Project in an amount greater than ten percent (10%) of the Installed Capacity in response to a mechanical, electrical, or hydraulic control system

trip or operator-initiated trip in response to an alarm or equipment malfunction, or any other unavailability of the Project for maintenance or repair that is not a Planned Outage, due to a Buyer Curtailment Order or during a Curtailment Period, or the result of a Force Majeure Event.

“Force Majeure Event” means any event or circumstance which wholly or partly prevents or delays the performance of any material obligation arising under this Agreement, other than the obligation to pay amounts due, but only to the extent (1) such event is not within the reasonable control, directly or indirectly, of the Party seeking to have its performance obligation(s) excused thereby, (2) the Party seeking to have its performance obligation(s) excused thereby has taken all reasonable precautions and measures in order to prevent or avoid such event or mitigate the effect of such event on such Party’s ability to perform its obligations under this Agreement and which, by the exercise of due diligence, such Party could not reasonably have been expected to avoid and which by the exercise of due diligence it has been unable to overcome, and (3) such event is not the direct or indirect result of the fault or negligence of the Party seeking to have its performance obligations excused thereby.

- (a) Subject to the foregoing, events that could qualify as a Force Majeure Event include, but are not limited to the following:
 - (i) acts of God, flooding, lightning, landslide, earthquake, fire, drought, explosion, epidemic, quarantine, storm, hurricane, tornado, volcano, other natural disaster or unusual or extreme adverse weather-related events;
 - (ii) war (declared or undeclared), riot or similar civil disturbance, acts of the public enemy (including acts of terrorism), sabotage, blockade, insurrection, revolution, expropriation or confiscation;
 - (iii) except as set forth in subpart (b)(vii) below, strikes, work stoppage or other labor disputes (in which case the affected Party shall have no obligation to settle the strike or labor dispute on terms it deems unreasonable);
 - (iv) environmental and other contamination at or affecting the Project;
 - (v) accidents of navigation or breakdown or injury of vessels, accidents to harbors, docks, canals or other assistances to or adjuncts of shipping or navigation, or quarantine;
 - (vi) nuclear emergency, radioactive contamination or ionizing radiation or the release of any hazardous waste or materials;
 - (vii) air crash, shipwreck, train wrecks or other failures or delays of transportation;
 - (viii) vandalism beyond that which could be reasonably prevented by Seller;
 - (ix) the discovery of Native American burial grounds not evidenced in Seller’s Phase I environmental assessment of the Site;

- (x) the discovery of endangered species, as defined by Law; and
- (xi) breakdown or failure of equipment as a result of a serial manufacturer defect or flaw.

(b) A Force Majeure Event shall not be based on:

- (i) Buyer's inability economically to use or resell the Product purchased hereunder;
- (ii) Seller's ability to sell the Product at a price greater than the price set forth in this Agreement;
- (iii) Seller's inability to obtain Governmental Approvals or other approvals of any type for the construction, operation, or maintenance of the Project, except to the extent caused by a Force Majeure Event;
- (iv) Seller's inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Project, except to the extent Seller's inability to obtain sufficient labor, equipment, materials, or other resources is caused by a Force Majeure Event;
- (v) Seller's failure to obtain financing or other funds, including funds authorized by a state or the federal government or agencies thereof, to supplement the payments made by Buyer pursuant to this Agreement; or
- (vi) a strike, work stoppage or labor dispute limited only to any one or more of Seller or Seller's Affiliates.

“Force Majeure Extension” has the meaning set forth in Section 4.2(b)(iii).

“Gains” means with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of this Agreement for the remaining Delivery Term, determined in a commercially reasonable manner. Factors used in determining economic benefit may include, without limitation, reference to information either available to it internally or supplied by one or more third parties, including, without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., NYMEX), all of which should be calculated for the remaining term of this Agreement and include the value, if any, of Environmental Attributes.

“Governmental Approvals” means all authorizations, consents, certifications, approvals, waivers, exceptions, variances, filings, permits, orders, licenses, exemptions and declarations of or with any Governmental Authority and shall include those siting and operating permits and licenses, and any of the foregoing under any applicable environmental law, that are required for the use and operation of the Project.

“Governmental Authority” means any national, state, provincial, local, tribal or municipal government, any political subdivision thereof or any other governmental, regulatory, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, department, bureau, or entity having jurisdiction over either Party, the Project, the Site, Seller’s Interconnection Facilities, the Transmission Owner’s Interconnection Facilities, or the Transmission System, including the Transmission Provider and NERC; *provided, however,* that “Governmental Authority” will not in any event include any Party.

“Governmental Charges” has the meaning set forth in Section 12.2.

“Guarantor” means an entity which at the time it is to provide a Guaranty (a) has a Credit Rating of at least BBB from S&P or Baa2 from Moody’s if rated by only one Ratings Agency or at least BBB- from S&P and Baa3 from Moody’s if rated by both Ratings Agencies, and (b) is incorporated or organized in a jurisdiction of the United States and is in good standing in such jurisdiction.

“Guaranty” means a Guaranty substantially in the form of Exhibit E.

“Initial Energy Delivery Date” means the first date that Seller delivers or makes available Energy from the Project to Buyer at the Delivery Point.

“Initial Negotiation End Date” has the meaning set forth in Section 17.2(a).

“Initial Term” has the meaning set forth in Section 2.1.

“Installed Capacity” has the meaning set forth in Section 3.4.

“Interconnection Agreement” means the interconnection service agreement or agreements entered into by and among, as applicable, the Transmission Provider, the Transmission Owner, and the Seller (or Seller’s Affiliate and made available to Seller) pursuant to which the Project will be interconnected with the Transmission System.

“Interconnection Delay” has the meaning set forth in Section 4.2(b)(i).

“Interest Payment Date” means the last Business Day of each calendar month.

“Interest Rate” means the lower of (i) annual rate equal to the Prime Rate then in effect plus ten percent (10%) and (ii) the maximum interest permitted by Applicable Law.

“Interlocal Agreement” means the Interlocal Agreement creating the Florida Municipal Power Agency, as amended and supplemented to date, and as the same may be amended or supplemented in the future.

“Investment Grade” means a Credit Rating of BBB- from S&P or Baa3 from Moody’s with a stable outlook.

“Letter(s) of Credit” means one or more irrevocable, transferable standby letters of credit, substantially in the form of Exhibit F, issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a Credit Rating of at least A- from S&P or A3 from Moody’s, with a “stable outlook” by either S&P or Moody’s and having assets of at [REDACTED], in a form acceptable to the Party in whose favor the letter of credit is issued.

“Losses” means with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from a Terminated Transaction for the remaining term of this Agreement, determined in a commercially reasonable manner. Factors used in determining the loss of economic benefit may include, without limitation, reference to information either available to it internally or supplied by one or more third parties including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g. NYMEX), all of which should be calculated for the remaining term of this Agreement and include the value, if any, of Environmental Attributes and, if applicable, the value of any resulting loss or recapture of Tax Attributes.

“Manager” has the meaning set forth in Section 17.2(a).

“Metering System” means all meters, metering devices and related instruments used to measure and record Energy and to determine the amount of such Energy that is being made available or delivered to Buyer at the Delivery Point for the purpose of this Agreement.

“Meter Owner” shall be the Party or other Person that owns the Metering System.

“Moody’s” means Moody’s Investor Service, Inc. or any successor thereto, or in the event that there is no such successor, a nationally recognized credit rating agency.

“MW” means a megawatt (or 1,000 kilowatts) of AC electric generating capacity.

“MWh” means a megawatt hour of Energy.

“NERC” means the North American Electric Reliability Corporation.

“Non-Defaulting Party” has the meaning set forth in Section 7.2.

“Notice” has the meaning set forth in Section 18.1.

“Operating Procedures” has the meaning set forth in Section 3.11.

“PA Beneficiary” has the meaning set forth in Article 9.

“PA Provider” means the Party that has provided or is required to provide the applicable Performance Assurance.

“Parties” has the meaning set forth in the first paragraph of this Agreement.

“Party” has the meaning set forth in the first paragraph of this Agreement.

“Performance Assurance” means collateral provided by a Party to secure such Party’s obligations hereunder. Performance Assurance may be in the form of (i) Letter(s) of Credit, (ii) Cash, (iii) Surety Bond and/or (iv) a Guaranty.

“Permitted Extensions” means the extensions to the Target Commercial Operation Date set forth in Section 4.2.

“Permitting Delay” has the meaning set forth in Section 4.2(b)(ii).

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

“Planned Outage” means the removal of the all or a portion of the Project from service availability for inspection and/or general overhaul of one or more major equipment groups. To qualify as a Planned Outage, the maintenance (a) must actually be conducted during the Planned Outage, and in Seller’s sole discretion must be of the type that is necessary to reliably maintain the Project, (b) cannot be reasonably conducted during the Project’s operations, and (c) causes the generation level of the Project to be reduced by at least ten percent (10%) of the Installed Capacity. To the extent there are multiple Project Offtakers, any reduction in generation will be allocated to Buyer pro rata based on Buyer’s Share.

“Prime Rate” means the interest per annum equal to the prime rate as published in The Wall Street Journal or comparable successor publication under “Money Rates,” as applied on a daily basis, determined as of the date the obligation to pay interest arises, but in no event more than the maximum rate permitted by Applicable Law.

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

“Production Guarantee Damages” has the meaning set forth in Exhibit D.

“Production Shortfall” has the meaning set forth in Exhibit D.

“Project” has the meaning set forth in the Recitals to this Agreement.

“Project Cure Period” has the meaning set forth in Section 4.3(a).

“Project Investor” or **“Project Investors”** means any and all Persons or successors in interest thereof (a) lending money, extending credit or providing loan guarantees (whether directly to Seller or to an Affiliate of Seller) as follows: (i) for the construction, interim or permanent financing or refinancing of the Project; (ii) for working capital or other ordinary business requirements of the Project (including the maintenance, repair, replacement or improvement of the Project); (iii) for any development financing, bridge financing, credit support, credit enhancement or interest rate protection in connection with the Project; (iv) for any capital improvement or replacement related to the Project; or (v) for the purchase of the Project and the related rights from Seller; or (b) participating (directly or indirectly) as an equity investor (including a Tax Equity Investor) in the Project; or (c) any lessor under a lease finance arrangement relating to the Project.

“Project Offtaker” means the counterparty to a contract for the purchase of Energy. For the avoidance of doubt, the same entity may be deemed separate Project Offtakers to the extent it is party to multiple contracts for the purchase of Energy.

“Prudent Operating Practices” means the practices, methods and standards of professional care, skill and diligence engaged in or approved by a significant portion of the electric generation industry for solar facilities of similar size, type, and design, that, in the exercise of reasonable judgment, in light of the facts known at the time, would have been expected to accomplish results consistent with Applicable Law, reliability, safety, environmental protection and standards of economy and expedition. Prudent Operating Practices is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the industry.

“Purchase Option Price” means the applicable price set forth in the Purchase Option Price Table in Exhibit A.

“Qualified Transferee” means any person or entity that (a) has an equal or better credit rating than the Seller and satisfies the collateral requirements of the Seller set forth in the Agreement, (b) provides replacement Performance Assurance from a PA Provider with an Investment Grade Credit Rating and assets of at least [REDACTED], (c) has (or has contracted with for the purpose of this Agreement), or is the subsidiary of an entity that has, a record of owning and/or operating, for a period of at least three (3) years, solar photovoltaic generating facilities with an aggregate nameplate capacity of no less than 100 MW, and (d) that expressly assumes in writing all obligations of the Seller under this Agreement.

“Ratings Agency” means either of S&P or Moody’s.

“Receiving Party” has the meaning set forth in Section 13.1.

“Referral Date” has the meaning set forth in Section 17.2(a).

“Renewable Energy Credits” or **“RECs”** means any credits, certificates, green tags or similar environmental or green energy attributes associated with one MWh of electricity generated by the Project created by the Applicable REC Program.

“Renewal Term” has the meaning set forth in Section 2.1.

“S&P” means Standard & Poor’s Rating Group or any successor thereto, or in the event that there is no such successor, a nationally recognized credit rating agency.

“Sales Price” means to the extent Seller, acting in a Commercially Reasonable manner, sells any Product that Buyer does not receive, (i) the price Seller actually receives for such Product, or at Seller’s option, the market price at the Delivery Point for such Product not received as determined by Seller in a Commercially Reasonable manner; *less* (ii) any costs reasonably incurred by Seller in reselling such Product; provided, however, in no event shall the Sales Price include any penalties, ratcheted demand or similar charges, nor shall Seller be required to utilize or change its utilization of its owned or controlled assets, including contractual assets, or market positions to minimize Buyer’s liability.

“SEC” means the U.S. Securities and Exchange Commission.

“Seller” has the meaning set forth in the first paragraph of this Agreement.

“Seller Excuses” has the meaning set forth in Section 3.5(a).

“Seller’s Interconnection Facilities” means the interconnection facilities, control and protective devices and metering facilities required to connect the Project with the Transmission System up to, and on Seller’s side of, the Delivery Point.

“Seller’s Replacement Costs” has the meaning set forth in Section 3.5(c).

“Settlement Amount” means the Non-Defaulting Party’s Costs and Losses, on the one hand, netted against its Gains, on the other.

“Site” has the meaning set forth in the Recitals.

“Station Service” means the electric energy from the Transmission System or produced by the Project that is used by the Project to power the lights, motors, control systems and other auxiliary electrical loads that are necessary for testing or operation of the Project.

“Surety Bond” means a bond, substantially in the form of Exhibit H, which provides for payment to the other Party upon demand and which is issued by a commercial entity with (i) a Credit Rating from one or both of S&P and Moody’s, which Credit Rating is at least “A-” from S&P (if such entity has a Credit Rating from S&P) and “A3” from Moody’s (if such entity has a Credit Rating from Moody’s), in each case not on negative credit watch, and (ii) having a net worth of at least [REDACTED] at the time of issuance of the bond.

“System Emergency” means a condition on the Transmission System, at the Project, or on Seller’s Interconnection Facilities or Transmission Owner’s Interconnection Facilities, which condition is likely to result in imminent significant disruption of service to Transmission System customers or is imminently likely to endanger life or property, and includes any condition during which Seller is directed by Transmission Provider to reduce or cease generation for any period of time on account of an emergency.

“Target Commercial Operation Date” means the date that is the latter of (a) 365 days after the Transmission Service Deadline and (b) [REDACTED].

“Tax Attributes” means (a) investment tax credits (including any grants or payments in lieu thereof) and any other tax deductions or benefits under federal, state or other Law available as a result of the ownership and operation of the Project or the output generated by the Project (including, without limitation, tax credits, payments in lieu thereof and accelerated and/or bonus depreciation); and (b) present or future (whether known or unknown) cash payments, grants under Section 1603 of the American Recovery and Reinvestment Tax Act of 2009 or outright grants of money relating in any way to the Project.

“Tax Equity Investor” means an investor that has acquired an equity interest in Seller pursuant to a financing structure that assigns such investor all rights, title and benefits to the Tax Attributes of Seller.

“Term” means the Initial Term plus any Renewal Terms.

“Terminated Transaction” means the termination of this Agreement in accordance with Section 7.2 of this Agreement.

“Termination Option” has the meaning set forth in Section 4.4.

“Termination Payment” has the meaning set forth in Section 7.3.

“Test Energy” means Buyer’s Share of the Energy generated by the Project and delivered to the Delivery Point prior to the Commercial Operation Date.

“Transfer Taxes” has the meaning set forth in Section 3.3(d).

“Transmission Delay Damages” means the liquidated damages Buyer shall owe Seller in the event Buyer is unable to receive any Delivered Energy due to a failure of obtaining transmission service by the Transmission Service Deadline, as calculated pursuant to Section 4.3.

“Transmission Interruption” means a transmission outage or curtailment directed or caused by the Transmission Owner, Transmission Provider or a Governmental Authority in connection with a System Emergency on the Transmission System that prevents or limits

Buyer's ability to receive Energy at the Delivery Point not due to actions or omissions of Buyer or an Affiliate of Buyer.

"Transmission Owner" means the entity that owns the transmission or distribution system to which the Project interconnects.

"Transmission Owner's Interconnection Facilities" means the interconnection facilities and related assets that are or will be owned by the Transmission Owner that are required to connect the Project with the Transmission System, as further described in the Interconnection Agreement.

"Transmission Provider" means the regional transmission organization with jurisdiction over the location of the Site or, if none, then the applicable balancing authority for the Site. For the avoidance of doubt, the Transmission Provider and the Transmission Owner may be the same entity.

"Transmission Service Deadline" means the date that is one-hundred and twenty (120) days from Buyer's receipt from Seller of a copy of the final interconnection facilities study report for the interconnection of the Project.

"Transmission System" means the distribution or transmission system to which the Project interconnects.

