

MASTER AGREEMENT FOR ENERGY AS A SERVICE

This **MASTER AGREEMENT FOR ENERGY AS A SERVICE** (this “**Agreement**”) is entered into as of August 1, 2023 (the “**Effective Date**”) between Oregon SH EaaS LED C LLC (“**Provider**”) and City of Sweet Home, Oregon (“**Customer**”; and together with Provider, collectively, the “**Parties**” and each a “**Party**”). This Agreement is subject to the Standard Terms and Conditions attached as Annex A.

RECITALS

WHEREAS, to address certain of its sustainability goals and energy infrastructure improvements, Customer has engaged Provider to provide one or more energy conservation measures and other improvements (each an “**ECM**” and collectively the “**ECMs**”) as directed by the Customer;

WHEREAS, the Parties have entered into this Agreement as a framework for documenting each mutually agreed ECM, which will be further described in one or more Statements of Work in substantially the form of Exhibit A (each, an “**SOW**”), pursuant to which Provider shall install, own and operate such mutually agreed ECMs and provide certain services (the “**Services**”) at one or more buildings or sites owned or leased by Customer (each, a “**Site**”);

WHEREAS, to the extent set forth in an SOW, certain of the ECMs will be installed on equipment and facilities owned by PacifiCorp (the “**Utility ECMs**”) and certain of the ECMs will be installed on equipment and facilities owned by Customer (“**Non-Utility ECMs**”). As used herein, ECMs refers collectively to Utility ECMs and Non-Utility ECMs; and

WHEREAS, each SOW will set forth detailed descriptions of the ECMs to be undertaken, and the applicable payments to be made to Provider in its capacity as energy-as-a-service provider for the Services to be provided in connection with such ECMs (such payments, the “**Service Payments**”);

NOW, THEREFORE, in consideration of the covenants, representations, warranties, and mutual promises and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE I – SERVICES

1.1 Scope and Identification of ECMs and other Services. From time to time prior to the final payment due date of this agreement (the “**Outside Date**”), the Parties shall cooperate, acting reasonably and in good faith, to identify potential Sites at which Customer is interested in, or may benefit from, ECMs or other Services to be rendered by Provider (or its subcontractors or subconsultants). Such cooperation may include identifying facilities that are currently used or under development or construction by Customer, visiting such locations and facilities, and performing preliminary evaluations to assess whether installing ECMs at a proposed Site is of interest to both Parties. Upon mutual agreement of the Parties, Provider shall prepare one or more SOW for execution by the Parties in accordance with this Agreement. The SOW is further detailed in an attachment as Annex C.

1.2 ECM Completion. Once each (or a separable portion) of ECMs under a SOW have been installed and substantially functions for its intended use in compliance with the requirements of this Agreement and the applicable SOW, Provider shall notify Customer in writing. The date that Provider provides such notice to Customer shall be the “**Commercial Operation Date**” under the applicable SOW. If Customer disagrees that the Commercial Operation Date has occurred, Customer shall, within ten (10) business days of receipt of Provider’s notice, deliver to Provider an exception notice that describes, in

reasonable detail, any such disagreement. Provider and Customer shall cooperate to resolve any such disagreement, and Provider shall perform any additional work that the Parties agree should be performed. If the Parties are unable to resolve any such disagreement or objection within 30 days of delivery of Provider's initial notice, the Parties shall proceed to resolve such disagreement in accordance with the dispute resolution mechanism set forth herein. A failure by Customer to provide an exception notice within such ten (10) business day period shall be deemed a consent by Customer to the Commercial Operation Date, effective as of the date of such Provider's notice.

1.3 Key Performance Indicators. Once Commercial Operation Date shall have occurred for an SOW, and its respective ECMs and Services, Provider shall measure and verify such ECMs and Services based on key performance indicators as set forth in such SOW ("**KPIs**") for a certain evaluation period as set forth in such SOW ("**KPI Period**"). Provider shall provide Customer a written analysis of the KPIs by Site ("**KPI Report**") on or prior to the fifteenth (15th) day of the month following the end of each KPI Period. A failure of an ECM or Service to achieve a KPI may result in a reduction of the applicable Service Payment as set forth below.

1.4. Service Payments, Adjustments, Payment Dates, Method and Late Fees.

A. Service Payments. Customer shall pay Provider the fees for Services set forth in the applicable SOW (such fees, the "**Service Payments**"), which shall accrue from the Commercial Operation Date under the SOW through the expiration of its Service Term (as defined in the applicable SOW).

B. Adjustments. If a KPI Report indicates that an ECM failed to achieve the KPI set forth in the applicable SOW during the preceding KPI Period and Provider fails to remedy such failure within ninety (90) days of delivery of such KPI Report, then the applicable Service Payments for such KPI Period and each subsequent KPI Period shall be reduced by the amount calculated in accordance with the applicable SOW, until such time as the failure is remedied.

C. Payment Dates and Method of Payment. Service Payments shall be due and payable in arrears on the twenty-fifth (25th) day of the month following the end of each KPI Period commencing with the first month immediately following the end of the first full KPI Period succeeding the Commercial Operation Date, or, if such day is not a business day, the next succeeding business day (each, a "**Payment Date**"). Service Payment shall be collected on each Payment Date through automatic debiting of a bank account specified in an Automated Clearing House ("**ACH**") payment authorization provided by Customer to Provider.

D. Late Fees. If funds are unavailable for debit, and not otherwise received by Provider within five (5) business days of the applicable Payment Date, Customer shall incur a late fee equal to 1% of the amounts due on such Payment Date. Any amounts which remain unpaid for longer than fifteen (15) business days following the applicable Payment Date shall accrue interest charges at a rate of 1.5% per month compounding monthly, subject to any applicable statutory limitations.

Customer's obligation to make Service Payments and any other payments hereunder shall be absolute and unconditional and shall not be subject to any existing or future abatement, reduction, setoff, defense or counterclaim for any reason.

1.5. Payments Subject to Annual Appropriation. To the extent applicable, the authorized officials of Customer shall seek to obtain and maintain funds sufficient and available to discharge Customer's obligation hereunder, through all legal processes, including the budgeting process and any appeals thereto. In the event that adequate funds are not allocated, or are allocated but not appropriated by the Customer, the Customer shall notify the Provider in writing within fifteen (15) days of such failure.

This Agreement shall terminate automatically upon such 15th day after such failure, and the Customer shall have deemed to have exercised the Termination Option set forth below.

ARTICLE II – WARRANTY; SITE CONDITIONS

2.1. Warranty.

A. Limited Warranty. Provider warrants to Customer that the ECMs shall be installed and Services shall be performed consistent with Prudent Industry Practices. As used in this Section 2.1, “**Prudent Industry Practices**” means the practices, methods and acts engaged in or approved by a significant portion of the energy conservation measures industry, which in the exercise of reasonable judgment would be expected to accomplish the desired result expeditiously at a reasonable cost consistent with good business practices, reliability and safety. “Prudent Industry Practices” are not intended to be limited to the optimum or minimum practice or method to the exclusion of all others, but rather to be a spectrum of reasonable and prudent practices and methods as commonly practiced in the energy conservation measures industry, in the same region of the Site during the relevant time.

B. AS IS. EXCEPT AS SET FORTH IN SECTION 2.1A, PROVIDER MAKES NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, WHETHER STATUTORY, WRITTEN, ORAL OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES AS TO THE VALUE, DESIGN, AND CONDITION OR FITNESS FOR USE OR PARTICULAR PURPOSE OR MERCHANTABILITY, REGARDING THE ECMS OR ANY SERVICES PROVIDED HEREUNDER.