1.2 Interpretation.

The following rules of construction shall be followed when interpreting this Agreement except to the extent the context otherwise requires:

- (a) the gender (or lack of gender) of all words used in this Agreement includes the masculine, feminine, and neuter;
- (b) words used or defined in the singular include the plural and vice versa;
- (c) references to Articles and Sections refer to Articles and Sections of this Agreement;
- (d) references to Annexes, Exhibits and Schedules refer to the Annexes, Exhibits and Schedules attached to this Agreement, each of which is made a part hereof for all purposes;
- (e) references to Applicable Laws refer to such Applicable Laws as they may be amended from time to time, and references to particular provisions of an Applicable Law include any corresponding provisions of any succeeding Applicable Law and any rules and regulations promulgated thereunder;
- (f) terms defined in this Agreement are used throughout this Agreement and in any Annexes, Exhibits and Schedules hereto as so defined;
- (g) references to money refer to legal currency of the United States of America;

(h) the words “includes” or “including” shall mean “including without limitation;”

(i) the words “hereof,” “hereby,” “herein,” “hereunder” and similar terms in this Agreement shall refer to this Agreement as a whole and not any particular Article or Section in which such words appear, unless otherwise specified;

(j) all references to a particular entity shall include a reference to such entity’s successors and permitted assigns but, if applicable, only if such successors and assigns are permitted by this Agreement;

(k) references to any agreement, document or instrument shall mean a reference to such agreement, document or instrument as the same may be amended, modified, supplemented or replaced from time to time;

(l) the word “or” will have the inclusive meaning represented by the phrase “and/or;”

(m) the words “shall” and “will” mean “must”, and shall and will have equal force and effect and express an obligation; and

(n) the words “writing,” “written” and comparable terms refer to printing, typing, and other means of reproducing in a visible form.

ARTICLE 2 TERM

2.1 Term.

The “**Initial Term**” of this Agreement shall commence on the date hereof and continue until the latter of (a) the date the Agreement is terminated in accordance with its terms, or (b) the date that is 20 Contract Years following the Commercial Operation Date. Buyer shall have the option to request an extension of the term of this Agreement twice (each, a “**Renewal Term**”) by providing Seller written request for extension no less than 425 days prior to the end of the Initial Term or the first Renewal Term, as applicable. Upon such request, Buyer and Seller shall commence good faith negotiations for the Contract Price for any such Renewal Term(s). Seller shall provide Buyer with written proposed Contract Price for such Renewal Term(s) no less than 395 days prior to the end of the Initial Term or the first Renewal Term, as applicable. Seller may extend the term of this Agreement by providing Seller written notice of extension no less than 365 days prior to the end of the Initial Term or the first Renewal Term, as applicable. If Buyer does not provide such written notice of extension, then Seller proposed Contract Price shall be deemed rejected and this Agreement shall terminate. Each Renewal Term shall commence at HE 0100 on the date immediately following the last day of the Initial Term or first Renewal Term, as applicable, and extend for a period of 5 years, unless sooner terminated in accordance with the terms hereof.

ARTICLE 3 OBLIGATIONS AND DELIVERIES

3.1 Product.

The “Product” to be delivered and sold by Seller and received and purchased by Buyer under this Agreement is the Delivered Energy and all associated Environmental Attributes and Capacity Attributes.

3.2 Purchase and Sale.

Unless specifically excused by the terms of this Agreement during the Delivery Term, Seller shall sell and deliver, or cause to be delivered, and Buyer shall purchase and receive, or cause to be received, the Product at the Delivery Point, and Buyer shall pay Seller for the Product in accordance with the terms hereof.

3.3 Contract Price.

(a) Seller shall provide no less than ten (10) days’ notice prior to the Initial Energy Delivery Date, which shall not occur prior to the Transmission Service Deadline without the prior written consent of Buyer.

(b) Buyer shall pay Seller the Contract Price for all Test Energy.

(c) On and after the Commercial Operation Date, Buyer shall pay Seller for the Product an amount equal to the Contract Price for each MWh of Delivered Energy.

(d) In addition to the amounts otherwise payable by Buyer in accordance with this Section 3.3, Buyer shall pay all applicable sales, use excise, ad valorem, transfer and other similar taxes associated with the sale of Product by Seller to Buyer (“**Transfer Taxes**”), but excluding in all events taxes based on or measured by net income, that are imposed by any taxing authority arising out of or with respect to the purchase or sale of Product (regardless of whether such Transfer Taxes are imposed on Buyer or Seller), together with any interest, penalties or additions to tax payable with respect to such Transfer Taxes.

3.4 Project Capacity.

The “**Expected Project Capacity**” is the expected nameplate capacity of the Project as of the Effective Date, as set forth in Exhibit B. The “**Installed Capacity**” shall be the actual capacity of the Project that is able to generate and deliver Energy to the Delivery Point and has otherwise achieved Commercial Operation as of the Commercial Operation Date. Throughout the Delivery Term, Seller shall sell all Product solely to Buyer, except in the case of an Event of Default of Buyer or other failure of Buyer to receive the Product, or during a Force Majeure Event where Buyer is prevented from accepting delivery of the Product.

3.5 Performance Excuses.

(a) The obligations of Seller to deliver or make available the Product to Buyer at the Delivery Point shall be excused only (i) during periods of Force Majeure, (ii) by Buyer’s failure to perform its obligation to receive the Product at the Delivery Point or other Buyer Event of

Default, (iii) during Curtailment Periods, (iv) during Buyer Curtailment Periods, and (v) during Planned Outages (“**Seller Excuses**”).

(b) The obligations of Buyer to receive and pay for the Product shall be excused only (i) during periods of Force Majeure, (ii) by Seller’s failure to perform its obligations to generate and deliver Product to the Delivery Point or other Seller Event of Default, or (iii) during a Transmission Interruption event (“**Buyer Excuses**”).

(c) If Buyer fails to receive all or part of the Product and such failure is not excused due to Buyer Excuses, then Buyer shall pay Seller, on the date payment would otherwise be due in respect of the Month in which the failure occurred, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price (“**Seller’s Replacement Costs**”).

(d) Seller shall include in a monthly invoice delivered to Buyer pursuant to Section 8.1 the amounts owed by Buyer pursuant to Section (a) and a description, in reasonable detail, of the calculation of Seller’s Replacement Costs.

3.6 Offsets, Allowances and Environmental Attributes.

(a) Buyer shall be entitled to all Environmental Attributes resulting from the generation of Energy that is actually purchased by Buyer pursuant to this Agreement. Buyer shall not be entitled to any Environmental Attributes resulting from the generation of Energy that Buyer, for any reason, does not accept and purchase under this Agreement. Upon no less than twenty (20) Business Days’ advance notice, Buyer may request Seller provide Buyer or Buyer’s designee evidence of the transfer of the RECs on a quarterly basis during the Delivery Term in an Environmental Attributes Attestation and Bill of Sale substantially in the form attached as Exhibit I or, as applicable, an attestation that is the then-currently required attestation of the Applicable REC Program.

(b) Seller shall be entitled to all (i) federal and state production tax credits, investment tax credits and any other tax credits which are or will be generated by the Project, (ii) any cash payments, grants under Section 1603 of the American Recovery and Reinvestment Tax Act of 2009 or outright grants of money relating in any way to the Project or Environmental Attributes, and (iii) any Environmental Attributes that the Buyer is not entitled to pursuant to the provisions of Section 3.6(a). Buyer acknowledges that Seller has the right to sell any Environmental Attributes to which it is entitled pursuant to this Section 3.6(b) to any Person other than Buyer at any rate and upon any terms and conditions that Seller may determine in its sole discretion without liability to Buyer hereunder. Buyer shall have no claim, right or interest in such Environmental Attributes or in any amount that Seller realized from the sale of such Environmental Attributes.

(c) Seller shall bear all risks, financial and otherwise throughout the Term, associated with Seller's or the Project's eligibility to receive any Tax Attributes, or to qualify for accelerated or bonus depreciation for Seller's accounting, reporting or tax purposes, except to the extent Buyer incurs liability under this Agreement in connection with relevant Losses and indemnification obligations. The obligations of the Parties hereunder, including those obligations set forth herein regarding the sale, purchase and price for and Seller's obligation to generate and deliver the Product

and Environmental Attributes, shall be effective regardless of whether the generation of Product or sale and delivery of any Delivered Energy from the Project is eligible for, or receives Tax Attributes or to qualify for accelerated or bonus depreciation during the Term.

3.7 Station Service.

If Buyer or any of its Affiliates provides retail electric service in the service territory in which the Project is located, then if requested by Seller, Buyer or such Affiliate shall provide Station Service to the Project (including Seller's Interconnection Facilities) as requested by Seller during construction and operation of the Project at the rates and on the terms set forth in the applicable tariff(s) on a non-discriminatory basis with other customers in the same rate class as Seller.

3.8 Transmission.

(a) Seller shall be responsible for obtaining interconnection service for the Project so that Seller can deliver the Product to the Delivery Point in accordance with applicable Transmission Provider interconnection requirements. Seller shall be responsible for all costs to design, equip, construct and maintain the interconnection facilities necessary to deliver Energy from the Project to the Delivery Point. Seller shall be responsible for receiving Network Resource Interconnection Service (or its equivalent) from the Transmission Provider in accordance with the Transmission Provider's Large Generator Interconnection Procedures ("**LGIP**") including funding of any Network Upgrades, as defined in therein. In the event that Seller is not repaid all Seller-funded amounts for such Network Upgrades within five (5) years after the Commercial Operation Date, Seller may, subject to Buyer's consent, such consent not to be unreasonably withheld, assign to Buyer its rights under the LGIP and Interconnection Agreement to repayment of such unpaid amounts. For the avoidance of doubt, Buyer's consent may be withheld if, without otherwise limiting its right to reasonably withhold consent, Buyer is not reasonably satisfied with the terms and conditions of the Interconnection Agreement or other relevant agreement between Buyer and the Transmission Provider with regard to the Network Upgrade refunding or transmission credit procedures. If Buyer consents to such assignment, then Buyer shall pay to Seller each month an amount equal to the amount Buyer receives from Transmission Provider as a transmission credit or other form of reimbursement for such Network Upgrades during the preceding month until such time as Seller has been fully reimbursed for its Network Upgrade finding. Notwithstanding anything in this Section 3.8(a), Buyer shall not be obligated to pay Seller any amount related to the Network Upgrades for which Buyer has not received a related transmission credit or other form of reimbursement from the Transmission Provider.

(b) Buyer shall be responsible for arranging for all transmission services required to effectuate Buyer's receipt of the Product at and from the Delivery Point, including, without limitation, obtaining firm transmission service, in an amount of capacity equal to the Expected Project Capacity, and shall be responsible for the payment of any charges related to such transmission services hereunder, including, without limitation, charges for transmission or wheeling services, ancillary services, imbalance, control area services, congestion charges, transaction charges and line losses. The Parties acknowledge that the Contract Price does not include charges for such transmission services, all of which shall be paid by Buyer.

(c) In the event that the Transmission Provider or any other properly authorized Person exercising control over the Transmission Owner's Interconnection Facilities or the Transmission System takes any action or orders Seller or Buyer to take any action that affects Buyer's ability to take delivery of Energy hereunder not caused by or resulting from Seller's act or omission, a Curtailment Period, Transmission Interruption, or Force Majeure, Buyer shall use its Commercially Reasonable Efforts to attempt (at its own cost and expense) to mitigate the adverse effects of such action(s) on Buyer's ability to perform its obligations hereunder, including, without limitation, redispatching its other generation resources, if any.

3.9 Scheduling.

Buyer shall be responsible for the scheduling of all Delivered Energy during the Delivery Term, including, without limitation, arranging any Open Access Same Time Information Systems (OASIS), tagging, transmission scheduling or similar protocols with the Transmission Provider, Transmission Owner, or any other Persons. Buyer shall be responsible for the payment of all charges associated with such scheduling activities, including, without limitation, any imbalance charges.

3.10 Sales for Resale.

All Delivered Energy delivered to Buyer hereunder shall be sales for resale. Buyer shall provide Seller with any documentation reasonably requested by Seller to evidence that the deliveries of Delivered Energy hereunder are sales for resale.

3.11 Operating Procedures.

Seller and Buyer will endeavor to develop written operating procedures ("**Operating Procedures**") not less than sixty (60) days before the Initial Energy Delivery Date, which Operating Procedures shall only be effective if made by mutual written agreement of Seller and Buyer. The Parties agree that the Operating Procedures that they will endeavor to establish will cover the protocol under which the Parties will perform certain obligations under this Agreement and will include, but will not be limited to, procedures concerning the following: (1) the method of day-to-day communications; (2) key contacts for Seller and Buyer; and (3) reporting of scheduled maintenance, maintenance outages, Buyer Curtailment Orders, Force Majeure Events, and Forced Outages of the Project.

3.12 Regulatory Approvals.

(a) Seller and Buyer each agree to use their Commercially Reasonable Efforts to apply for promptly and to pursue diligently any required acceptances or approvals from Governmental Authorities for the consummation of the transactions contemplated by this Agreement or for the giving of effect to the expiration of this Agreement or any termination of this Agreement. This provision is not intended to subject this Agreement to the jurisdiction of any Governmental Authority that does not have such jurisdiction over this Agreement as of the Effective Date.

(b) Buyer shall apply for and shall diligently pursue designation of the Expected Project Capacity as a network resource or otherwise secure a firm delivery path for the Delivered Energy

from the Delivery Point to and over the Transmission System. Buyer shall use Commercially Reasonable Efforts to submit an application to obtain a network resource designation or similar firm transmission rights for the Expected Project Capacity not later than thirty (30) Business Days following the Effective Date and to secure such rights no later than the Transmission Service Deadline. Notwithstanding anything to the contrary herein, Seller shall not incur liability for any delays hereunder to the extent such delays are caused by Buyer's failure or inability to secure transmission service in accordance with this Section 3.13(b). Upon Buyer's request, Seller shall use Commercially Reasonable efforts to cooperate with Buyer and provide such information as necessary to assist Buyer in obtaining firm transmission service.

(c) Following the Effective Date of this Agreement, each Party shall promptly seek to obtain all other licenses, permits and approvals necessary to perform its obligations hereunder.

3.13 Standards of Care.

(a) Seller shall comply with all applicable requirements of Applicable Law, the Transmission Provider and NERC relating to the Project (including those related to construction, ownership, interconnection and operation of the Project).

(b) As applicable, each Party shall perform all generation, scheduling and transmission services in compliance with all applicable operating policies, criteria, rules, guidelines, tariffs and protocols of the Transmission Provider and Prudent Operating Practices.

(c) Seller agrees to abide by all applicable (i) NERC reliability requirements, including all such reliability requirements for generator owners and generator operators, and (ii) all applicable requirements regarding interconnection of the Project, including the requirements of the interconnected Transmission Owner and the Transmission Provider.

3.14 Buyer Curtailment.

Except to the extent compliance would directly cause loss or recapture of any Tax Attributes, Seller shall reduce Buyer's Share of generation from the Project as required pursuant to a Buyer Curtailment Order, provided that (a) the Buyer Curtailment Period shall not exceed the Buyer Curtailment Cap cumulatively per Contract Year (which may be consecutive or non-consecutive); and (b) Buyer shall pay Seller the Contract Price for Deemed Delivered Energy associated with a Buyer Curtailment Period. If multiple Project Offtakers issue overlapping Buyer Curtailment Orders, then any Deemed Delivered Energy during such period shall be allocated to Buyer on a pro rata basis in accordance with its Buyer's Share.

3.15 Outage Notification.

(a) Seller shall schedule Planned Outages for the Project in accordance with Prudent Operating Practices and with the prior written consent of Buyer, which consent may not be unreasonably withheld, conditioned or delayed. The Parties acknowledge that in all circumstances, Prudent Operating Practices shall dictate when Planned Outages should occur. Seller shall notify Buyer of its proposed Planned Outage schedule for the Project for the following calendar year by submitting a written Planned Outage schedule no later than August 1st of each year during the

Delivery Term. The Planned Outage schedule is subject to Buyer's approval, which approval may not be unreasonably withheld, conditioned or delayed. Buyer shall promptly respond with its approval or with reasonable modifications to the proposed Planned Outage schedule and Seller shall use its best efforts in accordance with Prudent Operating Practices to accommodate Buyer's requested modifications and deliver the final Planned Outage schedule to Buyer. Seller shall contact Buyer with any requested changes to the Planned Outage schedule if Seller believes the Project must be shut down to conduct maintenance that cannot be delayed until the next scheduled Planned Outage consistent with Prudent Operating Practices. Seller shall not change its Planned Outage schedule without Buyer's approval, not to be unreasonably withheld, conditioned or delayed. . Seller shall not substitute Energy from any other source for the output of the Project during a Planned Outage.

(b) In addition to Planned Outages, Seller shall use Commercially Reasonable Efforts to promptly notify Buyer of any Forced Outage lasting for more than sixty (60) consecutive minutes. Such Notices shall contain information describing the nature of the Forced Outage, the beginning date and time of such Forced Outage, the expected end date and time of such Forced Outage, the amount of Energy that Seller expects will be provided to the Delivery Point during such Forced Outage, and any other information reasonably requested by Buyer. With respect to any such Forced Outage, Seller shall provide Buyer with such Notice by any reasonable means requested by Buyer, including by telephone or electronic mail.

(c) The Parties may agree to modify the procedures for coordinating outage notices from time to time and will codify such changes in the Operating Procedures. If the Operating Procedures conflict with this Section 3.15, then the Operating Procedures will control.

3.16 Operations Logs and Access Rights.

(a) Seller shall maintain a complete and accurate log of all material operations and maintenance information on a daily basis. Such log shall include, but not be limited to, information on power production, efficiency, availability, maintenance performed, Planned Outages, Forced Outages, results of inspections, manufacturer recommended services, replacements, electrical characteristics of the generators, control settings or adjustments of equipment and protective devices. Seller shall maintain this information for at least two (2) years and, to the extent consistent with Applicable Law, shall provide this information electronically to Buyer within fifteen (15) days of Buyer's reasonable request.