2.2. Site Conditions.

A. Unusual Conditions. Provider is not responsible for any latent, subsurface or otherwise concealed physical conditions at the Site of an unusual nature that differ materially from those conditions ordinarily found to exist and generally recognized as inherent in energy services activities of the same type and character as the installation of the applicable ECM or performance of Service. Provider shall give written notice to Customer of any such condition promptly upon its discovery by Provider, and request that Customer either (i) approve such changes in the scope of ECM and Service as are necessary to proceed given such condition (with a corresponding adjustment in the Services Payments or Service Term (if applicable)), such changes to be evidenced by a change order between the Parties to reflect such adjustments; or (ii) abandon the applicable ECM and Service and terminate such portion of the applicable SOW by paying to Provider the applicable Early Termination Cost with respect to the terminated portion of such SOW as reasonably determined by Provider on a pro rata basis based on the portion of the ECMs affected.

B. Hazardous Material. Without limitation of the foregoing, each SOW assumes that Provider may install the ECMs and perform any services without encountering or disturbing asbestos, lead paint or other hazardous materials (collectively, “**Hazardous Material**”), and without being required to perform any abatement or provide any notice or take any other action with respect thereto. Customer hereby represents and warrants to Provider that, to the best of Customer’s knowledge and belief, there is no Hazardous Material in any area wherein Provider shall be installing ECMs and performing Provider’s Services hereunder. In the event that Provider: (A) encounters any or suspects that it has encountered Hazardous Material (including friable or non-friable asbestos), which is in the immediate vicinity of Provider’s work, (B) determines or suspect that Provider’s work may result in the disturbance of any Hazardous Material, or (C) reasonably believes that the presence of any Hazardous Material will impede Provider’s work, Provider (x) shall notify Customer of the same and Customer shall, at its cost, (i) cause the Hazardous Material to be promptly and properly removed, enclosed, encapsulated or otherwise abated in accordance with all applicable laws, regulations and guidelines, and/or (ii) provide written test reports showing that the Hazardous Material in such area has been properly remediated in accordance with all applicable laws. Prior to such remediation and/or receipt of such relevant test reports, Provider may

demobilize and cease construction in the area affected by the presence of such Hazardous Materials. In the event that Customer does not promptly take such remedial actions, Provider may, at its option, either remove the affected area from the SOW (and make commensurate adjustments to the rights and obligations of the Parties consistent with clause A. above) or terminate the affected SOW in its entirety on thirty (30) days' prior written notice to Customer. Customer shall be responsible for all costs (including applicable Early Termination Cost) incurred by Provider that relate to the presence of Hazardous Materials.

ARTICLE III – TERM

3.1. Term. This Agreement commences on the Effective Date and expires upon the earlier of (a) termination or expiration of all SOWs and (b) the Outside Date (the “**Term**”). Each SOW shall have its own Service Term, which shall be indicated within the SOW and shall terminate on or before the Outside Date.

3.2. Early Termination.

A. By Provider. Provider may terminate any SOW with respect to any Utility ECMs set forth therein, without any liability to Customer, at any time upon notice to Customer if Provider's agreement with PacifiCorp authorizing Provider to implement the Utility ECMs is terminated for any reason.

B. By Customer. Customer may terminate any SOW (x) at its option prior to the end of its respective Service Term upon thirty (30) days prior written notice to Provider, (y) automatically, as a result of a casualty, condemnation or sale of applicable Site (where such new owner has not agreed to the terms of the SOW) (in either such case, the “**Early Termination Option**”), in which case Customer may elect:

(i) the Termination Option by paying the “**Early Termination Cost**” listed in Schedule A of such SOW for the calendar year in which the termination takes effect or

(ii) the Purchase Option by paying the higher of (a) the FMV or (b) the Early Termination Cost.

This section shall also apply to any partial termination of any SOW, and any payments due in connection with a partial termination shall be reasonably determined by Provider on a pro rata basis based on the portion of the ECMs affected.

3.3. End-of-Term Options. At the end of the applicable Service Term of any SOW, if Customer is not then in default thereunder or under this Agreement, Customer may elect in writing: with respect to Non-Utility ECMs, one of the options set out below in this Section 3.3; or, with respect to Utility ECMs, either the Upgrade Option or the Termination Option. If Customer does not make an election within thirty (30) days prior to the end of the Service Term, or if the Parties cannot agree on terms of an Extension Option, an Upgrade Option or the Purchase Option prior to the expiration of the Service Term, Customer shall be deemed to have elected: with respect to Non-Utility ECMs, the Extension Option with the CPI escalation described below, subject to Provider's consent as set forth below; or, with respect to Utility ECMs, the Termination Option.

A. Extension Option. Customer may (or if deemed to have elected the Extension Option, shall) elect to extend, with consent by Provider, the Service Term of any existing SOW beyond its initial Service Term or any subsequent renewal thereof. Any such deemed Extension Option shall be for a one year term unless otherwise agreed. The Parties shall negotiate KPIs in good faith, based on the KPIs and the performance of the Non-Utility ECMs at the end of the prior Service Term; provided that in a deemed Extension Option, Provider shall unilaterally set KPIs with notice to Customer at a reasonable level

based on the performance of the Non-Utility ECMs at the end of the prior Service Term. If the Parties do not agree on a new Service Payment, Service Payments shall escalate annually by an amount equal to the greater of (x) two percent (2%) or (y) the annual percentage increase in the Consumer Price Index of the Bureau of Labor Statistics of the United States Department of Labor for All Urban Consumers, U.S. City Average (All Items) (the “CPI”) as of January 1 of such year, as compared to the CPI in effect on January 1 of the prior year. If Provider fails to consent to the Extension Option, the Parties shall default to the Termination Option below.

B. Upgrade Option. Customer and Provider may elect to replace or improve the applicable ECM(s) pursuant to a new SOW (“**Upgrade Option**”), with new Service Term, Service Payment, KPI and other terms to be negotiated in good faith, provided that, with respect to Utility ECMs, PacifiCorp consents to the Upgrade Option.

C. Purchase Option. Customer may elect to purchase the applicable Non-Utility ECM(s) (“**Purchase Option**”) by paying Provider the higher of (a) the fair market value (“**FMV**”) of the applicable Non-Utility ECM(s) or (b) an amount equal to the applicable Early Termination Cost of the applicable Non-Utility ECM(s). Provider shall notify Customer of the FMV within twenty (20) days of Customer’s election of the Purchase Option. Customer may reasonably object to Provider’s determination within ten (10) days and the dispute shall be resolved by an independent appraiser appointed by Provider, and approved by Customer (in its reasonable discretion) pursuant to the Uniform Standards of Professional Appraisal Practice, the cost of which shall be split equally. Upon exercising the Purchase Option, Provider shall cause the conveyance of all right, title and interest in the applicable ECM and any original equipment manufacturer warranties to Customer on an AS IS, WHERE IS basis free and clear of all liens and other encumbrances placed on the applicable Non-Utility ECM(s) by Provider or any of its agents or subcontractors.

D. Termination Option. Customer may elect not to exercise (or fail to have exercised) the options provided in clauses A. through C. above (or in the case of the Extension Option, Provider may have rejected the exercise or deemed exercise thereof), in which case the applicable SOW shall terminate (“**Termination Option**”). In the case of termination, Customer shall (i) pay to Provider in immediately available funds, an amount equal to the Early Termination Cost, (ii) cease use of the applicable Non-Utility ECM(s) upon expiration of the applicable Service Term and (iii) dismantle and deliver the applicable Non-Utility ECM(s) to Provider at the location(s) to be specified by Provider and in the same condition and appearance as originally installed at the Site (reasonable wear and tear from normal operation excepted), and free of all liens and claims created or permitted by Customer (except any liens created by Provider) within thirty (30) days after the expiration of the applicable Service Term. If Customer fails to do so, Provider retains all legal and equitable rights to enter the Site and take possession of the applicable Non-Utility ECM(s). Customer shall reimburse Provider all costs reasonably incurred in (a) removing any liens on the applicable Non-Utility ECM(s), and (b) uninstalling and repossessing the applicable Non-Utility ECMs. In Provider’s sole discretion, Provider may abandon the applicable Non-Utility ECM(s) and transfer title to Customer on an AS IS, WHERE IS basis.

3.4. No Further Responsibilities upon Title Transfer, Expiration or Early Termination. In any event, upon title transfer of Non-Utility ECMs due to the exercise of the Purchase Option, or the expiration or earlier termination of the applicable Service Term, Provider shall have no further responsibilities with respect to the applicable SOW or ECM(s) installed at such Site including, without limitation, with respect to the related KPIs.

ARTICLE IV – CUSTOMER RESPONSIBILITIES

4.1. Site Access. Upon one (1) business day’s prior notice (which may be by telephone or email), Customer shall provide or cause to be provided (x) free and full access to the Site to Provider and its designees, during **reasonable** hours during the Service Term applicable to the relevant Site and for a

reasonable period thereafter, and (y) reasonable rent-free storage on-site for use by Provider and its designees during the installation of the ECMs.

4.2. Utilities. Customer shall be responsible for maintaining uninterrupted energy supply and utility service to each ECM in accordance with the applicable SOW. Customer is responsible for providing all required telephone and internet lines and telephone and internet service and/or all required network LAN/WAN access, including, but not limited, to VPN tunneling, firewall coordination, and static/dynamic IP address maintenance to allow Provider remote access at all times to performance tracking monitoring systems to the extent required to perform and complete the Services. Customer shall make prompt telephonic notice to Provider of any material interruption or alteration of the energy supply, telecommunications or utility service to any ECM.

4.3. Maintenance Responsibilities. Subject to the provisions of this Section and except as may be otherwise set forth in the applicable SOW, Provider shall operate and maintain each ECM as part of the Services. Customer agrees to maintain the Site in good repair in accordance with Prudent Industry Practices, including the condition and integrity of the building envelopes of the Site, the condition of all energy-consuming equipment and all connections between the ECMs and all energy-consuming equipment at the Site. Customer shall not move any Non-Utility ECM from any Site nor damage or make any alterations, additions or improvements to any Non-Utility ECM without Provider's prior written approval. Any such action in violation hereof, may result in a change in the KPIs related to such ECM(s) and/or a Customer EOD hereunder.

4.4. Taxes. Provider shall pay all applicable federal, state or local sales, real and personal property, consumer, use, and other similar taxes or charges relating to the ECMs assessed against Provider on or before the same become delinquent. Such charges shall be passed through to Customer, shall be included in the Service Payments payable on the next Payment Date (in addition to the scheduled Service Payments in the applicable SOW).

4.5. Risk of Loss. From and after the Commercial Operation Date with respect to each ECM, Customer or PacifiCorp, as provided for in the applicable agreements between Customer and PacifiCorp, shall bear risk of loss and have care, custody and control pertaining thereto and any materials, equipment, spare parts, supplies and maintenance equipment (including temporary materials, equipment, and supplies) constituting the ECMs located at the Site, notwithstanding the fact that title to the Non-Utility ECMs shall remain with Provider. Any ECMs lost, damaged, stolen or impaired before the Commercial Operation Date with respect thereto shall be replaced promptly by Provider. Such replacement prior to the Commercial Operation Date shall be without additional cost except to the extent of the negligence, gross negligence or willful misconduct of Customer or any party for which Customer is responsible. After the Commercial Operation Date, such loss shall trigger an Early Termination Option or, with the consent of both Parties, an Upgrade Option.

4.6. Insurance. Customer shall maintain or, with respect to Utility ECMs, cause PacifiCorp to maintain insurance from the Effective Date as set forth in Annex B-1. Provider shall maintain insurance from the Effective Date as set forth in Annex B-2. Each Party, its successors and assigns and, upon request, its financing sources shall be listed as additional insureds, loss payees and certificate holders of the other Party's insurance, other than worker's compensation. Customer consents to cooperate and provide such information as is reasonably necessary for Provider to obtain the insurance set forth on Annex B-2. Each Party shall be entitled to receive ten (10) days advance notice of cancellation of the other Party's insurance for failure to pay premiums.

4.7. Casualty. If the ECMs or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty, Customer shall provide written notice to Provider promptly upon the occurrence of such casualty and Customer shall (or shall separately contract with Provider to) cause the prompt replacement, repair, restoration, modification or improvement of the ECMs within ninety (90) days

of such casualty. Customer shall apply the net proceeds of any Customer insurance claim to pay for such restoration or replacement, and shall pay the difference between such net proceeds and the cost of restoration or replacement out of Customer's own funds. If Customer does not restore the ECMs to substantially the same condition existing prior to such casualty within such timeframe, Customer shall be deemed to have elected to exercise the Termination Option hereunder.

4.8. Financial Statements. Customer (or its guarantor, as applicable) shall provide (i) no later than one hundred twenty (120) days after the end of each of Customer's fiscal years, Customer's audited financial statements, with the unqualified opinion of an independent certified public accountant, and (ii) such other financial information as may be reasonably requested from time to time by Provider.

ARTICLE V - DEFAULT AND REMEDIES

5.1. Defaults.

A. Provider EODs. Each of the following constitute events of default by Provider (each, a "**Provider EOD**"):

(i) any failure by Provider to make any payment to Customer when due under this Agreement or any SOW, which shall have continued for five (5) business days following its receipt of written notice thereof from Customer;

(ii) any material breach by Provider of any representation or obligation (other than a payment obligation or a failure to meet KPIs) under this Agreement, which shall have failed to be cured (or in the case of a failed representation, the underlying condition rectified), within thirty (30) days following written notice from Customer, provided that if Provider is working diligently, in good faith and with commercially reasonable efforts to so cure, and fails to meet such deadline, Provider may have up to an additional sixty (60) to implement such cure; and

(iii) commencement of any bankruptcy or other similar proceedings by Provider or against Provider (which involuntary bankruptcy is not dismissed within ninety (90) days) or any assignment for benefit of creditors by Provider;

For the avoidance of doubt, the sole and exclusive remedy for the failure of any ECMs to satisfy the KPIs is the reduction in Service Payments as described in Section 1.4 and the applicable SOW, and such failure shall not constitute a Provider EOD.

B. Customer EODs. Each of the following constitute events of default by Customer (each, a "**Customer EOD**"):

(i) any failure by Customer to make any payment to Provider when due under this Agreement or any SOW, which shall have continued for five (5) business days after the same are due and payable;

(ii) any material breach by Customer of any representation or obligation (other than a payment obligation) under this Agreement, which shall have failed to be cured (or in the case of a failed representation, the underlying condition rectified), within thirty (30) days following written notice from Provider, provided that if Customer is working diligently, in good faith and with commercially reasonable efforts to so cure, and fails to meet such deadline, Customer may have up to an additional sixty (60) to implement such cure;

(iii) commencement of any bankruptcy or other similar proceedings by Customer or against Customer (which involuntary bankruptcy is not dismissed within ninety (90) days) or any assignment for benefit of creditors by Customer;

(iv) Customer's acts or omissions which cause any Lien to be placed on any ECM;

(v) Customer fails to maintain any insurance it is required to maintain under this Agreement or any SOW;

(vi) A. Customer alters, moves, tampers with, deactivates, or damages any ECMs (or any part thereof) under any SOW or changes the use or purpose of such ECMs (or any part thereof) except as expressly permitted hereunder and such has an adverse effect on Provider or the ability of Customer to perform its obligations hereunder or under such SOW, and continues for five (5) days after receipt of written notice thereof from Provider;

B. Customer removes, sells, transfers, encumbers, parts with possession of or subleases all or any part of the ECMs, attempts to do any of the foregoing, or suffers a lien or other encumbrance of any kind or description to be placed on any of such ECMs;

C. Customer sells or materially alters or shuts down its operation at all or any material part of any of the Sites covered by the SOW, except as expressly permitted hereunder, and such alteration or shut down has an adverse effect on Provider or the ability of Customer to perform its obligations hereunder, and continues for five (5) days after receipt of written notice thereof from Provider;

provided that, if such event occurs after the Commercial Operation Date, and Customer either (x) continues to make Service Payments to Provider under the applicable SOW at the levels made prior to such event, as if such event never occurred (and notwithstanding the effect of such event on any KPIs) or promptly complies with the Early Termination Option with respect to such SOW or portion thereof, such event shall not trigger a Customer EOD;

(vii) through action, fault or omission of Customer (including its representatives, such as employees and contractors, other than Provider and its subcontractors), the installation or implementation of any ECMs under any SOW is delayed and the aggregate of such delays exceed forty-five (45) days, in aggregate;

(viii) any change in ownership or other sale, transfer or disposal of ownership or controlling interests (whether in a single transaction or by virtue of a series of transactions) so that, after giving effect to such change, sale, transfer or disposal, the majority of the beneficial ownership or control of the Customer as of the effective date cease to be the same; and

(ix) Customer's material breach of any other obligation under this Agreement or the applicable SOW, which Customer fails to remedy within fifteen (15) days of its knowledge thereof.