(b) Buyer, its authorized agents, employees or inspectors shall have the right to visit the Site up to five (5) times per calendar year during normal business hours upon reasonable advance Notice and for any purposes reasonably connected with this Agreement; *provided*, that Buyer shall observe all applicable Project safety rules that Seller has communicated to Buyer; provided further, that Buyer, subject to and without waiving its rights to sovereign immunity under Florida Statutes, shall indemnify Seller for damage to property or injury to persons to the extent caused by the negligent or wrongful act or omission of Buyer, its authorized agents, employees, contractors, inspectors and other representatives while Buyer or such authorized individuals are at the Site or the Project. Buyer may request additional Site visits with Seller's consent, which shall not be unreasonably withheld, conditioned, or delayed.

3.17 Forecasting.

(a) Seller shall provide Buyer with forecasts of the delivery of Energy under this Agreement as described below. Such forecasts shall include the updated status of all Project equipment that may impact availability and production of Product, and other information reasonably requested by Buyer. Seller shall use Commercially Reasonable Efforts to forecast daily by 5:00 a.m. (EDT) the hourly delivery of Energy under this Agreement accurately and to transmit such information in the format agreed to by the Parties as set forth in the Operating Procedures. Buyer and Seller shall agree upon reasonable changes to the requirements and procedures set forth below from time-to-time, as necessary to accommodate changes to operating and scheduling procedures of Buyer and will document such updated requirements and procedures in the Operating Procedures.

(b) No later than: (i) forty-five (45) Days prior to the commencement of the first Contract Year; and (ii) September 1 of each calendar year for every subsequent Contract Year, Seller shall provide to Buyer a non-binding forecast of the hourly delivery of Energy under this Agreement for an average day in each month of the following calendar year in a form reasonably acceptable to Buyer.

(c) Ten (10) Business Days before the commencement of the first Contract Year, and thereafter ten (10) Business Days before the beginning of each month during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of the hourly energy deliveries under this Agreement for each day of the following month in a form reasonably acceptable to Buyer.

(d) No later than 5:00 a.m. of each day, Seller shall provide Buyer a non-binding forecast of hourly Energy deliveries under this Agreement for the remainder of such day and the following seven (7) days in a form reasonably acceptable to Buyer. Each such Notice shall clearly identify, for each hour, Seller's forecast of all deliveries of Energy pursuant to this Agreement. In the event that Seller foresees that actual deliveries under this Agreement for any hour will be materially different than a forecast previously provided for such day, Seller shall, as soon as reasonably possible, provide Notice to Buyer of such change and an updated forecast.

3.18 Weather Station.

(a) No later than sixty (60) Days prior to the Commercial Operation Date, Seller, at its own expense, shall install and maintain at least one stand-alone meteorological station at the Site to monitor, measure, communicate and report the meteorological data required under Section 3.18(b). Seller shall maintain and replace the meteorological station as necessary to provide accurate data with respect to the location of the Project.

(b) Upon the Commercial Operation Date, and continuing through the end of the Delivery Term, Seller shall record and maintain the following data:

- (i) real and reactive power production by the Project for each hour;
- (ii) changes in operating status, outages and maintenance events;

(iii) any unusual conditions found during inspections;

(iv) any significant events related to the operation of the Project; and

(v) fifteen (15) minute and hourly time-averaged measurements from data samples at sixty (60) seconds or greater frequency for the following parameters at the Project: total global horizontal irradiance, total global radiation within the plane of the array, air temperature, relative humidity, wind direction and speed, back of module surface temperature, and other pertinent meteorological conditions.

(c) Buyer shall have real-time access to the required meteorological data at a frequency not to exceed every fifteen (15) minutes. Seller shall provide Buyer a report within thirty (30) days after the end of each month that provides the foregoing information for such month as well as any other additional information that Buyer reasonably requests regarding conditions at the Site and the operation of the Project that is collected and maintained by Seller in the ordinary course of Project operations.

(d) Seller shall make available to Buyer all data from any weather monitoring portals Seller elects to install at the Site.

(e) Subject to procedures agreed upon in the Operating Procedures, Buyer shall have the right to install equipment and associated communication infrastructure to enable Buyer to monitor, measure and communicate pertinent operation and weather data.

3.19 Compliance Cost Cap.

Costs applicable to the Compliance Cost Cap are only those costs applicable under the definition of “Compliance Costs” and are new costs associated with a Change of Law occurring after the Effective Date. The Parties agree that the Compliance Costs Seller shall be required to bear during the Delivery Term [REDACTED]

[REDACTED] (collectively, the “**Compliance Cost Cap**”). In the event and to the extent that the Compliance Costs incurred by Seller exceed the Compliance Cost Cap, Buyer shall either reimburse Seller for such Compliance Costs that exceed the Compliance Cost Cap, or excuse Seller from performing the obligations of this Agreement that would otherwise cause it to incur Compliance Costs in excess of the Compliance Cost Cap. Within sixty (60) Days after the Change of Law that Seller anticipates will cause it to incur Compliance Costs in excess of the Compliance Cost Cap, Seller shall provide to Buyer Notice with an estimate of the expected annual Compliance Costs caused by such Change of Law. Within thirty (30) Days of the delivery of such Notice with the estimate, Buyer shall provide Seller Notice of (i) Buyer’s request for Seller to incur the Compliance Costs in excess of the Compliance Cost Cap, (ii) Buyer’s initiation of dispute resolution under ARTICLE 17, or (iii) Buyer’s waiver of Seller’s performance of such obligations.

3.20 Production Guarantee.

Seller shall cause the Project to be operated in accordance with Prudent Operating Practices. Seller guarantees that the Delivered Energy will equal or exceed the Annual Energy Output Guarantee

of Energy in at least one of every two rolling Contract Years. If there is a Production Shortfall in any two rolling consecutive Contract Years, then Seller shall owe Buyer liquidated damages in an amount equal to (i) the Production Shortfall that occurred in the later of the two relevant Contract Years, multiplied by (ii) the Damages Rate (the “**Production Guarantee Damages**”).

3.21 Purchase Option.

(a) At the end of the tenth (10th), fifteenth (15th) and twentieth (20th) Contract Years, Buyer may elect to purchase the Project from Seller for a purchase price equal to the greater of (i) Fair Market Value or (ii) the Purchase Option Price that corresponds to the applicable Contract Year, as specified in Exhibit A.

(b) If Buyer intends to exercise the purchase option, Buyer shall notify Seller of its intent at least ninety (90) days and not more than one hundred eighty (180) days prior to the end of the applicable Contract Year and the Parties shall endeavor to complete the purchase and transfer by the end of the applicable Contract Year. Seller will provide in a timely manner, information regarding the Project which is reasonably requested by Buyer to allow Buyer to perform due diligence for the purchase of the Project.

(c) If Buyer has notified Seller of its intent to purchase the Project in accordance with Section 3.21(b), then the Parties shall determine Fair Market Value within forty-five (45) days of Buyer’s notice. Within fifteen (15) days of Buyer’s notice, Seller shall give written notice to Buyer of its determination of Fair Market Value, along with a full explanation of the calculation of Fair Market Value, including without limitation, an explanation of all assumptions, figures and values used in such calculation. If Buyer reasonably objects to Seller’s determination of Fair Market Value, the Parties shall select a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry to determine the Fair Market Value of the Project. Such appraiser shall act reasonably and in good faith to determine the Fair Market Value of the Project, and shall set forth such determination in a written opinion delivered to the Parties. The valuation made by the appraiser shall be binding upon the Parties in the absence of fraud or manifest error. The costs of the appraisal shall be borne by the Parties equally.

(d) Any purchase pursuant to this Section 3.21 shall be on an as-is, where-is basis, and Seller shall not provide any warranty or other guarantee regarding the performance of the Project; provided, however, that Seller shall assign to Buyer all manufacturer warranties that are in effect as of the purchase date. Without limiting the foregoing, the purchase shall occur pursuant to a form of purchase and sale agreement with customary representations, warranties and covenants and in form reasonably acceptable to the Parties.

(e) Any purchase pursuant to this Section 3.2.1 shall be for the entire Project – either as an undivided ownership interest buy Buyer, or in conjunction with the purchase by the FMPA Solar III Project of the remaining ownership interest of the Project not purchase by Buyer, provided that any joint purchase by Buyer and the FMPA Solar III Project shall be a simultaneous purchase of 100% ownership interest in the Project, with each such purchase by Buyer and the FMPA Solar III Project being expressly conditioned upon successful purchase of the remaining ownership share by FMPA Solar III Project and Buyer, respectively.

ARTICLE 4
PROJECT DESIGN AND CONSTRUCTION

4.1 Project Development.

Seller, at no cost to Buyer shall:

- (a) Design and construct the Project.
- (b) Establish and maintain interconnection rights for the Project that permit the full Expected Project Capacity to interconnect to the Transmission System in compliance with the Transmission Provider's transmission tariff and the Interconnection Agreement.
- (c) Acquire all material Governmental Approvals for the construction, operation, and maintenance of the Project.
- (d) Complete any environmental impact studies necessary for the construction, operation, and maintenance of the Project.
- (e) At Buyer's reasonable request, provide to Buyer Seller's electrical specifications and design drawings pertaining to the Project.
- (f) Within thirty (30) days after each calendar quarter following the Effective Date until the Commercial Operation Date, provide to Buyer a construction progress report substantially in the form attached in Exhibit L advising Buyer of the current status of the Project, the status of obtaining required Governmental Approvals, any significant developments or delays along with an action plan for making up delays, and Seller's best estimate of the Commercial Operation Date.

4.2 Commercial Operation.

(a) Seller shall cause the Project to achieve the Commercial Operation Date by the Target Commercial Operation Date, unless extended in accordance with Section 4.2(b).

(b) Permitted Extensions to the Target Commercial Operation Date are as follows (the "**Permitted Extensions**"):

(i) The Target Commercial Operation Date may be extended on a day-for-day basis for a cumulative period equal to no more than three hundred sixty (360) days if Seller has used Commercially Reasonable Efforts to have the Project physically interconnected to the Transmission System and to complete all Transmission Owner's Interconnection Facilities, if any, but such interconnection or Transmission Owner's Interconnection Facilities cannot be completed by the Target Commercial Operation Date for reasons beyond Seller's reasonable control and Seller has worked diligently to resolve the delay ("**Interconnection Delay**");

(ii) The Target Commercial Operation Date may be extended on a day-for-day basis for a cumulative period equal to no more than one hundred eighty (180) days if Seller has used commercially reasonable efforts to obtain permits necessary for the construction

and operation of the Project, but is unable to obtain such permits and Seller has worked diligently to resolve the delay (“**Permitting Delay**”);

(iii) The Target Commercial Operation Date may be extended on a day-for-day basis for a cumulative period equal to no more than three hundred sixty (360) days in the event of Force Majeure (“**Force Majeure Extension**”); provided that Seller works diligently to resolve the effect of the Force Majeure and provides evidence of its efforts promptly to Buyer upon Buyer’s written request; and

(iv) The Target Commercial Operation Date may be extended on a day-for-day basis for each day Buyer is liable to Seller for Transmission Delay Damages pursuant to Section 4.3(b).

(c) Notwithstanding the foregoing, if Seller claims more than one Permitted Extension under Section 4.2(b)(i)-(iii), such extensions cannot cumulatively exceed three hundred sixty (360) days and all Permitted Extensions taken shall be concurrent, rather than consecutive, during any overlapping days.

(d) If Seller claims a Permitted Extension, Seller shall provide Buyer Notice sixty (60) Days prior to the Target Commercial Operation Date, which Notice must clearly identify the Permitted Extension being claimed and include information necessary for Buyer to verify the length and qualification of the extension; provided that, in the event sixty (60) Days is impracticable or impossible, Seller shall provide as much advanced Notice as is reasonably possible.

4.3 Cure Period and Delay Damages.

(a) Seller shall cause the Project to achieve the Commercial Operation Date by the Target Commercial Operation Date. If the Commercial Operation Date occurs after the Target Commercial Operation Date after giving effect to Permitted Extensions and for reasons other than Buyer’s failure to obtain transmission service by the Transmission Service Deadline in accordance with Section 3.8(b), then Buyer shall be entitled to draw upon the Seller’s Performance Assurance for liquidated damages equal to Daily Delay Damages for each day or portion of a day that the Commercial Operation Date occurs after the Target Commercial Operation Date after giving effect to Permitted Extensions until the earlier of (i) the date that is one hundred and eighty (180) days after such date, and (ii) the Commercial Operation Date (the “**Project Cure Period**”).

(b) Beginning on the Transmission Service Deadline, in the event that Buyer’s failure to obtain transmission service in accordance with Section 3.8(b) results in Buyer’s inability to receive Delivered Energy, then, subject to Section 4.3(c), Buyer shall owe Seller liquidated damages equal to the Transmission Delay Damages for each day or portion of a day that Buyer fails to receive such Delivered Energy.

(c) Notwithstanding Buyer’s failure to obtain transmission service pursuant to Section 3.8(b) and resulting inability to receive all or part of the Delivered Energy, Seller shall use Commercially Reasonable Efforts to commence operations and deliver electricity from the Project, which shall include, if available, selling the Project output to a utility pursuant to the Public Utility

Regulatory Policies Act.

(d) Transmission Delay Damages shall be calculated as follows: (i) to the extent Seller sells electricity from the Project to a third party in accordance with Section 4.3(c), Buyer shall pay Seller only the positive difference between the Contract Price and sums received from the utility for any electricity sold pursuant to this Section 4.3; (ii) to the extent Seller is unable to deliver or sell any electricity that the Project is capable of generating despite using Commercially Reasonable Efforts as a result of Buyer's failure to obtain transmission service, Buyer shall pay Seller the full Contract Price for such electricity. In addition, in calculating the Transmission Delay Damages, Buyer shall pay Seller any reasonably incurred and documented costs corresponding to its efforts to sell the Delivered Energy to a third party. For the avoidance of doubt, Buyer shall also be liable to Seller pursuant to Section 11.3 to the extent Buyer's failure to obtain transmission service results in the full or partial loss or recapture of Tax Attributes.

(e) Each Party agrees and acknowledges that (i) the damages that the other Party would incur due to the delays described in this Section 4.3 would be difficult or impossible to predict with certainty and (ii) the Daily Delay Damages and Transmission Delay Damages are an appropriate approximation of such damages.

4.4 Project Capacity, Default Commercial Operation Date, and Termination Option.

(a) Seller shall provide Notice to Buyer no later than thirty (30) days prior to the Default Commercial Operation Date if it anticipates a Capacity Shortfall. Seller shall then provide Notice to Buyer no later than ten (10) Business Days after the Default Commercial Operation Date of the actual Capacity Shortfall, if any. Buyer shall have twenty (20) days after receipt of such notice to either: (i) elect to waive the obligation of Seller to complete the Capacity Shortfall, and neither Party shall have any further obligations with respect to the development, sale, delivery, receipt, or purchase of the Capacity Shortfall (the "**Termination Option**"); or (ii) elect to purchase any amount of Capacity Shortfall that achieves Commercial Operation in accordance with the terms of this Agreement after the Default Commercial Operation Date at the Contract Price (the "**Continuation Option**"). For avoidance of doubt, the Agreement shall remain in full force and effect at the Contract Price with respect to any Project capacity that achieved Commercial Operation as of the Default Commercial Operation Date.

(b) If Buyer elects the Continuation Option, then Seller shall continue to pursue Commercial Operation of any Capacity Shortfall. If there remains a Capacity Shortfall as of the Commercial Operation Date, Seller shall then provide Notice to Buyer no later than ten (10) Business Days after the Commercial Operation Date specifying the Installed Capacity. Subject to Seller's payment of both the Capacity Shortfall Damages as provided below and all applicable Daily Delay Damages pursuant to Section 4.3, the Seller's Performance Assurance will be reduced to reflect the Installed Capacity and all of Seller's Performance Assurance posted in excess of such Installed Capacity shall be promptly returned to Seller. Seller shall pay Buyer, as liquidated damages and not as a penalty, an amount (the "**Capacity Shortfall Damages**") equal to [REDACTED]

(c) Each Party agrees and acknowledges that (i) the damages that Buyer would incur due to the Capacity Shortfall would be difficult or impossible to predict with certainty, and (ii) the Capacity Shortfall Damages is an appropriate approximation of such damages. In order to satisfy the Capacity Shortfall Damages, Buyer shall have the right to immediately draw upon and apply the Seller's Performance Assurance to the payment of the Capacity Shortfall Damages. Seller's payment of the Capacity Shortfall Damages hereunder shall constitute Buyer's sole remedy for Seller's failure to achieve Commercial Operation of the Capacity Shortfall.

ARTICLE 5 METERING AND MEASUREMENT

5.1 Metering System.

The Parties shall ensure the Metering System is designed, located, constructed, installed, owned, operated and maintained in accordance with the Interconnection Agreement and Prudent Operating Practices in order to measure and record the amount of Energy delivered from the Project to the Delivery Point. The meters shall be of a mutually acceptable accuracy range and type. Seller shall be responsible for the cost of all metering that will be installed, owned, operated and maintained by the Meter Owner for the purpose of determining the amount of Energy delivered to the Delivery Point. Except in the event of a System Emergency or any order of a Governmental Authority, no one other than the Meter Owner shall make adjustments to the Metering System without the written consent of Meter Owner, which consent shall not be unreasonably withheld, conditioned or delayed. If Buyer is the Meter Owner, then Seller, may, at its own cost, install additional meters or other such facilities, equipment or devices on Seller's side of the Delivery Point as Seller deems necessary or appropriate to monitor the measurements of the Metering System; provided, however, that in all cases Buyer will be entitled to rely upon its own Metering System.