5.2 Remedies.

A. Customer Remedies. If Provider does not cure a Provider EOD within the applicable cure period, Customer may at Customer's election:

(i) with respect to Non-Utility ECMs, terminate the applicable SOW and either:

(a) cease use of the applicable Non-Utility ECM(s) under the relevant SOW and uninstall and deliver the applicable Non-Utility ECM(s) to Provider at the location(s) to be

specified by Provider and in the same condition and appearance as originally installed at the Site (reasonable wear and tear from normal operation excepted), and free of all liens and claims created or permitted by Customer (except any liens created by Provider) within thirty (30) days after termination; or

(b) pay Provider the “Default Cost” with respect to the Non-Utility ECMs listed in such SOW for the calendar year in which the termination takes effect, upon receipt of which Provider shall cause the transfer of title to the Non-Utility ECM and any original equipment manufacturer warranties to Customer on an AS IS, WHERE IS basis free and clear of all liens and other encumbrances placed on the applicable Non-Utility ECM(s) by Provider or any of its agents or subcontractors; and

(iii) with respect to Utility ECMs, terminate the applicable SOW, pay Provider the “Default Cost” with respect to the Utility ECMs listed in such SOW for the calendar year in which the termination takes effect, upon payment of which Customer may exercise any and all remedies available to provider under applicable law.

B. Provider Remedies. If Customer does not cure a Customer EOD within the applicable cure period, Provider may at Provider’s election:

(i) terminate the applicable SOW (and, at its election in its sole discretion, any other SOWs and/or this Agreement);

(ii) at its election in its sole discretion disable the operation of, reduce the functionality of and/or remove the applicable Non-Utility ECMs at Customer’s cost and expense, including with respect to any attorney’s fees and costs, or abandon such Non-Utility ECMs;

(iii) report such Customer EOD to a credit rating agency and any other business and credit entities;

(iv) call immediately due the sum of the unpaid Service Payments (which shall not be discounted by any reductions for failure to achieve the KPIs); except that Provider shall not exercise its remedies under sub-paragraphs (ii), (iii) and the first clause of this clause (iv), if Customer elects to exercise either (a) the Purchase Option with respect to Non-Utility ECMs and Early Termination Option with respect to Utility ECMs or (b) Early Termination Option with respect to all ECMs and, in either case, pays all amounts in accordance therewith, together with all other unpaid amounts which accrued prior to such election within five (5) business days of such Customer EOD; and

(v) exercise any and all remedies available to Provider under applicable law.

C. Effect of Termination of SOW. In the event of any termination of an SOW under this Article IV, Provider shall have no further responsibilities with respect to the applicable ECM(s) installed at such Site including, without limitation, with respect to the related KPIs.

D. Failure to Meet KPI not a Provider EOD. Any failure by any ECM to achieve the applicable KPIs shall not constitute a Provider EOD hereunder, the reduction in the Service Payments is Customer’s sole and exclusive remedy therefore. Provider may replace or install additional equipment at a Site to prevent or cure any failure to achieve the KPIs, upon advance notice to Customer. Provider is not responsible for any failure to achieve the KPIs due to failure, damage or downtime attributable to third parties, general utility outages or any failure of any electric grid, Force Majeure, Customer’s breach of this Agreement, including providing adequate access and performing any maintenance responsibilities, or, in the case of solar panels, insolation conditions other than standard insolation conditions as of the SOW Effective Date (as defined in the applicable SOW).

ARTICLE VI- MISCELLANEOUS

6.1 Force Majeure. If either Party shall be unable to carry out any part of its obligations under this Agreement (except Customer's obligation to make payments when due) due to causes beyond its control ("**Force Majeure**"), including but not limited to an act of God, strikes, lockouts or other industrial disturbances, acts of public enemies, acts of terrorism, orders or restraints of any kind of the government of the United States or any state or any of their departments, agencies or officials or any other civil governmental, military or judicial authority, war, blockage, insurrection, riot, sudden action of the elements, fire, explosion, flood, earthquake, epidemic, storms, drought, landslide, or explosion or nuclear emergency, this Agreement shall remain in effect but the affected Party's obligations shall be suspended for a period equal to the disabling circumstances; provided, further, that:

(i) the non-performing Party gives the other Party prompt written notice describing the particulars of the Force Majeure, including but not limited to the nature of the occurrence and its expected duration, and continues to furnish timely regular reports with respect thereto during the period of Force Majeure;

(ii) the suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure;

(iii) no obligations of either Party that arose before the Force Majeure causing the suspension of performance are excused as a result of the Force Majeure; and

(iv) the non-performing Party uses reasonable efforts to mitigate the impact of the Force Majeure on its performance and remedy its inability to perform.

Any decision by Customer to close or change the use of the facilities or ECMs at a Site, including as a result of COVID-19, any related "stay at home" orders or their effects on Customer's operations or financial condition, shall not constitute a Force Majeure excusing Customer's performance under this Agreement.

6.2. Notices. Any notice or other communication under this Agreement or any related SOW must be in writing and sent to the address or email address set forth below (or to such other address or email address as may be designated in writing by a Party) unless otherwise set forth herein. Notices must reference this Agreement (and any relevant SOW by number) and shall be deemed to be properly given (i) two (2) hours after delivery by electronic mail or (ii) when delivered personally to an authorized representative of a Party or via certified mail or courier service. Customer must provide prompt written notice to Provider of any change in contact information and relevant banking information.

If to Customer:

City of Sweet Home, OR
3225 Main Street
Sweet Home, OR 97386
Attention: Kelcey Young, City Manager
Email: kyoung@sweethomeor.gov

If to Provider:

Oregon SH EaaS LED C LLC
c/o Ameresco, Inc.
222 Williams Ave. South, Suite 100
Renton, WA
Attn: Ron Haxton, VP Northwest Region

Email: rhaxton@ameresco.com

With a copy to:

Oregon SH EaaS LED C LLC
c/o Ameresco, Inc.
111 Speen Street, Suite 410
Framingham, MA 01701
with a copy (not constituting notice) to:
Attention: General Counsel
Email: dcorrsin@ameresco.com
legalnotices@ameresco.com

6.3. Assignment. Provider may assign its rights and obligations, in whole or in part, under this Agreement and any or all SOWs without Customer's consent, including to any Lender (as defined in Annex A hereto). Provider shall promptly provide written notice of any assignment to Customer; however, the failure to timely deliver such notice shall not affect the validity of such assignment. Customer shall execute such consents to assignment as may be reasonably required by any Lender; provided, that under no circumstances shall such consents materially adversely affect Customer's rights or obligations under this Agreement or any SOW. Customer shall not assign or otherwise dispose of Customer's rights or obligations under the Agreement without Provider's prior written consent.