5.2 Inspection and Adjustment.

(a) The Meter Owner shall inspect and test the Metering System at such times as will conform to Prudent Operating Practices, but not less often than every Contract Year. Upon reasonable written request to the Meter Owner, the other Party may request, at its own expense, inspection or testing of any such meters more frequently than once every Contract Year.

(b) If any seal securing the metering is found broken, if the Metering System fails to register, or if the measurement made by a metering device is found upon testing to vary by more than one percent (1.0%) from the measurement made by the standard meter used in the test, an adjustment shall be made correcting all measurements of energy made by the Metering System during: (i) the actual period when inaccurate measurements were made by the Metering System, if that period can be determined to the mutual satisfaction of the Parties; or (ii) if such actual period cannot be determined to the mutual satisfaction of the Parties, the second half of the period from the date of the last test of the Metering System to the date such failure is discovered or such test is made ("**Adjustment Period**"). If the Parties are unable to agree on the amount of the adjustment to be applied to the Adjustment Period, the amount of the adjustment shall be determined: (A) by correcting the error if the percentage of error is ascertainable by calibration, tests or mathematical calculation; or (B) if not so ascertainable, by estimating on the basis of deliveries made under

similar conditions during the period since the last test. Within thirty (30) Days after the determination of the amount of any adjustment, Buyer shall pay Seller any additional amounts then due for deliveries of Energy during the Adjustment Period or Buyer shall be entitled to a credit against any subsequent payments for Energy, as the case may be.

(c) The Parties and their representatives shall be entitled to be present at any test, inspection, maintenance, adjustments and replacement of any part of the Metering System relating to obligations under this Agreement and the Meter Owner shall use commercially reasonable efforts to provide no less than ten (10) Business Days' prior notice of any such test, inspection or other event.

ARTICLE 6 EARLY TERMINATION

6.1 Early Termination.

(a) In addition to applicable termination rights otherwise expressly provided in this Agreement, this Agreement may be terminated prior to the expiration of the Term as follows:

(i) By Seller within thirty (30) days after receipt of the final facilities study report from the Transmission Owner, if the estimated cost of Transmission Owner's Interconnection Facilities (as identified by the Transmission Owner) exceeds _____ dollars (\$ _____) and Buyer has not agreed in writing to reimburse Seller for any overages;

(ii) By Seller if an Interconnection Agreement in form and substance satisfactory to Seller, in its sole commercially reasonable discretion, is not executed on or before on or before _____ or

(iii) By Seller, in the event that Seller has not obtained the necessary fee, leasehold or other title to or interest in the Site and all Governmental Approvals necessary to construct and operate the Project in the manner contemplated by this Agreement and which are final and no longer subject to appeal or legal challenge, on or before _____; *provided* that Seller gives Buyer Notice of such termination within fifteen (15) Days after such date.

(b) Notwithstanding any provision of this Agreement to the contrary, in the event of termination pursuant to this Section 6.1, the Parties shall be released and discharged from any obligations arising or accruing hereunder from and after the date of such termination and shall not incur any additional liability to each other as a result of such termination, *provided* that such termination shall not discharge or relieve either Party from any obligation that has accrued prior to such termination or otherwise limit the survival provisions set forth in Section 19.1.

ARTICLE 7 EVENTS OF DEFAULT

7.1 Events of Default.

An “**Event of Default**” shall mean,

(a) with respect to a Party that is subject to the Event of Default the occurrence of any of the following:

(i) the failure by such Party to make, when due, any payment required pursuant to this Agreement and such failure is not remedied within ten (10) Business Days after Notice thereof;

(ii) the failure by such Party to satisfy, when due, any Performance Assurance requirements within ten (10) Business Days after receipt of Notice of such failure;

(iii) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated, and such default is not remedied within thirty (30) Days after Notice thereof;

(iv) the failure by such Party to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default) and such failure is not remedied within thirty (30) Days after Notice thereof; provided, however, that if such failure is not reasonably capable of being remedied within the thirty (30) Day cure period, such Party shall have such additional time (not exceeding an additional ninety (90) Days) as is reasonably necessary to remedy such failure, so long as such Party promptly commences and diligently pursues such remedy;

(v) such Party becomes Bankrupt;

(vi) such Party assigns this Agreement or any of its rights hereunder other than in compliance with Section 14.1;

(vii) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of Law or pursuant to an agreement reasonably satisfactory to the other Party; or

(b) with respect to Buyer as the Defaulting Party, the failure to obtain firm transmission service sufficient to receive the Delivered Energy at the Delivery Point in accordance with Section 3.13(b) by the Transmission Service Deadline, except to the extent Buyer secures interim transmission service sufficient to receive the Delivered Energy from the Transmission Service Deadline at the Delivery Point that becomes firm transmission service no later than the Default Commercial Operation Date; or

(c) with respect to Seller as the Defaulting Party, the occurrence of any of the following:

(i) if at any time, Seller delivers or attempts to deliver to the Delivery Point for sale under this Agreement Energy or Environmental Attributes that was not generated by or associated with the Project; or

- (ii) Seller Abandons the Project.

7.2 Remedies; Declaration of Early Termination Date.

If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party (“**Non-Defaulting Party**”) shall have the right to one or more of the following:

- (a) send Notice, designating a day, no earlier than the day such Notice is deemed to be received and no later than twenty (20) days after such Notice is deemed to be received, as an early termination date of this Agreement (“**Early Termination Date**”);
- (b) collect in connection with such Early Termination Date a Termination Payment;
- (c) accelerate all amounts owing between the Parties and end the Delivery Term effective as of the Early Termination Date;
- (d) withhold any payments due to the Defaulting Party under this Agreement;
- (e) suspend performance; and
- (f) exercise its rights pursuant to Section 9.3 to draw upon and retain Performance Assurance.

7.3 Termination Payment.

On or as soon as reasonably practicable following the occurrence of an Early Termination Date, the Non-Defaulting Party will calculate the Termination Payment, which shall equal the Settlement Amount, net of any sums owed by the Non-Defaulting Party to the Defaulting Party. If the Termination Payment calculation yields a positive number, then the Defaulting Party shall owe the Termination Payment to the Non-Defaulting Party. If the Termination Payment calculation results in a negative number, then the Termination Payment shall be zero. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, the Settlement Amount as of the Early Termination Date. Third parties supplying information for purposes of the calculation of Gains or Losses may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. The Settlement Amount shall not include consequential, incidental, punitive, exemplary, indirect or business interruption damages; provided, however, that any lost Environmental Attributes shall be deemed direct damages covered by this Agreement. Without prejudice to the Non-Defaulting Party’s duty to mitigate, the Non-Defaulting Party shall not have to enter into replacement transactions to establish a Settlement Amount. Each Party agrees and acknowledges that (a) the actual damages that the Non-Defaulting Party would incur in connection with the termination of this Agreement would be difficult or impossible to predict with certainty, (b) the Termination Payment described in this section is a reasonable and appropriate approximation of such damages, and (c) the Termination Payment described in this section is the exclusive remedy of the Non-Defaulting Party in connection with the termination of this Agreement but shall not otherwise act to limit any of the Non-Defaulting Party’s rights or remedies if the Non-Defaulting Party does not elect to terminate this Agreement as its remedy for an Event of Default by the Defaulting Party.

7.4 *Notice of Payment of Termination Payment.*

As soon as practicable after a designation of the Early Termination Date, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment and whether the Termination Payment is due to the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount and the sources for such calculation. The Termination Payment shall be made to the Non-Defaulting Party, as applicable, within ten (10) Business Days after such Notice is effective.

7.5 *Disputes with Respect to Termination Payment.*

If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall, within five (5) Business Days of receipt of the Non-Defaulting Party's calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. Disputes regarding the Termination Payment shall be determined in accordance with ARTICLE 17. The Defaulting Party shall pay all undisputed portions of the Termination Payment and provide Performance Assurance equal to the disputed portion until final resolution of the dispute.

7.6 *Rights and Remedies Are Cumulative.*

Except where liquidated damages are provided as the exclusive remedy, the rights and remedies of a Party pursuant to this ARTICLE 7 shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

7.7 *Mitigation.*

Any Non-Defaulting Party shall be obligated to use Commercially Reasonable efforts to mitigate its Costs and Losses resulting from any Event of Default of the other Party under this Agreement.

**ARTICLE 8
PAYMENT**

8.1 *Billing and Payment.*

By the tenth (10th) day of each month beginning with the month following the Initial Energy Delivery Date and every month thereafter, and continuing through and including the first month following the end of the Delivery Term, Seller shall provide to Buyer an invoice covering the Product delivered in the preceding month determined in accordance with Article 4 (which may include preceding months), with all component charges and unit prices identified and all calculations used to arrive at invoiced amounts described in reasonable detail. Buyer shall pay the undisputed amount of such invoices on or before thirty (30) Days after Buyer receipt of the invoice. If either the invoice date or payment date is not a Business Day, then such invoice or payment shall be provided on the next following Business Day. Each Party will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any undisputed amounts not paid by the due date will be deemed delinquent and will accrue interest at the Interest Rate, such interest to be calculated from and including the due date to but

excluding the date the delinquent amount is paid in full. Invoices shall be sent by e-mail to address specified by Buyer, initially accounts.payable@fmpa.com.

8.2 *Disputes and Adjustments of Invoices.*

A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Interest Rate from and including the original due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived if the other Party is not notified in accordance with this Section 8.2 within twelve (12) months after the invoice is rendered or subsequently adjusted, except to the extent any misinformation was from a third party not Affiliated with any Party and such third party corrects its information after the twelve-month period. If an invoice is not rendered within twelve (12) months after the close of the month during which performance occurred, the right to payment for such performance is waived.

ARTICLE 9 INSURANCE, CREDIT AND COLLATERAL REQUIREMENTS

9.1 *Insurance.*

In connection with Seller's performance of its duties and obligations under this Agreement, during the Delivery Term, Seller shall maintain insurance in accordance with Exhibit G.

9.2 *Grant of Security Interest.*

To the extent a PA Provider delivers Performance Assurance hereunder, it hereby grants to the other Party (the "**PA Beneficiary**") a present and continuing first priority security interest in, and lien on (and right of setoff against), and assignment of, all cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, the PA Beneficiary, and each Party agrees to take such action as the other Party reasonably requires in order to perfect the PA Beneficiary's first-priority security interest in, and lien on (and right of setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof. Upon or any time after the occurrence and during the continuation of an Event of Default by the PA Provider or an Early Termination Date as a result thereof, the PA Beneficiary may do any one or more of the following: (i) exercise any of the rights and remedies of a secured party with respect to all Performance Assurance, including any such rights and remedies under Applicable Law then in effect; (ii)

exercise its rights of setoff against such collateral and any and all proceeds resulting therefrom or from the liquidation thereof; (iii) draw on any outstanding Letter of Credit issued for its benefit; and (iv) liquidate all or any portion of any Performance Assurance then held by or for the benefit of the PA Beneficiary free from any claim or right of any nature whatsoever of PA Provider, including any equity or right of purchase or redemption. PA Beneficiary shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce the PA Provider's obligations under the Agreement (the PA Provider remaining liable for any amounts owing to the PA Beneficiary after such application), subject to PA Beneficiary's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

9.3 *Performance Assurance.*

(a) Seller's Performance Assurance. Seller agrees to deliver to Buyer and thereafter maintain in full force and effect for the remainder of the Term, Performance Assurance in the amount [REDACTED], as applicable, within thirty (30) Days following the Effective Date.

(b) Buyer's Performance Assurance. If Buyer is not a Creditworthy Entity as of the Effective Date or at any time after the Effective Date is subject to a Downgrade Event, then, within sixty (60) days after the Effective Date or Downgrade Event, as applicable, and for such periods as Buyer is not a Creditworthy Entity, Buyer shall provide Seller with Performance Assurance in the amount [REDACTED], as applicable.

(i) If at any time during the Term Buyer becomes a Creditworthy Entity, then Buyer will not be required to provide Buyer's Performance Assurance and Seller shall refund any unused portion of Buyer's Performance Assurance within thirty (30) Days of receipt of Notice and verification of its status as a Creditworthy Entity.

(c) Any sum due under this Agreement (other than disputed amounts) and not satisfied within thirty (30) Days of becoming due and owing may be satisfied by a Party by a draw on Performance Assurance until such Performance Assurance has been exhausted. In addition, upon termination, a Party shall have the right to draw upon Performance Assurance for any undisputed amounts owed under this Agreement if not paid when due pursuant to Section 8.1. Performance Assurance shall not be subject to replenishment.

(d) A PA Beneficiary shall prudently invest any cash held as Performance Assurance in a manner that is the same or substantially similar to the manner in which such Party invests its own cash and shall pay interest equivalent to the interest earned on such cash held. Any interest earned will be returned annually prior to January 31st following each calendar year.

(e) If, during the Term, there shall occur a Downgrade Event in respect to a Party's Guarantor, then the applicable PA Provider shall deliver to the PA Beneficiary replacement Performance Assurance within ten (10) Days of such Downgrade Event.

(f) A Party's obligation to maintain Performance Assurance shall terminate upon the occurrence of the following: (i) the Term of the Agreement has ended, or an the Agreement has been terminated pursuant to Section 7.2, as applicable; and (ii) all payment obligations of the PA Provider arising under this Agreement, Termination Payment, indemnification payments or other damages are paid in full. Upon the occurrence of the foregoing, each Party shall promptly return to the other Party the unused portion of the applicable Performance Assurance, including the payment of any interest due thereon.

(g) Any Letter of Credit provided pursuant to this Agreement must provide, among other things, that the PA Beneficiary is entitled to draw the full amount of such Letter of Credit if: (i) the Letter of Credit has not been renewed or replaced within thirty (30) days prior to the expiration date of the Letter of Credit; or (ii) the issuer of the Letter of Credit fails to maintain a credit rating of at least A- from S&P and a rating of at least A3 from Moody's and the Party required to provide the Letter of Credit has failed, within ten (10) Business Days after receipt of Notice thereof by the PA Beneficiary to replace such Letter of Credit with another Letter of Credit, in a form reasonably acceptable to the issuer of the Letter of Credit and PA Beneficiary. Costs of a Letter of Credit shall be borne by the PA Provider.

ARTICLE 10 REPRESENTATIONS, WARRANTIES AND COVENANTS

10.1 *Representations and Warranties.*

On the Effective Date, each Party represents and warrants to the other Party that:

(a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

(b) it has or will obtain in accordance herewith all Governmental Approvals necessary for it to perform its obligations under this Agreement, other than those Governmental Approvals that are not required to be obtained, and, as to Seller, all Governmental Approvals and all rights, title and interest in and to the Site and as otherwise necessary to construct, operate and maintain the Project and related interconnection facilities, as of the Effective Date;

(c) the execution, delivery and performance of this Agreement is within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any Applicable Law;

(d) this Agreement and each other document executed and delivered in accordance with this Agreement constitutes a legally valid and binding obligation enforceable against it in accordance with its terms, subject to any Equitable Defenses;

(e) it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt;

(f) except as may be set forth in its reports filed with the SEC, there is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could

reasonably be expected to materially adversely affect its ability to perform its obligations under this Agreement; and

(g) it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement.

10.2 General Covenants.

Each Party covenants that throughout the Term:

(a) it shall continue to be duly organized, validly existing and in good standing under the Applicable Laws of the jurisdiction of its formation;

(b) it shall maintain (or obtain from time to time as required, including through renewal, as applicable) all Governmental Approvals necessary for it to legally perform its obligations under this Agreement; and

(c) it shall perform its obligations under this Agreement in a manner that does not violate any of the terms and conditions in its governing documents, any material contracts to which it is a party or any Applicable Law or Governmental Approval.

10.3 Seller Covenants.

Seller covenants as follows:

(a) that, from the Initial Energy Delivery Date through the expiration or termination of this Agreement, the Project shall be operated and maintained in all material respects in accordance with this Agreement, Applicable Laws, Governmental Approvals and Prudent Operating Practices; and

(b) throughout the Term that it, or its permitted successors or assigns, shall maintain ownership of a fee, easement, long-term leasehold interest, or other similar asset ownership interest in the Project.

10.4 Buyer's Covenants.

Buyer covenants as follows:

(a) from the date hereof through the expiration or termination of this Agreement, Buyer shall comply in all material respects with this Agreement and Applicable Laws.

(b) Buyer will, at Seller's expense, reasonably cooperate with Seller in opposing, and will not support any action of any regulatory body having jurisdiction thereover that could result in the modification or vitiation of any of the terms or conditions hereof or have any other material adverse effect on Seller, the Project or this Agreement.

(c) Buyer shall not treat this Agreement for tax purposes as a lease of the Project rather than a service contract; Buyer shall not take an ownership interest in the Project during the first five (5) Contract Years following the Commercial Operation Date (for the avoidance of doubt, nothing in this Agreement permits Buyer to take an ownership interest in the Project); and Buyer shall not take any action or inaction in breach of this Agreement or otherwise fail to obtain transmission service in a manner that would prevent the Project from being placed in service for tax purposes prior to the Default Commercial Operation Date.

(d) Buyer covenants that from the date hereof through the expiration or termination of this Agreement, Buyer shall (i) establish and maintain FMPA Solar III Project Participant payment obligations pursuant to the FMPA Solar III Project Power Sales Contracts at amounts sufficient to meet FMPA's costs and liabilities lawfully owed under this Agreement; (ii) deliver written Notice to Seller of (A) any defaults occurring under any FMPA Solar III Project Power Sales Contract that are not cured by the applicable cure period and (B) any changes to the list of FMPA Solar III Project Participants set forth in Exhibit K; and (iii) not agree to any amendment, modification or alteration of any FMPA Solar III Project Power Sales Contract that would materially adversely affect the FMPA Solar III Project Participant Covenants without the prior written consent of Seller, which consent shall not be unreasonably withheld, conditioned or delayed.

(e) Buyer shall enforce the provisions of the FMPA Solar III Project Power Sales Contracts and duly perform its covenants and agreements thereunder; provided, however, that notwithstanding any provision of this Agreement to the contrary, in the event of the failure of an FMPA Solar III Project Participant to observe the FMPA Solar III Project Participant Covenants, such failure shall be considered a Downgrade Event (without limiting Events of Default) and the sole and exclusive remedy of Seller for such failure shall be the delivery by Buyer to Seller of Performance Assurance in the form of a Letter of Credit or cash in an amount equal to the then applicable amount of Buyer's Performance Assurance.

ARTICLE 11 TITLE, RISK OF LOSS, INDEMNITIES

11.1 *Title and Risk of Loss.*

Title to and risk of loss related to the Product shall transfer from Seller to Buyer at the Delivery Point. Seller warrants that it will deliver to Buyer the Product free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person arising prior to or at the Delivery Point.

11.2 *Indemnities by Seller.*

Seller shall release, indemnify, defend, and hold harmless Buyer, its Affiliates, and its and their directors, officers, employees, agents, and representatives against and from any and all actions, suits, losses, costs, damages, injuries, liabilities, claims, demands, penalties and interest, including

reasonable costs and attorneys' fees ("**Claims**") resulting from, or arising out of or in any way connected with (i) any event, circumstance, act, or incident relating to the Product delivered under this Agreement up to and at the Delivery Point, (ii) Seller's development, permitting, construction, ownership, operation and/or maintenance of the Project, (iii) the failure by Seller or the failure of the Project to comply with Applicable Laws, (iv) any Governmental Charges for which Seller is responsible hereunder, or (v) any liens, security interests, encumbrances, or other adverse claims against the Product delivered hereunder made by, under, or through Seller, in all cases including, without limitation, any Claim for or on account of injury, bodily or otherwise, to or death of persons, or for damage to or destruction of property belonging to Buyer, Seller, or others, excepting only such Claim to the extent caused by the willful misconduct or gross negligence of Buyer, its Affiliates, and its and their directors, officers, employees, agents, and representatives.

11.3 Indemnities by Buyer.

To the fullest extent permitted by Florida law, subject to and without waiving its rights to sovereign immunity under Florida law, Buyer shall release, indemnify, defend, and hold harmless Seller, its Affiliates, and its and their directors, officers, employees, agents, and representatives against and from any and all Claims resulting from, or arising out of or in any way connected with (i) any event, circumstance, act, or incident relating to the Product received by Buyer under this Agreement after the Delivery Point, (ii) the failure by Buyer to comply with Applicable Laws, (iii) Buyer's breach of this Agreement, or (iv) any Governmental Charges for which Buyer is responsible hereunder, in all cases including, without limitation, any Claim for or on account of injury, bodily or otherwise, to or death of persons, or for damage to or destruction of property belonging to Buyer, Seller, or others, excepting only such Claim to the extent caused by the willful misconduct or gross negligence of Seller, its Affiliates, and its and their directors, officers, employees, agents, and representatives.

ARTICLE 12 GOVERNMENTAL CHARGES

12.1 Cooperation.

Each Party shall use reasonable efforts to implement the provisions of and to administer this Agreement in accordance with the intent of the Parties to minimize all taxes, so long as neither Party incurs any cost, expense, risk, obligation or liability or is otherwise materially adversely affected by such efforts.

12.2 Governmental Charges.

Seller shall pay or cause to be paid all taxes imposed by any governmental authority ("**Governmental Charges**") on or with respect to the Product or the transaction under this Agreement arising prior to and at the Delivery Point, including, but not limited to, ad valorem taxes and other taxes attributable to the Project, land, land rights or interests in land for the Project. Buyer shall pay or cause to be paid all Governmental Charges on or with respect to the Product or the transaction under this Agreement at and after the Delivery Point. In the event Seller is required by Applicable Law or regulation to remit or pay Governmental Charges which are Buyer's

responsibility hereunder, Buyer shall promptly reimburse Seller for such Governmental Charges. If Buyer is required by Applicable Law or regulation to remit or pay Governmental Charges which are Seller's responsibility hereunder, Buyer may deduct such amounts from payments to Seller with respect to payments under the Agreement; if Buyer elects not to deduct such amounts from Seller's payments, Seller shall promptly reimburse Buyer for such amounts upon request. Nothing shall obligate or cause a Party to pay or be liable to pay any Governmental Charges for which it is exempt under Applicable Law.

ARTICLE 13 CONFIDENTIAL INFORMATION

13.1 Confidential Information.

(a) The Parties have and will develop certain information, processes, know-how, techniques and procedures concerning the Project that they consider confidential and proprietary (together with the terms and conditions of this Agreement, the "Confidential Information"). Notwithstanding the confidential and proprietary nature of such Confidential Information, the Parties (each, the "**Disclosing Party**") may make such Confidential Information available to the other (each, a "**Receiving Party**") subject to the provisions of this Section 13.1.

(b) Upon receiving or learning of Confidential Information, the Receiving Party shall:

(i) Treat such Confidential Information as confidential and use reasonable care not to divulge such Confidential Information to any third party except as required by law, subject to the restrictions set forth below;

(ii) Restrict access to such Confidential Information to only those employees, subcontractors, suppliers, vendors, and advisors whose access is reasonably necessary for the development, construction, operation or maintenance of the Project and for the purposes of this Agreement who shall be bound by the terms of this Section 13.1;

(iii) Use such Confidential Information solely for the purpose of developing the Project and for purposes of this Agreement; and

(iv) Upon the termination of this Agreement, destroy or return any such Confidential Information in written or other tangible form and any copies thereof; provided, however, that either Party shall be entitled to keep a record copy of such information to the extent required by Florida law.

(c) The restrictions of this Section 13.1 do not apply to:

(i) Release of this Agreement or Confidential Information to any Governmental Authority required for obtaining any approval or making any filing pursuant to Sections 3.12 or 12.2, *provided* that each Party agrees to cooperate in good faith with the other to maintain the confidentiality of the provisions of this Agreement and the Confidential Information by requesting confidential treatment with all filings to the extent appropriate and permitted by Applicable Law;

(ii) Information which is, or becomes, publicly known or available other than through the action of the Receiving Party in violation of this Agreement;

(iii) Information which is in the possession of the Receiving Party prior to receipt from the Disclosing Party or which is independently developed by the Receiving Party, *provided* that the Person or Persons developing such information have not had access to any Confidential Information;

(iv) Information which is received from a third party which is not known (after due inquiry) by Receiving Party to be prohibited from disclosing such information pursuant to a contractual, fiduciary or legal obligation; and

(v) Information which is, in the reasonable written opinion of counsel of the Receiving Party, required to be disclosed pursuant to Applicable Law (including, without limitation, any request pursuant to Chapter 119 of the Florida Statutes, or other state or federal public records law, freedom of information act, or other similarly title law); *provided, however*, that the Receiving Party, prior to such disclosure, shall provide reasonable advance Notice to the Disclosing Party of the time and scope of the intended disclosure in order to provide the Disclosing Party an opportunity to obtain, at its sole expense, a protective order or otherwise seek to prevent, limit the scope of, or impose conditions upon such disclosure.

(d) Notwithstanding the foregoing, Seller may disclose Confidential Information to the Project Investors and any other financial institutions expressing an interest in providing equity or debt financing or refinancing and/or credit support to Seller, and the agent or trustee of any of them, any advisors, consultants, insurance providers, brokers of Seller, Project Investors or other financial institutions.

(e) Neither Party shall issue any press or publicity release or otherwise release, distribute or disseminate any information, with the intent that such information will be published (other than information that is, in the reasonable written opinion of counsel to the Disclosing Party, required to be distributed or disseminated pursuant to Applicable Law, *provided* that the Disclosing Party has given Notice to, and an opportunity to prevent disclosure by, the other Party as provided in Section 13.1(c)(v)), concerning this Agreement or the participation of the other Party in the transactions contemplated hereby without the prior written approval of the other Party, which approval will not be unreasonably withheld or delayed. This provision shall not prevent the Parties from releasing information which is required to be disclosed in order to obtain permits, licenses, releases and other approvals relating to the Project or as are necessary in order to fulfill such Party's obligations under this Agreement.

(f) The obligations of the Parties under this Section 13.1 shall remain in full force and effect for three (3) years following the expiration or termination of this Agreement.

ARTICLE 14 ASSIGNMENT

14.1 *Successors and Assigns; Assignment.*

(a) This Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns. This Agreement shall not be assigned or transferred by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed.

(b) Notwithstanding the foregoing, no consent shall be required for the following:

(i) Any assignment of this Agreement by Seller to any Project Investors as collateral security for obligations under the financing documents entered into with such Project Investors;

(ii) Any assignment by the Project Investors to a third party after the Project Investors have exercised their foreclosure rights with respect to this Agreement or the Project;

(iii) Any assignment or transfer of this Agreement by Seller to an Affiliate of Seller; or

(iv) Any assignment or transfer of this Agreement by Seller to a Person succeeding to all or substantially all of the assets of Seller, provided that such Person is a Qualified Transferee.

(c) An assignee shall be afforded no additional rights, interests or remedies beyond those specifically granted to the assignor in this Agreement. The Party seeking to assign or transfer this Agreement shall be solely responsible for paying all costs and expenses, including attorney's and advisor fees of any such assignment.

(d) Buyer acknowledges that upon an event of default under any financing documents relating to the Project, subject to receipt by Buyer of Notice, any of the Project Investors may (but shall not be obligated to) assume, or cause its designee or a new lessee or buyer of the Project that is a Qualified Transferee to assume, all of the interests, rights and obligations of Seller thereafter arising under this Agreement, provided that Buyer's interests, rights and obligations under this Agreement will remain in full force and effect.

(e) If the rights and interests of Seller in this Agreement shall be assumed, sold or transferred as herein provided, and the assuming party shall agree in writing to be bound by and to assume, the terms and conditions hereof and any and all obligations to Buyer arising or accruing hereunder from and after the date of such assumption, then Seller shall be released and discharged from the terms and conditions hereof and each such obligation hereunder from and after such date, and Buyer shall continue this Agreement with the assuming party as if such Person had been named as Seller under this Agreement. Notwithstanding any such assumption by any of the Project Investors or a designee thereof, Seller shall not be released and discharged from and shall remain liable for any and all obligations to Buyer arising or accruing hereunder prior to such assumption.

(f) The provisions of this ARTICLE 14 are for the benefit of the Project Investors as well as the Parties hereto, and shall be enforceable by the Project Investors as express third-party

beneficiaries hereof. Buyer hereby agrees that none of the Project Investors, nor any bondholder or participant for whom they may act or any trustee acting on their behalf, shall be obligated to perform any obligation or be deemed to incur any liability or obligation provided in this Agreement on the part of Seller or shall have any obligation or liability to Buyer with respect to this Agreement except to the extent any of them becomes a party hereto pursuant to this ARTICLE 14.

14.2 Collateral Assignment.

(a) Seller, without approval of Buyer, may, by security, charge or otherwise encumber its interest under this Agreement in favor of a Project Investor for the purposes of financing the development, construction and/or operation of the Project and the Seller's Interconnection Facilities.

(b) Promptly after making such encumbrance, Seller shall notify Buyer in writing of the name, address, and telephone and facsimile numbers of each Project Investor to which Seller's interest under this Agreement has been encumbered. Such Notice shall include the names of the account managers or other representatives of the Project Investors to whom all written and telephonic communications should be addressed.

(c) After giving Buyer such initial Notice, Seller shall promptly give Buyer Notice of any change in the information provided in the initial Notice or any revised Notice.

(d) If Seller encumbers its interest under this Agreement as permitted by this Section 14.2, the following provisions shall apply:

(i) The Parties, except as provided by the terms of this Agreement, shall not modify or cancel this Agreement without the prior written consent of the Project Investors;

(ii) The Project Investors or their designees shall have the right, but not the obligation, to perform any act required to be performed by Seller under this Agreement to prevent or cure an Event of Default by Seller and such act performed by the Project Investors or their designees shall be as effective to prevent or cure an Event of Default as if done by Seller, provided that, if any such Project Investor or its designee elects to perform any act required to be performed by Seller under this Agreement to prevent or cure an Event of Default by Seller, Buyer will not be deemed to have waived or relinquished its rights and remedies as provided in this Agreement;

(iii) Buyer shall upon request by Seller execute statements certifying that this Agreement is unmodified (or, modified and stating the nature of the modification), in full force and effect and, to the knowledge of Buyer, the absence or existence (and the nature thereof) of Events of Default hereunder by Seller and documents of consent to such assignment to the encumbrance and any assignment to such Project Investors; and

(iv) Upon the receipt of a written request from Seller or any Project Investor, Buyer shall use Commercially Reasonable Efforts to execute, or arrange for the delivery of, such certificates, opinions and other documents as may be reasonably necessary in order for Seller to consummate any financing or refinancing of the Project or any part thereof

and will enter into reasonable agreements with such Project Investor, which agreements will grant certain rights to the Project Investors as more fully developed and described in such documents, including (a) this Agreement shall not be terminated (except for termination pursuant to the terms of this Agreement) without the consent of Project Investor, which consent is not to be unreasonably withheld or delayed, (b) Project Investors shall be given notice of, and the opportunity to cure as provided in Section 14.2(d)(ii), any breach or default of this Agreement by Seller, (c) that if the Project Investor forecloses, take a deed in lieu of foreclosure or otherwise exercise its remedies pursuant to any security documents, then (i) Buyer shall, at Project Investor's request, continue to perform all of its obligations hereunder, and Project Investor or its nominee may perform in the place of Seller, and may assign this Agreement to another Person in place of Seller, provided that such other Person is a Qualified Transferee, (ii) Project Investor shall have no liability under this Agreement except during the period of such Project Investor's ownership or operation of the Project and (iii) that Buyer shall accept performance in accordance with this Agreement by Project Investor or its nominee, and (d) that Buyer shall make the same representations and warranties to Project Investor as Buyer made to Seller pursuant to this Agreement. The Parties agree that an agreement substantially in the form of Exhibit J shall be reasonable.

14.3 *Buyer Limited Assignment Right.*

Buyer may from time to time, but on no less than fifteen (15) Business Days' prior notice, assign to a third party the right to receive at the Delivery Point all or a portion of the Energy that would otherwise be delivered to Buyer hereunder. As a condition to such assignment, Seller and Buyer (and Seller's financing parties) shall first agree on the terms and conditions of a written assignment and consent agreement based on the form attached hereto as Exhibit M, such agreement not to be unreasonably delayed or withheld unless Seller (in consultation with its financing parties) reasonably determines such assignment would adversely affect Seller's economics, security, or rights under the Agreement or it would adversely affect Seller's ability to obtain or retain financing or Tax Attributes. For the avoidance of doubt, Buyer will remain responsible for all its obligations under this Agreement related to such assigned Energy, including (a) the obligation to pay for such Energy within three (3) Business Days after FMPA's receipt of Notice of nonpayment from Origis, to the extent the assignee thereof does not make such payment when due and (b) any damages associated with such assignee's failure to take any such Energy.

ARTICLE 15 FORCE MAJEURE

15.1 *Force Majeure Events.*

To the extent either Party is prevented by a Force Majeure Event from carrying out, in whole or part, its obligations under this Agreement and such Party gives Notice and details of the Force Majeure Event to the other Party as detailed below, then, the Party impacted by the Force Majeure Event shall be excused from the performance of its obligations to the extent impacted. As soon as practicable after commencement of a Force Majeure Event, the non-performing Party shall provide the other Party with oral notice of the Force Majeure Event, and within two (2) weeks of the commencement of a Force Majeure Event (or such longer period as reasonably required given the

nature of the Force Majeure Event), the non-performing Party shall provide the other Party with Notice in the form of a letter describing in detail the particulars of the occurrence giving rise to the Force Majeure Event claim and the anticipated impact on the non-performing Party's ability to perform its obligations and the non-performing Party's anticipated plan to resume full performance of the obligations impacted by the Force Majeure Event. Seller shall not substitute Product from any other source for Buyer's Share of the output of the Project during an outage resulting from a Force Majeure Event. The suspension of performance due to a claim of a Force Majeure Event must be of no greater scope and of no longer duration than is required by the Force Majeure Event. Buyer shall not be required to make any payments for any Product that Seller fails to schedule, deliver or provide as a result of a Force Majeure Event during the term of such Force Majeure Event.