6.4. Service Contract; Liens; Title to ECM; Security Interest. As between Customer and Provider, each Non-Utility ECM and all alterations, additions or improvements made to the Non-Utility ECM after the Effective Date, regardless of whether allowable under the provisions of this Agreement or any SOW, shall remain Provider's personal property (or that of its Lender, as assignee) regardless of how it may be attached to other real property, and shall not attach to or be deemed a part of, or fixture to, the Site. Upon the Commercial Operation Date, title to each Utility ECM and all alterations, additions or improvements made to the Utility ECMs shall vest in PacifiCorp. Customer shall not permit to exist any lien or encumbrance on the Non-Utility ECM or any Equipment, or any other equipment or assets of Provider ("**Lien**"). Customer agrees, at Customer's own expense, to discharge or eliminate any such Lien. If, despite the Parties' intentions, the Non-Utility ECMs (or any of the Equipment comprising such Non-Utility ECMs) are determined to be Customer's personal property, to the extent permitted under applicable law, Customer hereby grants to Provider a continuing, first priority security interest in and to all of its right, title and interests in and to the Non-Utility ECMs, all repairs, replacements, substitutions and modifications thereto and all proceeds of the foregoing whether now or hereafter owned, acquired or existing, and all proceeds and products thereof to secure the payment and performance to secure all of Customer's obligations to Provider arising under this Agreement. Customer hereby authorizes Provider to prepare and file such financing statements and other such documents to establish and maintain such security interest as Provider (or its Lender, as assignee) deems necessary or advisable to protect its interests. Upon termination of this Agreement by payment by Customer of all amounts due, Provider's security interest shall terminate, and Provider shall at the cost and expense of Customer, remove any Lien created by Provider on any Non-Utility ECMs. Should any Equipment or ECM be determined to be Customer's personal property, the Parties shall cooperate in good faith to revise this agreement to accomplish the same economic benefits as provided by this service agreement through an operations and maintenance or other agreement.

6.5. References. Unless otherwise stated all references to a particular "Exhibit" or "Annex" are to the referenced Exhibits or Annexes which are attached to this Agreement and all such referenced Exhibits and Annexes are incorporated by reference within this Agreement. All references herein to a

Section or subsection shall refer to a Section or a subsection, as the case may be, of this Agreement unless this Agreement specifically provides otherwise.

6.6. Severability. It is agreed that the illegality or invalidity of any term or clause of this Agreement, shall not affect the validity of the remainder of this Agreement and this Agreement shall remain in full force and effect as if such illegal or invalid term or clause were not contained herein.

6.7. Entire Agreement. This Agreement, when executed, together with all schedules, exhibits and other documents in this Agreement, shall constitute the entire agreement between the Parties with respect to the subject matter hereof and this Agreement may not be amended or modified except by a written agreement signed by the Parties hereto. This Agreement supersedes all prior and contemporaneous negotiations, statements, representations, agreements, letters of intent, awards, or proposals, either written or oral relative to the same.

6.8. Electronic Signatures. The Parties agree that the electronic signature of a Party to this Agreement, whether a digital signature, a DocuSign signature, or a manually signed original signature that is then transmitted by electronic means, shall be as valid as an original signature of such Party and shall be effective to bind such Party.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered, as of the date first above written.

Customer:			
City of Sweet Home, Oregon			
By: _____			
Authorized Signature	[_____]	Print Name	[_____]
Title	[_____]		
Email	[_____]	Phone	[_____]

Provider			
Oregon SH EaaS LED C LLC			
By: Ron Haxton, PE			
Authorized Signature	[_____]	Print Name	[_____]
Title	Vice President, Northwest Region		
Email	rhaxton@ameresco.com	Phone	(509) 343-5358

Exhibit A

Statement of Work

This Statement of Work number 1 (the “**SOW**”) is dated as of August 1, 2023 (the “**SOW Effective Date**”) between Oregon SH EaaS LED C LLC (“**Provider**”), and City of Sweet Home, Oregon (“**Customer**”). Capitalized terms not otherwise defined in this SOW have the meaning assigned to them in the Master Agreement for Energy as a Service, dated as of August 1, 2023 (the “**Agreement**”), by and between Provider and Customer, the terms and conditions of which (including any defined terms appearing therein), unless otherwise indicated are hereby incorporated by reference in this SOW.

Table 1: Energy Conservation Measures. Provider shall install the following ECMs at the following Sites.

Site	Description of ECM	Utility Owned (1)
Citywide	Streetlight conversion to LED technology	Y

(1) ECMs for which the value in the Utility Owed column is “Y” are Utility ECMs for purposes of this Agreement and SOW. ECMs for which the value in the Utility Owed column is “N” are Non-Utility ECMs for purposes of this Agreement and SOW.

Table 2: Services. The following services shall be provided for each Site (collectively the “**Services**”) [including any activities of the Energy Manager].

Service	Description	Frequency Provided
Lighting Services	Deliver LED lighting conversion to the customer.	One Time Installation

Table 3: Key Performance Indicators; KPI Period.

KPIs	Streetlights will illuminate as intended as of the Commercial Operation Date.
Measurement and Verification Procedures	Not applicable.

Table 4: Reduction in Payment.

Reduction in Payment	Not applicable. PacifiCorp streetlighting rates are based on number of installed luminaires and wattage. Operational and repair/replacement responsibility returns to the existing agreement between Customer and PacifiCorp once construction is complete.
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Table 5: Service Payments. Payment period is one year following Commercial Operation Date and every year thereafter for 12 years. Customer agrees to make the following Service Payments during the initial Service Term in accordance with the Agreement:

Payment Period	Service Payment*
1	\$128,526.00
2	\$39,682.00
3	\$40,872.00
4	\$42,098.00
5	\$43,361.00
6	\$44,662.00
7	\$46,002.00
8	\$47,382.00
9	\$48,804.00
10	\$50,268.00
11	\$51,776.00
12	\$53,329.00

*The scheduled Service Payments shall be increased by the amount of any tax or other governmental charge relating to the ECMs paid from time to time by the Provider, notice of which shall have been given to Customer hereunder.

Source of Service Payments: Customer covenants and agrees that Service Payments shall be made as a first priority from the revenues of the utility savings and Energy Trust of Oregon incentive associated with the project.

Service Term: The initial Service Term shall commence on the Commercial Operation Date and continue until the last day of the **12-year** consecutive complete calendar year following the Commercial Operation Date.

Table 6: Training and Maintenance Responsibilities. Provider and Customer operate and maintain the Non-Utility ECMs in accordance with Prudent Industry Practices for the purposes for which the Non-Utility ECMs were designed. Provider shall retain the sole right to specify operating policies and procedures related to the Non-Utility ECMs and to modify and provide further training on such policies and procedures from time to time.

Maintenance. The Parties have agreed to the following responsibilities for regular maintenance, irregular repairs, and major maintenance, as necessary:

ECM	Description	Frequency Provided	Party Responsible
Streetlight Conversion	None	N/A	N/A

Training. Provider shall provide training with respect to the ECMs as set forth below.

Provider shall give training to the Customer on the updated GIS database upon startup.

Insurance. In addition to the insurance required to be maintained by Customer under the Agreement, Customer shall obtain the following insurance: No additional required.

IN WITNESS WHEREOF, the parties hereto have caused this SOW to be executed and delivered, as of the date first above written.

Customer:			
City of Sweet Home, Oregon			
By: [_____]			
Authorized Signature	[_____]	Print Name	[_____]
Title	[_____]		
Email	[_____]	Phone	[_____]

Provider			
Oregon SH EaaS LED C LLC			
By: Ron Haxton, PE			
Authorized Signature		Print Name	
Title	Vice President, Northwest Region		
Email	rhaxton@ameresco.com	Phone	(509) 343-5358

Schedule A to SOW: Early Termination Cost and Default Cost

The following schedule defines the Early Termination Cost and Default Cost payable pursuant to the SOW for each calendar year commencing with the calendar year in which the Commercial Operation Date occurs. At all times prior to the Commercial Operation Date, the Early Termination Cost and Default Cost are equal to the respective amounts set forth for Year 1.

Year	Early Termination Cost	Default Cost
1	\$483,898	\$483,898
2	\$347,339	\$347,339
3	\$332,989	\$332,989
4	\$316,169	\$316,169
5	\$296,638	\$296,638
6	\$274,131	\$274,131
7	\$248,363	\$248,363
8	\$219,023	\$219,023
9	\$185,773	\$185,773
10	\$148,248	\$148,248
11	\$106,048	\$106,048
12	-	-

Annex A

Standard Terms and Conditions

1. Indemnification.

A. Each Party agrees to indemnify and hold the other Party, its board members, officers, agents and employees (collectively, the “Indemnitees”), harmless from and against any and all third party claims for damages arising by reason of bodily injury, death or damage to property to the extent caused by the non-claiming Party’s negligence or willful misconduct (or the negligence or willful misconduct of any sub-contractor hired by such non-claiming Party), whether active or passive. Neither Party, however, in any event shall be obligated to indemnify any Indemnitee to the extent that any injury or damage is caused by the negligence, whether active or passive, or willful misconduct of the claiming Party, or any entity or employee for which such claiming Party is legally responsible. It is understood and agreed that neither Party to this Agreement (or any SOW) shall be liable for any negligent or wrongful acts, either of commission or omission, chargeable to the other, unless such liability is imposed by law, and that this Agreement (and any SOW) shall not be construed as seeking to either enlarge or diminish any obligation or duty owed by one Party against the other or against third parties.

B. Except as expressly set forth with respect to Provider’s potential failure to meet KPIs, neither Party shall be liable for any incidental, indirect, punitive or consequential damages, connected with or resulting from performance or non-performance of this Agreement (or any SOW) (irrespective of whether such claim of liability is based upon breach of warranty, strict liability, tort, contract, operation of law or otherwise) or anything done in connection therewith including, without limitation, claims in the nature of lost revenues, income or profits (other than payments expressly required and properly due under this Agreement), and increased expense of, reduction in or loss of energy savings or tax benefits.

C. Provider’s aggregate contract liability under this Agreement (and any SOW) shall be limited to the sum of the Service Payments received by Provider under this Agreement (and any SOW), unless the breach giving rise to such contract liability relates only to one or more SOWs, in which case such liability shall be limited to the sum of the Service Payments received by Provider under such SOW(s). Provider’s aggregate liability to Indemnitees in tort (including gross negligence) shall, in all cases, be limited to the proceeds of insurance maintained by Provider pursuant to the requirements of this Agreement (and the applicable SOW).

2. **Fees and Expenses.** In the event a Party should default under any of the provisions of this Agreement and the other Party should employ attorneys or incur other expenses for the collection of the payments due under this Agreement or the enforcement of performance or observance of any obligation or agreement on the part of the non-defaulting Party herein contained, the defaulting Party agrees to pay promptly to the non-defaulting Party the reasonable fees and expenses of such attorneys and such other reasonable out-of-pocket expenses so incurred by such Party, whether incurred at trial, on appeal, in bankruptcy proceedings, or otherwise.

3. **Books and Records.** Each Party shall maintain books, records, documents and other evidence pertaining to the performance and cost of the ECMs (“**Records**”). Each Party shall use accounting procedures and practices in accordance with generally accepted accounting principles and practices, consistently applied to all of the Records. The Records shall be open to audit, inspection, copying, abstracting and transcription at the inquiring Party’s sole cost and expense, and shall be made available to the inquiring Party at reasonable times, at inquiring Party’s offices, upon prior notice during the Term.

4. Governing Law; Jurisdiction and Venue; Waiver of Jury Trial. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER (INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE) SHALL IN ALL RESPECTS BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF THE LOCATION OF INSTALLATION OF THE ECMS (WITHOUT REGARD TO THE CONFLICT OF LAWS PRINCIPLES OF SUCH STATE). Each of the Parties hereby irrevocably and unconditionally consents to submit to the exclusive jurisdiction of the courts of such state for any action arising out of or relating to this Agreement and the transactions contemplated hereby, and irrevocably and unconditionally waives any objection to the laying of venue in such courts, and agrees not to plead or claim in any such court that any such action brought in any such court has been brought in an inconvenient forum. Each of the Parties consents to process being served by any Party in any suit, action or proceeding by delivery of a copy thereof in accordance with the notice provisions of this Agreement. EACH OF THE PARTIES HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHTS TO TRIAL BY JURY IN CONNECTION WITH ANY ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

5. Privileged and Proprietary Information. Provider's systems, means, cost, and methodologies of performing the Services and the terms of this Agreement shall be considered privileged and proprietary information. Customer shall use the same level of effort to protect and safeguard such information as it employs to safeguard its own confidential information, and in any event, not less than reasonably prudent care. Customer shall not disclose such proprietary information without the express written consent of an officer of Provider, unless required to do so by statute or regulation. When any request for disclosure of such information is made under any applicable freedom of information law (the "FOIL"), Customer shall provide prompt verbal and written notice to Provider such that Provider shall have the opportunity to timely object under the FOIL, should it desire to object to such disclosure of that information in whole or in part. If Customer is required to make a filing with any agency or other governmental body, which includes such information, Customer shall notify Provider and cooperate with Provider in order to seek confidential treatment of such information included within any such filing or, if all such information cannot be protected from disclosure, to request that Customer be permitted to redact portions of such information, as Provider may designate, from that portion of said filing which is to be made available to the public.

6. Severability. Any term or provision of this Agreement that is declared invalid by any court of competent jurisdiction, shall not affect the validity or enforceability of the remaining terms and provisions of this Agreement.

7. Waiver. No course of dealing and no delay or failure of either Party in exercising any right, power, remedy or privilege under this Agreement shall affect any other or future exercise thereof or operate as a waiver thereof, nor shall any single or partial exercise thereof or any abandonment or discontinuance of steps to enforce such a right, power, remedy or privilege preclude any further exercise thereof or of any other right, power, remedy or privilege.

8. Contractual Interpretation; Amendments. Upon execution of this Agreement by both Parties, this Agreement, together with all Exhibits and Annexes, shall constitute the entire agreement between the Parties relating to the subject matter hereof, and shall supersede all proposals, previous agreements, discussions, correspondences, and all other communications, whether oral or written, between the Parties relating to the subject matter of this Agreement. Section headings used herein are for the convenience of reference only and are not to be construed as a part of this Agreement. In the event of any ambiguity or conflict in meaning, the terms of this Agreement shall not be construed against the drafting

Party based upon that Party's having drafted this Agreement. This Agreement may not be modified or amended except in writing signed by the Parties.

9. Representations and Warranties. Each Party warrants and represents to the other that:

(i) it has all requisite power, authority, licenses, permits and franchises, corporate or otherwise, to execute and deliver this Agreement and perform its obligations hereunder;

(ii) its execution, delivery and performance of this Agreement have been duly authorized by, and are in accordance with, as to Provider, its organic instruments and, as to Customer, by all requisite municipal, city council or other action and are not in breach of any applicable law, code or regulation;

(iii) this Agreement has been duly executed and delivered by the signatories so authorized, and constitutes its valid and binding obligation;

(iv) its execution, delivery and performance of this Agreement shall not result in a breach or violation of, or constitute a default under, any agreement, lease or instrument to which it is a party or by which it or its properties may be bound or affected, which would materially adversely affect its ability to perform its obligations hereunder;

(v) it has not received any notice of, nor to the best of its knowledge is there any pending or threatened violation of any applicable laws, ordinances, regulations, rules, decrees, awards, permits or orders which would materially adversely affect its ability to perform its obligations hereunder; and

(vi) the persons executing this Agreement are duly authorized to do so.