15.2 *Extended Force Majeure Events.*

This Agreement may be terminated by either Party with no further obligation to the other Party if a Force Majeure Event prevents the performance of a material portion of the obligations hereunder and such Force Majeure Event is not resolved and full performance is resumed within twelve (12) months after the commencement of such Force Majeure Event, subject to Seller's right to extend in this Section 15.2. If Seller is the non-performing Party due to damage to the Project caused by a Force Majeure Event, Seller shall have up to one hundred and eighty (180) Days following the start of such Force Majeure Event to obtain a report from an independent, third party engineer stating whether the Project is capable of being repaired or replaced within fifteen (15) additional months from the date of the report. Seller shall promptly provide Buyer a copy of the engineer's report at no cost to Buyer. If such engineer's report concludes that the Project is capable of being repaired or replaced within such fifteen (15) month period and Seller undertakes and continues such repair or replacement with due diligence, then Buyer shall not have the right to terminate this Agreement pursuant to this Section until the expiration of the period deemed necessary by the engineer's report (not to exceed fifteen (15) months), after which time, either Party may terminate by Notice to the other Party unless the Project has been repaired or replaced, as applicable, and the Seller has resumed and is satisfying its performance obligations under this Agreement. If the Parties resume performance following a Force Majeure Event that lasted more than twelve (12) consecutive months, then the Term will automatically extend for the duration of such Force Majeure Event.

ARTICLE 16 LIMITATIONS ON LIABILITY

16.1 *Disclaimer of Warranties.*

EXCEPT AS SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED.

16.2 *Limitations on Liability.*

THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES

HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED, UNLESS THE PROVISION IN QUESTION PROVIDES THAT THE EXPRESS REMEDIES ARE IN ADDITION TO OTHER REMEDIES THAT MAY BE AVAILABLE. EXCEPT FOR A PARTY'S INDEMNITY OBLIGATION IN RESPECT OF THIRD PARTY CLAIMS OR AS OTHERWISE EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. UNLESS EXPRESSLY HEREIN PROVIDED, AND SUBJECT TO THE PROVISIONS OF ARTICLE 11, IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

16.3 Buyer Liability.

(a) This Agreement is a liability and financial obligation of the FMPA Solar III Project only. No liability or obligation under this Agreement shall inure to or bind any of the funds, accounts, monies, property, instruments, or rights of the Florida Municipal Power Agency generally, any individual FMPA member, or any of any other project designated by FMPA in accordance with Article II of the Interlocal Agreement.

(b) Each FMPA Solar III Project Participant has commitments under the FMPA Solar III Project Power Sales Contracts with regard to the payment obligations to the FMPA Solar III Project for all costs related to this Agreement in the event of a default by one or more other FMPA Solar III Project Participants, as more fully described in the Power Sales Contracts.

ARTICLE 17 DISPUTE RESOLUTION

17.1 Intent of the Parties

Except as provided in the next sentence, the sole procedure to resolve any claim arising out of or relating to this Agreement or any related agreement (a "**Dispute**") is the dispute resolution procedure set forth in this Article 12. Either Party may seek a preliminary injunction or other

provisional judicial remedy if such action is necessary to prevent irreparable harm or preserve the status quo, in which case both Parties nonetheless will continue to pursue resolution of the Dispute by means of the dispute resolution procedure set forth in this ARTICLE 17.

17.2 Management Negotiations

(a) The Parties will attempt in good faith to resolve any Dispute by prompt negotiations between each Party's authorized representative designated in writing as a representative of the Party (each a "**Manager**"). Either Manager may, by Notice to the other Party, request a meeting to initiate negotiations to be held within ten (10) Business Days of the other Party's receipt of such request, at a mutually agreed time and place (either in person or telephonically). If the matter is not resolved within fifteen (15) Business Days of their first meeting ("**Initial Negotiation End Date**"), the Managers shall refer the matter to the designated senior officers of their respective companies that have authority to settle the dispute ("**Executives**"). Within five (5) Business Days of the Initial Negotiation End Date ("**Referral Date**"), each Party shall provide one another Notice confirming the referral and identifying the name and title of the Executive who will represent the Party.

(b) Within five (5) Business Days of the Referral Date, the Executives shall establish a mutually acceptable location and date, which date shall not be greater than thirty (30) Days from the Referral Date, to meet. After the initial meeting date, the Executives shall meet, as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute.

(c) All communication and writing exchanged between the Parties in connection with these negotiations shall be confidential and shall not be used or referred to in any subsequent binding adjudicatory process or judicial proceeding between the Parties. The Parties shall bear their respective costs, expenses and fees relating to the activities under this Section 17.2.

(d) If the matter is not resolved within forty-five (45) days of the Referral Date, or if the Party receiving the Notice to meet, pursuant to Section 17.2(a) above, refuses or does not meet within the ten (10) Business Day period specified in Section 17.2(a) above, and subject to Sections 16.2, 19.7 and 19.8 of this Agreement, either Party may pursue all remedies available to it at law or in equity. Venue for any action or proceeding shall be state and federal courts in Leon County, Florida.

17.3 Specific Performance and Injunctive Relief.

Each Party shall be entitled to seek a decree compelling specific performance with respect to, and shall be entitled, without the necessity of filing any bond, to seek the restraint by injunction of, any actual or threatened breach of any material obligation of the other Party under Article 13. The Parties in any action for specific performance or restraint by injunction agree that they shall each request that all expenses incurred in such proceeding, including, but not limited to, reasonable counsel fees, be apportioned in the final decision based upon the respective merits of the positions of the Parties.

ARTICLE 18
NOTICES

18.1 Notices.

Whenever this Agreement requires or permits delivery of a “**Notice**” (or requires a Party to “notify”), the Party with such right or obligation shall provide a written communication in the manner specified in herein and to the addresses set forth below; provided, however, that Notices of Outages or other Scheduling or dispatch information or requests, shall be provided in accordance with the terms set forth in the relevant section of this Agreement or the Operating Procedures, as applicable. Invoices may be sent by facsimile or e-mail in addition to overnight mail or courier. A Notice sent by facsimile transmission or e-mail will be recognized and shall be deemed received on the Business Day on which such Notice was transmitted if received before 5:00 p.m. (and if received after 5:00 p.m., on the next Business Day) and a Notice of overnight mail or courier shall be deemed to have been received two (2) Business Days after it was sent or such earlier time as is confirmed by the receiving Party. Each Party shall provide Notice to the other Party of the persons authorized to nominate and/or agree to a Schedule or Dispatch Order for the delivery or acceptance of the Product or make other Notices on behalf of such Party and specify the scope of their individual authority and responsibilities, and may change its designation of such persons from time to time in its sole discretion by providing Notice.

If to Seller:

[Seller]
Attn: Management Team
800 Brickell Avenue, Suite 1000
Miami, FL 33131
Email: OrigisManagement@origisenergy.com

With a copy to:

[Seller]
Attn: General Counsel
800 Brickell Avenue, Suite 1000
Miami, FL 33131
Email: [REDACTED]

If to Buyer: Florida Municipal Power Agency

Chief Operating Officer
8553 Commodity Circle
Orlando, FL 32819
Telephone: 407-355-7767
Email: ken.rutter@fmpa.com

ARTICLE 19 MISCELLANEOUS

19.1 *Effectiveness of Agreement; Survival.*

This Agreement shall be in full force and effect, enforceable and binding in all respects as of the Effective Date until the conclusion of the Term or earlier termination pursuant to the terms of this Agreement; provided however, that the relevant provisions of this Agreement shall remain in effect until (i) the Parties have fulfilled all obligations under this Agreement, including payment in full of amounts due for the Product delivered prior to the end of the Term, the Settlement Amount, indemnification payments or other damages (whether directly or indirectly such as through set-off or netting) and (ii) the undrawn portion of Performance Assurance is released and/or returned as applicable (if any is due). Notwithstanding any provisions herein to the contrary, the obligations set forth in Sections 6.1(b) and 13.1 and ARTICLE 16, the indemnity obligations set forth in ARTICLE 11, and the limitations on liabilities set forth herein shall survive (in full force) the expiration or termination of this Agreement.

19.2 *Audits.*

Each Party has the right, at its sole expense and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any statement or payment will be made unless objection to the accuracy thereof was made prior to the lapse of twelve (12) months from the rendition thereof, and thereafter any objection shall be deemed waived except to the extent any misinformation was from a third party not affiliated with any Party and such third party corrects its information after such twelve (12)-month period.

19.3 *Amendments.*

This Agreement shall not be modified nor amended unless such modification or amendment shall be in writing and signed by authorized representatives of both Parties.

19.4 *Waivers.*

Failure to enforce any right or obligation by any Party with respect to any matter arising in connection with this Agreement shall not constitute a waiver as to that matter nor to any other matter. Any waiver by any Party of its rights with respect to a breach or default under this Agreement or with respect to any other matters arising in connection with this Agreement must be in writing. Such waiver shall not be deemed a waiver with respect to any subsequent breach or default or other matter.

19.5 *Severability.*

If any of the terms of this Agreement are finally held or determined to be invalid, illegal or void, all other terms of the Agreement shall remain in effect; *provided* that the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any Applicable Law and the original intent and original economic benefit of the Parties.

19.6 *Standard of Review.*

(a) Absent the agreement of the Parties to the proposed change, the standard of review for changes to this Agreement proposed by a Party, a Person or the FERC acting sua sponte shall be the “public interest” application of the “just and reasonable” standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956), as clarified by *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish*, 554 U.S. 527 (2008) (the “Mobile-Sierra” doctrine).

(b) Notwithstanding any provision of Agreement, and absent the prior written agreement of the Parties, each Party, to the fullest extent permitted by Applicable Laws, for itself and its respective successors and assigns, hereby also expressly and irrevocably waives any rights it can or may have, now or in the future, whether under Sections 205, 206, or 306 of the Federal Power Act or otherwise, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation, supporting a third party seeking to obtain or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain, an order from FERC changing any Section of this Agreement specifying any rate or other material economic terms and conditions agreed to by the Parties.

19.7 *Governing Law.*

THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF FLORIDA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. THE SOLE AND EXCLUSIVE VENUE FOR ANY DISPUTE, CLAIM OR CONTROVERSY RELATING TO THIS AGREEMENT SHALL BE THE STATE AND FEDERAL COURTS IN LEON COUNTY, FLORIDA.

19.8 *Waiver of Trial by Jury.*

EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY DISPUTE ARISING OUT OF OR RELATING TO THIS AGREEMENT AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HERewith, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS AGREEMENT.

19.9 Attorneys' Fees.

In any proceeding brought to enforce this Agreement or because of the breach by any Party of any covenant or condition herein contained, the prevailing Party shall be entitled to reasonable attorneys' fees (including reasonably allocated fees of in-house counsel) in addition to court costs and any and all other costs recoverable in said action.

19.10 No Third-Party Beneficiaries.

Except as set forth in Article 14, this Agreement is intended solely for the benefit of the Parties hereto and nothing contained herein shall be construed to create any duty to, or standard of care with reference to, or any liability to, or any benefit for, any Person not a Party to this Agreement.

19.11 No Agency.

This Agreement is not intended, and shall not be construed, to create any association, joint venture, agency relationship or partnership between the Parties or to impose any such obligation or liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act as or be an agent or representative of, or otherwise bind, the other Party.

19.12 Cooperation.

The Parties acknowledge that they are entering into a long-term arrangement in which the cooperation of both of them will be required. If, during the Term, changes in the operations, facilities or methods of either Party will materially benefit a Party without detriment to the other Party, the Parties commit to each other to make Commercially Reasonable Efforts to cooperate and assist each other in making such change, including engaging in good-faith negotiations to revise or supplement this Agreement as appropriate.

19.13 Further Assurances.

Upon the receipt of a written request from the other Party, each Party shall execute such additional documents, instruments and assurances and take such additional actions as are reasonably necessary and desirable to carry out the terms and intent hereof. Neither Party shall unreasonably withhold, condition or delay its compliance with any reasonable request made pursuant to this Section. No Party shall be required to take any action or execute any document under this Section 19.13 that would negatively change that Party's risk or benefit under this Agreement.

19.14 Captions; Construction.

All indexes, titles, subject headings, section titles, and similar items are provided for the purpose of reference and convenience and are not intended to affect the meaning of the content or scope of this Agreement. This Agreement was prepared jointly by the Parties, each Party having had access to advice of its own counsel, and not by either Party to the exclusion of the other Party, and shall not be construed against one Party or the other as a result of the manner in which this Agreement was prepared, negotiated or executed.

19.15 *Entire Agreement.*

This Agreement shall supersede all other prior and contemporaneous understandings or agreements, both written and oral, between the Parties relating to the subject matter of this Agreement.

19.16 *Forward Contract.*

The Parties acknowledge and agree that this Agreement constitutes a “forward contract” within the meaning of the United States Bankruptcy Code.

19.17 *Service Contract.*

Each Party intends this Agreement to be a “service contract” within the meaning of Section 7701(e) of the Internal Revenue Code of 1986.

19.18 *Counterparts.*

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

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK –
SIGNATURES APPEAR ON FOLLOWING PAGE]**

IN WITNESS WHEREOF the Parties have executed this Agreement in the manner appropriate to each as of the Effective Date set forth above.

[_____]

Florida Municipal Power Agency

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

EXHIBIT A

CONTRACT PRICE & PURCHASE OPTION PRICE

I. CONTRACT PRICE

PERIOD	CONTRACT PRICE (\$/MWh)
From and including the Initial Energy Delivery Date through the remainder of the Initial Term	

II. PURCHASE OPTION PRICE TABLE

Contract Year	Purchase Option Price
10	
15	
20	

EXHIBIT B

DESCRIPTION OF PROJECT

Seller intends to build, own and operate a single axis tracking photovoltaic solar energy generation facility on a site located in [REDACTED] County, Florida, which may be referred to at times in this Agreement as the “[REDACTED]” solar facility. As presently planned, the Expected Project Capacity will be 74.9 MW, and will consist of:

- 74.9 MWac solar PV plant with single-axis tracker, (1) [REDACTED] MVA [REDACTED] kV, three-winding transformer ([REDACTED])
- ([REDACTED]) [REDACTED] inverters, each with an integrated pad mount transformer [REDACTED] kVA, [REDACTED]-kV Dy
- [REDACTED] MVAR capacitor bank at the [REDACTED] kV bus of the substation to which the Project interconnects

Point(s) of Interconnection: The Project will interconnect with the transmission facilities of [REDACTED] at a point to be determined in the interconnection study process.

Real Property Description which shall be subject to adjustment to reflect the final survey and any modifications made in accordance with Prudent Operating Practices: Located in the County of [REDACTED], Florida (to be updated by Seller in accordance with the Interconnection Agreement).

Nothing in this Agreement or Exhibit B is intended to either (i) limit the right of Seller to make any changes to the Project it determines to undertake, or (ii) grant any rights to Buyer regarding the description, nature or components of the Project.

EXHIBIT C

DESCRIPTION OF DELIVERY POINT

Following is a preliminary description of the Delivery Point. Seller shall update as necessary.

EXHIBIT D

PRODUCTION GUARANTEE

I. Definitions. The following defined terms shall apply to this Exhibit D. Capitalized terms used in this Exhibit D and not defined herein will have the meaning assigned in Section 1.1 of the Agreement.

“Actual Energy Output” means, for any Contract Year, the amount of Energy the Seller delivered or made available to Buyer at the Delivery Point during such Contract Year, measured in MWh.

“Annual Energy Output Guarantee” means, for any Contract Year, (i) Buyer’s Share of the amount set forth in the following Table A for such Contract Year, less (ii) any Excused Energy.

Table A	
Contract Year	Annual Energy Output (MWh)
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
Renewal Terms (if applicable)	
21	
22	
23	
24	

25	
26	
27	
28	
29	
30	

“Damages Rate” means an amount equal to the lesser of (1) the Contract Price or (2) the positive difference between Buyer’s annual average avoided energy rate minus the Contract Price per MWh of Production Shortfall.

“Excused Energy” means (a) any Energy, measured in MWh, that Seller is unable to schedule or deliver to the Delivery Point as a result of Buyer Curtailment Orders, Buyer’s failure to obtain transmission service or Buyer’s failure to perform, including for reasons outside its control, as contemplated in Section 3.8(c) (other than due to a breach by Seller of its obligations under the Agreement); plus (b) Buyer’s Share of any Energy, measured in MWh, that Seller is unable to schedule or deliver to the Delivery Point as a result of a (i) Curtailment Period, (ii) System Emergency (other than a System Emergency caused by Seller’s breach of the Interconnection Agreement), (iii) Force Majeure Event, or (iv) Planned Outages (but only to the extent the aggregate MWh for all Planned Outages does not exceed 2% of the Annual Energy Output Guarantee in the applicable Contract Year).

“Production Shortfall” means, for any Contract Year, the positive difference (if any) between the Annual Energy Output Guarantee and the Actual Energy Production for that Contract Year.