10. Independent Provider. Nothing in this Agreement shall be construed as reserving to Customer any right to exercise any control over or to direct in any respect the conduct or management of business or operations of Provider. The entire control or direction of such business and operations shall be in and shall remain in Provider, subject only to Provider's performance of its obligations under this Agreement. Customer and Provider are independent of one another and shall have no other relationship relating to or arising out of this Agreement. Neither Party shall have or hold itself out as having the right or authority to bind or create liability for the other by its intentional or negligent act or omission, or to make any contract or otherwise assume any obligation or responsibility in the name of or on behalf of the other Party.

11. Performance and Payment Bonds. Provider may obtain payment and performance bonds from its subcontractors and suppliers covering the performance and completion of such person's obligations with respect to the ECMs for the benefit of Provider and its financing sources. Except to the extent required by applicable law, Provider shall not be obligated to obtain payment or performance bonds for Customer's benefit.

12. Advance Deposits; Escrow Agreements. Customer has the option to make advance deposits of the Service Payments. If Customer elects such option, such deposits shall be held in an escrow account, at Customer's expense, by an escrow agent that is authorized to perform such duties in the State where such account is located and governed by an escrow agreement to which such agent, Customer and Provider shall be parties, which agent and agreement shall be reasonably agreeable to Customer, Provider and if applicable, Provider's Lender. Such deposits, including any interest earned thereon, shall remain Customer's property until, as directed by Customer, they are either disbursed to make Service Payments or

applied to satisfy Customer's other payment obligations hereunder, pursuant and subject to the terms of such escrow agreement.

13. Further Documents and Events. The Parties shall execute and deliver all instruments and documents and perform all further acts that may be reasonably necessary to effectuate this Agreement. Customer shall cooperate with Provider in obtaining financing for the ECMs and the Services, as set forth below. Additionally, Customer shall execute and deliver all instruments and documents which may be required to obtain all licenses, permits and governmental approvals required by Provider for installation and operation of the ECMs or the performance of the Services. Customer agrees that Provider shall have the right to all environmental, energy, tax, financial, and electrical-related attributes, rights, credits, benefits and characteristics associated with or arising out of the transactions contemplated by this Agreement or associated with the ECMs or with the energy, capacity or other electrical savings created by the ECMs, howsoever created or recognized in the United States, any political subdivision thereof or any foreign jurisdiction (other than dollar savings realized by Customer from reductions in Customer's energy use or other operating costs). Customer shall assist Provider in perfecting its rights to such attributes, rights, credits, benefits and characteristics, at Provider's sole cost and expense.

14. Third Party Beneficiaries. Except as may be specifically provided for in this Agreement, the Parties hereto do not intend to create any rights for, or grant any remedies to, any third party beneficiary of this Agreement.

15. Dispute Resolution. Claims, disputes, or other matters in controversy arising out of or related to the Agreement, any SOW or the Services ("**Claims**") shall be subject to mediation as a condition precedent to any and all remedies at law or in equity. If during the term of this Agreement either Party gives the other Party written notice of a Claim, setting forth in reasonable detail the aggrieved party's position and its proposal for resolution of the Claim (the "**Dispute Notice**"), then within ten (10) business days of delivery of such Dispute Notice, representative from management of both Parties shall meet in person, by video or tele-conference to discuss such Claim. If the Claim is not resolved within 30 calendar days thereafter, then either party may request mediation by notice in writing to the other Party. The request may be made concurrently with the filing of any and all remedies at law or in equity but, in such event, mediation shall proceed in advance of any proceedings filed in a judicial forum, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period of time by agreement of the parties or court order. The Parties shall share the fees of the mediation equally. The mediation shall be held in the place where the Site is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. If the parties do not resolve the Claim through informal dispute resolution or mediation, either Party is free to pursue any other available remedy in law or at equity.

16. Financing Assistance. Customer shall provide such assistance as Provider may reasonably request in connection with Provider's efforts to obtain financing, credit support, credit enhancements and/or permanent debt or lease financing for the construction and/or operation of the ECMs from one or more banks, financial institutions, bondholders, purchasers of receivables or other payment obligations (or trustees, agents, or representatives on their behalf) (each, when designated by Provider to Customer in writing, a "**Lender**"). Customer shall furnish such consents to assignment and certifications, addressed to Provider and Lender, as may be reasonably requested by Provider or Lender, and as may be agreed by Customer (such agreement not to be unreasonably delayed or withheld by Customer). Provider and Customer shall make reasonable amendments to this Agreement and any other agreement or instrument executed pursuant to or in connection with this Agreement as may be necessary to facilitate the obtaining of financing for the ECMs.

17. Lender Step-in Rights.

A. Customer agrees that upon a Provider EOD or upon the occurrence or non-occurrence of any event or condition under this Agreement, which would immediately or with the passage of any applicable grace period or the giving of notice, or both, enable Customer to terminate or suspend its performance under this Agreement, Lender (or its designee) may elect in writing to assume all of Provider's rights and obligations hereunder and Customer shall recognize Lender (or its designee) as its counterparty and shall continue to perform its obligations hereunder; provided, however, that Lender (or its designee) shall not be required to perform or be subject to any defenses or offsets by reason of any of Provider's obligations under this Agreement that were unperformed at the time Lender (or its designee) assumed Provider's obligations under the this Agreement.

B. Notwithstanding any other provision of this Agreement, Customer shall not terminate or suspend its performance under this Agreement until it first gives prompt written notice of the Provider EOD to Lender and affords Lender (or its designee) a period of thirty (30) days to cure the default (or if such default is a non-monetary default, such longer period as is required to cure such default so long as any such party has commenced and is diligently pursuing appropriate action to cure such default) from receipt of such notice to cure such default; provided, however, that if Lender (or its designee) is prohibited from curing any such default by any process, stay or injunction issued by any governmental authority or pursuant to any bankruptcy or insolvency proceeding or other similar proceeding involving Provider, then the time periods specified herein for curing a default shall be extended for the period of such prohibition.

C. If this Agreement is terminated as a result of any bankruptcy, insolvency, reorganization or similar proceeding affecting Provider, and if, within sixty (60) days after such cancellation or termination, Lender so requests, Customer shall enter into a new agreement with Lender (or its designee) (i) having terms substantially the same as the terms of this Agreement, provided such terms are at least as favorable to Customer as this Agreement and (ii) producing the same economic effect and the same level of performance to Customer as continuing this Agreement.

D. Customer acknowledges and agrees that neither Lender nor its assigns shall be obligated or required to perform any of Provider's obligations under this Agreement, except during any period in which Lender or its assigns has assuming in writing Provider's obligations as set forth above.

E. Customer agrees that it shall send all material notices (including any notice of breach) under this Agreement to Lender simultaneously with the delivery of such notice to Provider.

F. Customer agrees to pay all amounts payable by it under this Agreement in the manner and when required by this Agreement directly into an account, or to such other person, as shall be specified from time to time by Lender to Customer in writing.

18. No Fiduciary Duty. The Parties acknowledge and agree that each of Provider and its affiliates is not a municipal advisor and cannot give advice to customer with respect to municipal securities or municipal financial products. The Parties acknowledge that this is a service agreement. None of Provider nor any of its affiliates is subject to a fiduciary duty with regard to Customer or the provision of information to Customer. Customer may consult with an independent registered municipal advisor about any financing option appropriate for Customer's situation.

Annex B-1

Customer Insurance Requirements

None specified or required.

Annex B-2

Provider Insurance Requirements

1. SECTION 1: INSURANCE

Ameresco shall obtain at its expense, the insurance specified in this Annex B-2 prior to performing under any agreement and shall maintain it in full force and at its own expense throughout the duration of the agreement and all warranty periods. Ameresco shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to Owner.

1.1. **WORKERS' COMPENSATION.** All employers that employ subject workers, as defined in Oregon Revised Statute (ORS) 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Ameresco shall require and ensure that each of its subcontractors complies with these requirements.