II. Guarantee and Damages.

a. Production Guarantee Damages. If there is a Production Shortfall in any two rolling consecutive Contract Years, then Seller shall owe Buyer liquidated damages in an amount equal to (i) the Production Shortfall that occurred in the later of the two relevant Contract Years, multiplied by (ii) the Damages Rate (the “**Production Guarantee Damages**”).

b. Annual Report. No later than 45 days after each Contract Year, Seller shall deliver to Buyer: (i) a calculation showing Seller’s computation of the Actual Energy Output for the previous two Contract Years and the Production Guarantee Damages, if any, owed to Buyer, and (ii) payment in full of any Production Guarantee Damages owed to Buyer. Production Guarantee Damages shall be Buyer’s sole remedy for the failure of Seller to satisfy the production guarantee set forth in this Exhibit D.

EXHIBIT E
FORM OF GUARANTY

THIS SOLAR POWER PURCHASE AGREEMENT GUARANTY, dated as of _____ (this “Guarantee”), is issued by [name of guarantor], a _____ (“Guarantor”) in favor of [_____] (“Guaranteed Party”). [BENEFICIARY], a Delaware limited liability company (“Obligor”) is a wholly owned subsidiary of Guarantor.

A. RECITALS

Obligor and Guaranteed Party have entered into a Solar Power Purchase Agreement, dated as of _____ (the “Agreement”).

This Guarantee is delivered to Guaranteed Party by Guarantor pursuant to the Agreement. All terms defined in the Agreement and not otherwise defined in this Guarantee have the meanings given to them in the Agreement.

AGREEMENT

Guarantee.

Guarantee of Obligations Under the Agreement. For value received, Guarantor absolutely, unconditionally and irrevocably, as primary Obligor and not as surety, subject to the express terms hereof, guarantees the payment and performance when due of all obligations, whether now in existence or hereafter arising, by Obligor to Guaranteed Party pursuant to the Agreement (the “Obligations”). This Guarantee is one of payment and not of collection and shall apply regardless of whether recovery of all such Obligations may be or become discharged or uncollectible in any bankruptcy, insolvency or other similar proceeding, or otherwise unenforceable.

Maximum Guaranteed Amount. Notwithstanding anything to the contrary, Guarantor’s aggregate obligation to Guaranteed Party hereunder is limited to [**insert applicable Required Security Amount**] (the “Maximum Guaranteed Amount”) (it being understood for purposes of calculating the Maximum Guaranteed Amount of Guarantor hereunder that any payment by Guarantor either directly or indirectly to the Guaranteed Party, pursuant to a demand made upon Guarantor by Guaranteed Party or otherwise made by Guarantor pursuant to its obligations under this Guarantee, including any indemnification obligations, shall reduce Guarantor’s maximum aggregate liability hereunder on a dollar-for-dollar basis), excluding costs and expenses incurred by Guaranteed Party in enforcing this Guarantee, and shall not either individually or in the aggregate be greater or different in character or extent than the obligations of Obligor to Guaranteed Party under the terms of the Agreement.

Payment; Currency. All sums payable by Guarantor hereunder shall be made in freely transferable and immediately available funds and shall be made in the currency in which the Obligations were due.

Waiver of Certain Defenses. Guarantor waives: (a) notice of acceptance of this Guarantee and of the Obligations and any action taken with regard thereto; (b) presentment, demand for payment,

protest, notice of dishonor or non-payment, suit, or the taking of any other action by Guaranteed Party against Obligor, Guarantor or others; (c) any right to require Guaranteed Party to proceed against Obligor or any other person, or to require Guaranteed Party first to exhaust any remedies against Obligor or any other person, before proceeding against Guarantor hereunder; and (d) any defense based upon (i) an election of remedies by Guaranteed Party; (ii) a change in the financial condition, corporate existence, structure or ownership of the Guarantor or Obligor; (iii) the institution by or against Obligor or any other person or entity of any bankruptcy, winding-up, liquidation, dissolution, insolvency, reorganization or other similar proceeding affecting Obligor or its assets or any resulting release, stay or discharge of any Obligations; (iv) any lack or limitation of power, incapacity or disability on the part of Obligor or of its directors, partners or agents or any other irregularity, defect or informality on the part of Obligor in the authorization of the Obligations; (v) any lack of validity or enforceability of the Obligations; (vi) any amendment, release, discharge, substitution or waiver of the Agreement or any of the Obligations and (v) any duty of Guaranteed Party to disclose to Guarantor any facts concerning Obligor, the Agreement or the Project, or any other circumstances that might increase the risk to Guarantor under this Guarantee, whether now known or hereafter learned by Guaranteed Party, it being understood that Guarantor is capable of and assumes the responsibility for being and remaining informed as to all such facts and circumstances.

Without limitation to the foregoing, Guaranteed Party shall have the right to at any time and from time to time without notice to or consent of Guarantor and without impairing or releasing the obligations of Guarantor hereunder: (a) renew, compromise, extend, accelerate or otherwise change, substitute or supersede the Obligations; (b) take or fail to take any action of any kind in respect of any security for the Obligations, or impair, exhaust, exchange, enforce, waive or release any such security; (c) exercise or refrain from exercising any rights against Obligor or others in respect of the Obligations; or (d) compromise or subordinate the Obligations, including any security therefor, or grant any forbearances or waivers, on one or more occasions, for any length of time, or accept settlements with respect to Obligor's performance of any of the Obligations.

Except as expressly set forth in this paragraph, Guarantor shall be entitled to assert any and all rights, setoffs, counterclaims and other defenses that Obligor may have to payment or performance of any of the Obligations and also shall be entitled to assert any and all rights, setoffs, counterclaims and other defenses that the Guarantor may have against the Guaranteed Party, other than (a) defenses arising from the insolvency, reorganization or bankruptcy of Obligor, (b) defenses expressly waived in this Agreement by Guarantor, (c) defenses arising by reason of (i) Guarantor's direct or indirect ownership interests in Obligor or (ii) legal requirements applicable to Obligor that prevent the payment by Obligor of its payment obligations that constitute Obligations, and (d) defenses previously asserted by Obligor against such claims to the extent such defenses have been resolved in favor of Guaranteed Party by a court of last resort.

Term. This Guarantee shall continue in full force and effect until the earlier to occur of (a) the substitution of an alternative form of Security by Obligor, (b) the satisfaction of all Obligations of Obligor under the Agreement, or (c) the payment by Guarantor, without reservation of rights, of an aggregate amount equal to the Maximum Guaranteed Amount, together with any other amounts required to be paid by Guarantor pursuant to this agreement. Guarantor further agrees that this Guarantee shall continue to be effective or be reinstated, as the case may be, if at any time payment,

or any part thereof, of any Obligation is rescinded or must otherwise be restored or returned due to bankruptcy or insolvency laws or otherwise.

Subrogation. Until all Obligations are indefeasibly paid in full, unless otherwise provided herein, Guarantor waives all rights of subrogation, reimbursement, contribution and indemnity from Obligor with respect to this Guarantee and any collateral held therefor, and Guarantor subordinates all rights under any debts owing from Obligor to Guarantor, whether now existing or hereafter arising, to the prior payment of the Obligations. Any amount paid to Guarantor on account of any purported subrogation rights prior to the termination of this Guaranty shall be held in trust for the benefit of Guaranteed Party and shall immediately thereafter be paid to Guaranteed Party.

Expenses. Whether or not legal action is instituted, Guarantor agrees to reimburse Guaranteed Party on written demand for all reasonable attorneys' fees and all other reasonable costs and expenses incurred by Guaranteed Party in enforcing its rights under this Guarantee. Notwithstanding the foregoing, the Guarantor shall have no obligation to pay any such costs or expenses if, in any action or proceeding brought by Guaranteed Party giving rise to a demand for payment of such costs or expenses, it is finally adjudicated that the Guarantor is not liable to make payment.

Assignment. Guarantor shall not be permitted to assign its rights or delegate its obligations under this Guarantee in whole or part without written consent of Guaranteed Party. Guaranteed Party shall not be permitted to assign its rights hereunder except in connection with a permitted assignment of its rights and obligations under the Agreement.

Non-Waiver. The failure of Guaranteed Party to enforce any provisions of this Guarantee at any time or for any period of time shall not be construed to be a waiver of any such provision or the right thereafter to enforce same. All remedies of Guaranteed Party under this Guarantee shall be cumulative and shall be in addition to any other remedy now or hereafter existing at law or in equity. The terms and provisions hereof may not be waived, altered, modified or amended except in a writing executed by Guarantor and Guaranteed Party.

Entire Agreement. This Guarantee and the Agreement are the entire and only agreements between Guarantor and Guaranteed Party with respect to the guarantee of the Obligations of Obligor by Guarantor. All prior or contemporaneous agreements or undertakings made, which are not set forth in this Guarantee, are superseded.

Notice. Any demand for payment, notice, request, instruction, correspondence or other document to be given hereunder by Guarantor or by Guaranteed Party shall be in writing and shall be deemed received (a) if given personally, when received; (b) if mailed by certified mail (postage prepaid and return receipt requested), five (5) days after deposit in the U.S. mails; (c) if given by facsimile, when transmitted with confirmed transmission; or (d) if given via overnight express courier service, when received or personally delivered, in each case with charges prepaid and addressed as follows (or such other address as either Guarantor or Guaranteed Party shall specify in a notice delivered to the other in accordance with this Section):

If to Guarantor:

Attn: _____

If to Guaranteed Party:

Attn: _____

Counterparts. This Guarantee may be executed in counterparts, each of which when executed and delivered shall constitute one and the same instrument.

Governing Law; Jurisdiction. This Guarantee shall be governed by and construed in accordance with the laws of the State of Florida without giving effect to principles of conflicts of law. Guarantor and Guaranteed Party submit to the jurisdiction and venue of the Superior Court of the District of Columbia or of any federal district court located in the District of Columbia over any disputes relating to this Guarantee.

Further Assurances. Guarantor shall cause to be promptly and duly taken, executed, acknowledged and delivered such further documents and instruments as Guaranteed Party may from time to time reasonably request in order to carry out the intent and purposes of this Guarantee.

Limitation on Liability. Except as specifically provided in this Guarantee, Guaranteed Party shall have no claim, remedy or right to proceed against Guarantor or against any past, present or future stockholder, partner, member, director or officer thereof for the payment of any of the Obligations, as the case may be, or any claim arising out of any agreement, certificate, representation, covenant or warranty made by Obligor in the Agreement.

Effectiveness. This Guarantee shall be effective as of the date set forth in the first paragraph hereof upon its execution by both Guarantor and Guaranteed Party.

IN WITNESS WHEREOF, Guarantor and Guaranteed Party have executed and delivered this Guarantee.

[Guarantor]

By: _____

Name:

Title:

Acknowledged and agreed

[Guaranteed Party]

By: _____

Name:

Title:

EXHIBIT F
FORM OF IRREVOCABLE LETTER OF CREDIT

Irrevocable Standby Letter of Credit No.

Date of Issuance:

Beneficiary:

[Buyer Name]

Applicant/Account Party:

Amount: USD Amount ([Amount] and 00/100)

Initial expiration date at our counter (unless evergreen):

Final expiration date at our counter:

Ladies and Gentlemen:

We, [Bank Name]

(“Issuer”), do hereby issue this Irrevocable Transferable Standby Letter of Credit No. {_____} by order of, for the account of, and on behalf of [_____] (“Account Party”) and in favor of [Buyer Name]. The term “Beneficiary” includes any successor by operation of law of the named beneficiary including without limitation any liquidator, receiver or conservator.

This Letter of Credit is issued, presentable and payable at the office of the Issuing Bank and we guarantee to YOU that drafts and documents drawn under and in compliance with the terms of this Letter of Credit will be honored on presentation pursuant to the terms of this Letter of Credit.

This Letter of Credit is available in one or more drafts drawn on [Bank Name] and may be drawn hereunder for the account of up to an aggregate amount not exceeding [\$Amount]. This Letter of Credit is drawn against by presentation to us at our office located at [Bank Address] of a drawing certificate (i) signed by an officer of the Beneficiary; (ii) dated the date of presentation; and (iii) the following statement:

“The undersigned hereby certifies to [Bank Name] (“Issuer”), with reference to its Irrevocable Transferable Standby Letter of Credit No.[____], dated _____, issued on behalf of [_____] (“Account Party”) and in favor of the [Buyer Name], (“Beneficiary”) that:

[said Account Party has failed to perform in accordance with the terms and provisions of the Solar Power Purchase Agreement dated [] to which Account Party and Beneficiary are parties, as such agreement may be amended and supplemented from time to time, and any replacements or substitutions thereof, (collectively, the “Agreement”).]

--or--

[(i) Beneficiary has received notice from the Issuing Bank pursuant to the terms of the Letter of Credit that Issuing Bank elects not to extend the Letter of Credit for an additional one-year period, and (ii) the Letter of Credit will expire in fewer than thirty (30) days from the date hereof. As such, as of the date hereof Beneficiary is entitled to draw under the Letter of Credit.]

The Beneficiary hereby draws upon the Letter of Credit in an amount equal to \$[insert amount in figures] (United States Dollars [insert amount in words]).”

If presentation of any drawing certificate is made on a Business Day and such presentation is made on or before 10:00 a.m. Eastern Time, Issuer shall satisfy such drawing request on the second Business Day. If the drawing certificate is received after 10:00 a.m. Eastern Time, Issuer will satisfy such drawing request on the third Business Day.

It is a condition of the letter of credit that it will be automatically extended without amendment for additional one-year periods until [] (the “Final Expiration Date”), unless at least one hundred twenty (120) days prior to any expiration date we send you written notice at the above address by registered mail or overnight courier service that we elect not to consider this Letter of Credit extended for any such period.

This Letter of Credit may be transferred in its entirety (but not in part) by Issuing Bank only upon presentation to us of a Request for Transfer signed by the Beneficiary in the form of Exhibit A accompanied by this Original Letter of Credit and any amendment(s), in which the Beneficiary irrevocably transfers to such transferee all of its rights hereunder, whereupon we agree to either issue a Transferred letter of credit to such transferee or endorse such transfer on the reverse of this Letter of Credit. Any transfer fees assessed by the issuer will be payable solely by the applicant.

Payments under the Letter of Credit shall be in accordance with the following terms and conditions:

All commissions and charges will be borne by the Account Party.

This Letter of Credit shall be governed by the International Standby Practices Publication No. 590 of the International Chamber of Commerce, (the “ISP”), except to the extent that terms hereof are inconsistent with the provisions of the ISP, in which case the terms of the Letter of Credit shall govern. This Letter of Credit shall be governed by the internal laws of the State of Florida to the extent that the terms of the ISP are not applicable; provided that, in the event of any conflict between the ISP and such Florida laws, the ISP shall control.

This Letter of Credit may not be amended, changed or modified without the express written consent of the Beneficiary and the Issuer.

The Beneficiary shall not be deemed to have waived any rights under this Letter of Credit, unless the Beneficiary shall have signed a written waiver.

No such waiver, unless expressly so stated therein, shall be effective as to any transaction that occurs subsequent to the date of the waiver, nor as to any continuance of a breach after the waiver.

Partial drawings and multiple drawings are permitted.

A failure to make any drawing at any time shall not impair or reduce the availability of this Letter of Credit in any subsequent period or our obligation to honor your subsequent demands for payment made in accordance with the terms of this Letter of Credit.

Original Letter of Credit and all amendments need to be presented for a drawing. If it's a partial drawing, we will endorse the drawing amount on the back of the Original Letter of Credit and return the same to beneficiary.

EXHIBIT A UNDER STANDBY LETTER OF CREDIT NO.

REQUEST FOR TRANSFER OF LETTER OF CREDIT IN ITS ENTIRETY

Date: _____

[Bank Name and Address]

Re: Standby Letter of Credit No.

For value received, the undersigned beneficiary hereby irrevocably transfers to:

NAME OF TRANSFEREE _____

ADDRESS OF TRANSFEREE _____

CITY, STATE/COUNTRY ZIP _____

(hereinafter, the "transferee") all rights of the undersigned beneficiary to draw under above letter of credit, in its entirety.

By this transfer, all rights of the undersigned beneficiary in such Letter of Credit are transferred to the transferee and the transferee shall have the sole rights as beneficiary hereof, including sole rights relating to any amendments, whether increases or extensions or other amendments and whether now existing or hereafter made. All amendments are to be advised directly to the transferee without necessity of any consent of or notice to the undersigned beneficiary.

The original of such letter of credit and all amendment(s), if any, are returned herewith, and we ask you to issue a Transferred Letter of Credit or endorse the transfer on the reverse thereof, and forward it directly to the transferee with your customary notice of transfer.

In payment of your transfer commission in amount equal to $\frac{1}{4}\%$ of the amount transferred, minimum of \$250.00

The applicant has wired funds to you through _____ bank and in addition thereto, we agree to pay you on demand any expenses which may be incurred by you in connection with this transfer

Very truly yours, [BENEFICIARY NAME]

Authorized Signature

The signature(s) of _____ with title(s) as stated conforms to those on file with us; are authorized for the execution of such instrument; and the beneficiary has been approved under our bank's Customer Identification Program.

(Signature of Authenticating Bank)

(Name of Bank)

(Printed Name/Title) (Date)

(1) FOR BANK USE ONLY
Confirmation of Authenticating Bank's signature performed by: _____
Date: _____ Time: _____ a.m./p.m.
Add Info.: _____

EXHIBIT G
INSURANCE REQUIREMENTS

General Liability Insurance. Seller must obtain the following insurance coverage, which can be exceeded by Seller and may be met through any combination of primary insurance and following form excess or umbrella insurance so long as the combined limits meet requirements of this Agreement:

Commercial general liability insurance in an “occurrence” form with bodily injury and property damage combined liability limits of not less [REDACTED] per occurrence; provided, however: (i) Seller may use any combination of primary or excess policies to satisfy the overall limit requirements; and (ii) if Seller uses a “claims-made” policy, it must maintain continuous coverage in effect for at least two (2) years beyond termination of this Agreement, through continuous renewal of the original policy or by purchasing extended discovery period or retroactive insurance dated back to the Effective Date of this Agreement.

Specific coverage for broad form contractual liability and a separation of insured provision.

Additional Insurance. In addition to the requirements above, Seller must acquire and maintain throughout the Term, the following additional types of insurance:

Workers’ Compensation. Workers’ compensation insurance in accordance with statutory requirements including employer’s liability insurance with limits not less than [REDACTED] per occurrence and endorsement providing insurance for obligations under the U.S. Longshoremen’s and Harbor Worker’s Compensation Act and the Jones Act, where applicable.

Auto Liability. Automobile liability insurance including owned, non-owned and hired automobiles with combined bodily injury and property damage limits of at least [REDACTED]

All Risk Property. All Risk Property insurance covering the Facility against physical loss or damage, with a minimum limit sufficient to cover replacement of the Facility, including sublimits for physical loss or damage caused by flood, wind, or earthquake, which shall be insured up to [REDACTED]

EXHIBIT H
FORM OF SURETY BOND

BOND NUMBER _____

POWER PURCHASE AGREEMENT BOND

KNOW ALL MEN BY THESE PRESENTS, That we _____
(hereinafter called "Principal"), and [_____] authorized to do business in the State of _____
(hereinafter called "Surety") are held and firmly bound unto _____
(hereinafter called "Obligee") as Obligee, for such monetary amount as incurred by the Obligee, not to exceed the penal sum of _____
(\$ _____) DOLLARS, good and lawful money of the United States of America, the payment of which, well and truly to be made, we do bind ourselves, our heirs, administrators, executors, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS the above bounded Principal has entered into a certain written agreement with the above named Obligee, effective the _____ day of _____, 20____, for the

_____ (hereinafter called "Agreement") which Agreement is hereby referred to and made a part hereof as fully and to the same extent as if copies at length were attached herein.

The obligation of this Bond shall be null and void unless: (1) the above Agreement is in writing, and has been fully executed by both the Principal and the Obligee; (2) the Principal is actually in Default under the above Agreement (hereinafter called "Default"), and is declared by the Obligee thereafter to be in Default; and (3) the Obligee has provided written notice of the Default to the Surety as promptly as possible, and in any event, within fifteen (15) days after such Default.

The Surety, at the sole election and discretion of the Surety, may take any of the following actions:

1. Determine the amount for which the Surety may be liable to the Obligee, and as soon as practicable thereafter, tender payment thereof to the Obligee; or
2. Pay the full amount of the above penal sum in complete discharge and exoneration of this Bond, and of all liabilities of the Surety relating hereto.

PROVIDED HOWEVER, that this Bond is executed by the Surety and accepted by the Obligee subject to the following expressed conditions:

1. This bond may be cancelled by providing sixty days (60) written notice of cancellation given by certified mail to the Obligee and to the Principal at the addresses stated below. Such cancellation shall in no way limit the liability of the Surety for subsequent defaults of the Principal's obligation incurred prior to such termination. In the event of cancellation, the Principal is responsible for providing alternate security to the Obligee thirty (30) days prior to the termination date, otherwise to be considered in Default under the Agreement and the Obligee shall be entitled to submit a Demand and receive payment under this Bond.
2. A reorganization under Chapter 11 of the US Bankruptcy Code by the Principal shall not constitute an event of Default recoverable under this Bond if they continue to perform their obligations under the Agreement.
3. In the event the Principal fails to make any payments due to the Obligee which would constitute the basis of a Default, within Ten (10) business days of Surety's receipt of a Demand for payment under this Bond (hereinafter called "Demand"), Surety shall pay to the Obligee the amount of such Demand. The Surety shall cause to be paid all payments then past due, and in so doing cure any Default under the Agreement. The Obligee may present one or more Demands at any time in its sole discretion, provided however, Surety shall not be obligated to pay an aggregate amount in excess of the penal sum of the Bond less any amounts previously paid by the surety.

4. Surety's liability under this Bond issued in connection therewith shall not be cumulative and shall in no event exceed the amount as set forth in this bond or in any additions, riders, or endorsements properly issued by the Surety as supplements thereto.
5. No claim, action, suit or proceeding, except as herein set forth, shall be had or maintained against the Surety on this Bond unless same be brought or instituted and process served upon the Surety within six (6) months following the effective cancellation date of this Bond.
6. Any notice given or required under this Agreement will be made to the following representatives of the Parties:
 - a. To: {Principal}
 - b. To: {Obligee}
 - c. To: {Surety}

In the event of conflict or inconsistency between the provisions of this Bond and the provisions of the above Agreement, the provisions of this Bond shall control. The Obligee's acceptance of this Bond and reliance upon it as security constitutes its acknowledgement and agreement as to the explicit terms stated herein under which it is offered and issued by the Surety.

Sealed with our seals and dated this _____ day of _____ 20__.

WITNESS:

PRINCIPAL:

(Name & Title)

(Signature) (SEAL)

(Name & Title)

WITNESS:

SURETY:

(Name & Title)

(Signature) (SEAL)

(Name, as Attorney-in-Fact)

EXHIBIT I

ENVIRONMENTAL ATTRIBUTES ATTESTATION AND BILL OF SALE

I. Seller Information

Name of Seller: _____

Address of Seller: _____

Contact Person: _____ Title: _____

Telephone: _____ Fax: _____ Email Address: _____

II. Declaration

I, [NAME AND TITLE] , declare that the Environmental Attributes listed below were sold in accordance with that [AGREEMENT] dated as of [DATE] (“Agreement”) exclusively from: _____ (“Seller”) to [_____] (“Buyer”).

# MWhs Environmental Attributes Transferred	Period of Generation (mm/yy)

I further declare that:

- 1) all the Environmental Attributes were generated by Seller;
- 2) to the best of my knowledge, the Environmental Attributes were not sold, marketed or otherwise claimed by a third party;
- 3) Seller transferred the Environmental Attributes only once, to Buyer;
- 4) the Environmental Attributes were not used to meet any federal, state or local renewable energy requirement, renewable energy procurement, renewable portfolio standard, or other renewable energy mandate by Seller, nor, to the best of my knowledge, by any other entity;
- 5) all of the Environmental Attributes transferred to Buyer (as listed above) were generated at the [_____] facility, a [____]-powered generation facility located in [County, State]; and
- 6) Environmental Attributes transferred to Buyer include RECs which shall be registered and eligible under the Applicable REC Program specified in the Agreement.

As an authorized agent of Seller, I attest that the above statements are true and correct.

Signature

Date

Place of Execution

EXHIBIT J

FORM OF LENDER CONSENT

In the event Seller collaterally assigns its rights hereunder to the Lender as security, any related Lender Consent will contain provisions substantially as follows:

Buyer will not terminate the Agreement other than as provided therein, without the prior written consent of the Lender.

In connection with the exercise of its rights under the Financing Documents, the Lender shall have the right, but not the obligation, to do any act required to be performed by Seller under the Agreement, and Buyer shall accept any such performance by the Lender to the same extent as if such performance was rendered by Seller itself.

Lender shall not assume, sell or otherwise dispose of the Agreement (whether by foreclosure sale, conveyance in lieu of foreclosure or otherwise) unless, on or before the date of any such assumption, sale or disposition, Lender or any third party, as the case may be, assuming, purchasing or otherwise acquiring the Agreement (a) executes and delivers to Buyer a written assumption of all of Seller's rights and obligations under the Agreement in form and substance reasonably satisfactory to Buyer, which include the obligation to cure any and all defaults of Seller under the Agreement which are capable of being cured and which are not personal to Seller; (b) satisfies and complies with all requirements of the Agreement; (c) if applicable, delivers to Buyer a replacement for any Credit Support that is required to be delivered and maintained by Seller under the Agreement; and (d) is a Permitted Transferee (as defined below). Lender further acknowledges that the assignment of the Agreement to Lender is for security purposes only and that Lender has no rights under the Agreement to enforce the provisions of the Agreement unless and until an event of default has occurred and is continuing under the Financing Documents (a "Financing Default") or under this Agreement, in which case Lender shall be entitled to all of the rights and benefits and subject to all of the obligations which Seller then has or may have under the Agreement to the same extent and in the same manner as if Lender were an original party to the Agreement.

"Permitted Transferee" means any person or entity who (i) meets the Required Credit Rating set forth in the Agreement, (ii) has, or is the subsidiary of an entity that has, a record of owning and/or operating, for a period of at least three (3) years, solar photovoltaic generating facilities with an aggregate nameplate capacity of no less than 200 MW, and (iii) is not a Prohibited Person or Entity. Lender may from time to time, following the occurrence of a Financing Default, notify Buyer in writing of the identity of a proposed transferee of the Agreement, which proposed transferee may include Lender, in connection with the enforcement of Lender's rights, which notice shall include evidence reasonably acceptable to Buyer that the proposed transferee satisfies the criteria set forth above. Upon receipt of such notice, Buyer shall, within thirty (30) Days of its receipt of such written notice, confirm to Lender whether or not such proposed transferee is a "Permitted Transferee" (together with a written statement of the reason(s) for any negative determination) it being understood that if Buyer fails to so respond within such thirty (30) Day period such proposed transferee shall be deemed to be a "Permitted Transferee".

If Buyer becomes entitled to terminate the Agreement due to an uncured Event of Default by Seller, Buyer shall not terminate the Agreement unless it has first given notice of such uncured Event of Default to the Lender and has given the Lender an Additional Cure Period to cure such Event of Default. For the purposes of this Agreement, "Additional Cure Period" means (i) with respect to a monetary default, ten (10) Business Days in addition to the cure period (if any) provided to Seller in the Agreement, and (ii) with respect to a non-monetary default, thirty (30) Days in addition to the cure period (if any) provided to Seller in the Agreement. However, if the Lender requires possession of the Project in order to cure the Event of Default and commences foreclosure proceedings against Seller within thirty (30) Days of receiving notice of an Event of Default from Buyer or Seller, whichever is received first, Lender shall be allowed a reasonable additional period to complete such foreclosure proceedings, such period not to exceed ninety (90) Days; provided, however, that Lender shall provide a written notice to Buyer that it intends to commence foreclosure proceedings with respect to Seller within ten (10) Business Days of receiving a notice of such Event of Default from Buyer or Seller, whichever is received first.

Neither the Lender nor any other participant in the Project Debt shall be obligated to perform or be liable for any obligation of Seller under the Agreement until and unless any of them assumes the Agreement.

Any party taking possession of the Project through the exercise of the Lender's rights and remedies shall remain subject to the terms of the Agreement and shall assume all of Seller's obligations under the Agreement, both prospective and accrued, including the obligation to cure any then-existing defaults capable of cure by performance or the payment of money damages. In the event that the Lender or its successor assumes the Agreement in accordance with this paragraph, Buyer shall continue the Agreement with the Lender or its successor, as the case may be, substituted wholly in the place of Seller.

Within sixty (60) Days of any termination of the Agreement in connection with any bankruptcy or insolvency Event of Default of Seller, upon the request of Lender, the Lender (or its successor) and Buyer shall enter into a new power purchase agreement on the same terms and conditions as the Agreement and for the period that would have been remaining under the Agreement but for such termination.

Buyer agrees to execute an estoppel certificate substantially in the form of Attachment A.

[ATTACHMENT A TO EXHIBIT J]

[Buyer shall have the right to qualify and/or revise any representation, warranty and other statement that such representation, warranty or other statement is a true statement as of the date of this certificate.]

[Date]

Reference is made to that certain Power Purchase Agreement dated as of [_____] (the "PPA"), by and between [_____] a [_____] organized and existing under the laws of [_____] ("Buyer"); and [_____] LLC, a [_____] ("Seller"). Terms used herein but not defined herein have the same meanings as in the PPA.

Buyer hereby confirms and agrees as of the date hereof as follows:

1. Buyer is a [_____] duly organized, validly existing and in good standing (if applicable) under the laws of the State of [_____]. The execution and delivery by Buyer of this Estoppel Certificate have been duly authorized by all necessary action on the part of Buyer and do not require any further internal approval or consent of Buyer and do not violate any provision of any law, regulation, order, judgment, injunction or similar matters or breach any agreement presently in effect with respect to or binding on Buyer.

The copy of the PPA, as amended, attached as Exhibit [____], constitutes a true and complete copy of the PPA.

To Buyer's knowledge, as of the date hereof, the PPA is in full force and effect and the PPA has not been assigned or amended by Buyer. All representations and warranties of Buyer under the PPA were true and correct (as may be qualified by the terms of the Agreement) when made, and, to Buyer's knowledge, remain true and correct in all material respects as of the date hereof, except for those that, by their nature or terms, apply only as of the date originally made[, except: _____].

As of the date hereof, (A) no default or event of default with respect to Buyer nor, to the Buyer's knowledge, Seller, has occurred under the PPA, and (B) to Buyer's knowledge, there are no material defaults (including breach(es) of the PPA existing as of the date hereof that are not yet defaults under the PPA because applicable cure periods have not yet expired) or circumstances which with the passage of time and/or giving of notice would constitute a default.

To Buyer's knowledge, there is no event, act, circumstance or condition constituting an event of force majeure under the PPA.

To Buyer's knowledge, Buyer has no existing counterclaims, offsets or defenses against Seller under the PPA. Buyer has no present knowledge of any facts entitling Buyer to any material claim, counterclaim or offset against Seller in respect of the PPA. As of the date hereof, there is no pending or, to Buyer's knowledge, threatened action or proceeding involving or relating to Buyer before any court, tribunal, governmental authority or arbitrator which purports to materially affect the legality, validity or enforceability of the PPA. There exist no pending or to the Buyer's

knowledge, threatened disputes or legal proceedings under the PPA or otherwise between Buyer and Seller.

All payments due, if any, under the PPA by Buyer have been paid in full through the period ending on the date hereof.

[Signature page follows]

IN WITNESS WHEREOF, Buyer has caused this Certificate to be duly executed by its officer thereunto duly authorized as of the date first set forth above.

By:

Title:

Name:

EXHIBIT K
PARTICIPANT LIST

(If Applicable)

EXHIBIT L

FORM OF PROGRESS REPORT

Project:
Recipient:

PROJECT PROGRESS REPORT

Pursuant to Section 4.1(f) of the Agreement, after the Effective Date and before the Commercial Operation Date, Seller will provide Buyer with quarterly progress reports advising Buyer of the current status of the Project, the status of obtaining required Governmental Approvals, any significant developments or delays along with an action plan for making up delays, and Seller’s best estimate of the Commercial Operation Date.

I. Overview

Milestone	Expected Completion	Status	Notes
Interconnect Screening Study		Pending	
Start of Permitting		Pending	
Completion of Site Studies		Pending	
Interconnection Application		Pending	
System Impact Study		Pending	
Local Permitting Complete		Pending	
Facilities Study		Pending	
Interconnection Agreement		Pending	
Construction NTP		Pending	
Start of Major Equipment Delivery to Site		Pending	
85% Capacity Available		Pending	
Back Feed Available		Pending	
COD		Pending	

II. Status Updates

- **Interconnection Agreement**
 - Status update
 -
 - Discussion of any foreseeable disruptions or delays
 -
- **Permits, Licenses, Easements and Approvals to Construct**
 - Status update
 -
 - Discussion of any foreseeable disruptions or delays
 -
- **Construction Notice To Proceed**
 - Status update
 -
 - Discussion of any foreseeable disruptions or delays
 -
- **Major Equipment Delivered to Site**
 - Status update
 -
 - Discussion of any foreseeable disruptions or delays
 -
- **Commercial Operation Date**
 - Status update
 -
 - Discussion of any foreseeable disruptions or delays
 -

Report Completed: [Date, Sender Initials]

EXHIBIT M
FORM OF LIMITED ASSIGNMENT AGREEMENT

[Buyer to Provide]¹

FORM OF ASSIGNMENT SCHEDULE
[PROJECT NAME]

Assigned Product: [_____]

Assigned Delivery Point: [_____]

Assigned Prepay Quantity: As set forth [in the Limited Assignment Agreement]; provided that (i) all Assigned Products shall be delivered pursuant to the Limited Assignment Agreement during the Assignment Period and (ii) the Assigned Prepay Quantity is defined for the convenience of PPA Buyer and [J. Aron] and shall have no impact on the obligations of the Parties under the Limited Assignment Agreement.

APC Contract Price: \$[_____] /MWh

Assignment Period: [_____]

Other Provisions: [_____]

¹ Seller NTD: Limited Assignment Agreement remains under review by both Parties.

**AGENDA ITEM 9 – INFORMATION
ITEMS**

d. Finance Committee Items

**Board of Directors Meeting
April 20, 2023**



BOD 9d -Summary of Finance Committee Items

Board Meeting

April 20, 2023

Other Items

Information Only

- Approval of a new Procurement Policy
- Succession plan discussion

**AGENDA ITEM 10 – MEMBER
COMMENTS**

**Board of Directors Meeting
April 20, 2023**

AGENDA ITEM 11 – ADJOURNMENT

**Board of Directors Meeting
April 20, 2023**