1.2. **EMPLOYERS' LIABILITY.** If Ameresco is a subject employer, as defined in ORS 656.023, Ameresco shall obtain employers' liability insurance coverage.

1.3. PROFESSIONAL LIABILITY

Required by Owner Not required by Owner

Professional Liability Insurance covering any damages caused by an error, omission or any negligent acts related to the services to be provided under the Agreement. Ameresco shall provide proof of insurance of not less than the following amounts as determined by Owner:

Per occurrence limit for any single claimant: \$2,000,000

Aggregate limit for multiple claimants: \$4,000,000

1.4. COMMERCIAL GENERAL LIABILITY

Required by Owner Not required by Owner

Commercial General Liability Insurance covering bodily injury, death and property damage in a form and with coverages that are satisfactory to Owner. This insurance shall include personal injury liability, products and completed operations. Coverage shall be written on an occurrence basis. Ameresco shall provide proof of insurance of not less than the following amounts as determined by Owner:

Bodily Injury/Death and Property Damage:

Per occurrence limit for any single claimant: \$2,000,000

Aggregate limit for multiple claimants: \$4,000,000

1.5. AUTOMOBILE LIABILITY

Required by Owner Not required by Owner

Automobile Liability Insurance covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability"). Ameresco shall provide proof of insurance of not less than the following amounts as determined by Owner:

Bodily Injury/Death and Property Damage:

Combined Single Limit: \$4,000,000

1.6. EXCESS/ UMBRELLA INSURANCE

A combination of primary and excess/umbrella insurance is acceptable. If Ameresco is using excess/umbrella insurance to meet the minimum insurance requirement, Ameresco's certificate must include a list of the policies that fall under the excess/umbrella insurance. Sample wording is "The Excess/Umbrella policy is excess over Commercial General Liability, Automobile Liability, etc."

1.7. ADDITIONAL INSURED

The Commercial General Liability insurance and Automobile Liability insurance required under the Agreement shall include the Owner, its officers, employees and agents as Additional Insureds but only with respect to Ameresco's activities to be performed under the Agreement. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

1.8. "TAIL" COVERAGE

If any of the required professional liability insurance is on a "claims made" basis, Ameresco shall either maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Agreement, for a minimum of 24 months following the later of (i) Ameresco's completion and Owner's acceptance of all Services required under the Agreement, or, (ii) the expiration of all warranty periods provided under the Agreement. Notwithstanding the foregoing 24-month requirement, if Ameresco elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then Ameresco shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace for the coverage required under the Agreement. Ameresco shall provide to Owner, upon Owner's request, certification of the coverage required.

1.9. CERTIFICATE OF INSURANCE

Ameresco shall provide to Owner, Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under the Agreement. The Certificate(s) must specify all entities and individuals who are endorsed on the policy as

Additional Insured (or Loss Payees). Ameresco shall pay for all deductibles, self-insured retention and self-insurance, if any. Ameresco shall immediately notify Owner in writing of any change in insurance coverage.

1.10. NOTICE OF CANCELLATION OR CHANGE

There shall be no cancellation or non-renewal of insurance coverage(s) without sixty (60) days' written notice, except ten (10) days for nonpayment of premium, from Ameresco or its insurer(s) to Owner. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of contract and shall be grounds for immediate termination of the Agreement by Owner.

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Annex C: Scope of Services Detailed Information

EQUIPMENT TO BE INSTALLED BY ESCO

This Annex sets forth a description of existing equipment and the Energy Conservation Measures (ECM) and related equipment to be installed by Ameresco. Installation of the ECM(s) and the included equipment is subject to change if Ameresco discovers unforeseen conditions at the Facilities that render its preliminary analysis of the Facilities inaccurate, or significantly affect achievement of the annual cost savings. Any changes to the installation of the ECM(s) and the included equipment are subject to approval of Owner, which approval shall not be unreasonably withheld, conditioned or delayed.

List of Energy Efficiency Measures

The ECMs described below are included in the Scope of Services.

ECM #	Conservation Measure
<i>City of Sweet Home, Oregon</i>	
1	Street lighting LED conversion

General Scope of Work

Descriptions of work in this section are provided for a general description of scope and are not inclusive to all work required to be performed for a working system. Design documentation and specifications generated during the project may add or delete scope in order to provide a working, safe and code-compliant system. The owner will be notified if additional work is discovered due to unseen, unknown, or undisclosed conditions.

Equipment and materials provided on this project will be new and will be free of faults and defects. Owner equipment that is removed during demolition activities will be returned to the owner at the owner's discretion. Equipment will be installed level and true and per manufacturer's installation instructions. Equipment will be installed to maintain manufacturer's recommended clearances, and to provide convenient access. Equipment and utility shutdowns will be clearly coordinated with the owner, city, utility and facility staff as required. Work will be performed to avoid interruption traffic including swing shift as required. Saw-cutting, drilling, or other noise generating activities will be scheduled to minimize disruption.

The lighting fixtures shall be installed as detailed below. The intent of the project is to provide subjectively equivalent lighting but not necessarily reaching any roadway lighting standards due to the configuration of the existing poles. Ameresco does not assume liability for underlit areas. The project will remove and lawfully recycle/dispose of any existing lamps and ballasts. Improvements to add proper grounding, fix existing switches, or upgrade the other electrical equipment outside of the fixture replacement is not included unless specified.

Lighting Scope Clarifications:

- The scope includes retrofit of the noted fixtures only and does not address or include any repair / upgrade / replacement of existing wiring, switching, conduits, hangers, etc. If items are found to be in need of repair or replacement Ameresco will notify the city, but the work is not included in the base services.
- Replacement or repair of fixture lenses in retrofits or repair and replacement of light poles is not included in the scope of services.
- Ameresco is not responsible for fixtures that are found to be damaged prior to commencement of its work.
- All manufacturers' warranties (and related information) will be transferred to Customer at project close-out.
- With respect to the specific lighting scope - Ameresco will remove and lawfully recycle / dispose of existing lamps and PCB ballasts. All ballasts that are determined to be non-hazardous shall be disposed of with non-hazardous waste. Noted items will be carefully recycled and disposed of through a licensed recycling firm in accordance with all state and federal guidelines. Certificates verifying the proper disposal and recycling of hazardous materials will be provided by the Ameresco.
- Lighting levels, if existing is identified to be over-lit per recommendations, may be reduced.
- Ameresco is not responsible for any pre-existing electrical code violations or electrical system deficiencies.
- Street lighting retrofit includes improvements to fixture only. Repairs to bring systems up to current code or to repair existing poles, fuses, disconnects, grounding, and anchor bolts is excluded. Scope excludes addition of new or relocation of existing lighting poles.
- Existing Utility-owned infrastructure issues related to street lighting may delay installation of fixtures within scope. Repairs to Utility infrastructure are excluded from this scope. Delays as a result of awaiting required repairs by the Utility shall not affect the terms of service.
- Street lighting scope includes lighting level design by typical locations and fixture selection.
- Street lighting to be performed during day shift except on busy roadways where minimal disruption is required.

General Work Scope Comments:

- Permitting through AHJ is included with scope of work.

- Start-up, training, and commissioning of new equipment only is included.
- Some amount of delay is unavoidable. There will be provisions for continuation of work if a work area becomes unavailable due to owner circumstances or a security event.
- Unless specifically noted in the scope of work – abatement of ACM and other hazardous materials is excluded.
- As final engineering is not started and equipment is not ordered until Ameresco has a signed contract / notice to proceed - Ameresco cannot guarantee delivery dates / system start-up and is not responsible for costs associated with additional mobilizations, temporary equipment, etc. if long lead times affect construction schedule.
- Material ordering and final scheduling will not occur until a signed agreement is received.
- Unless specifically noted in the scope of work – paint / patch is excluded. If noted in the work scope – only the affected areas will be addressed (not the entire pole / base). Paint will match existing adjacent as close as possible but an exact match cannot be guaranteed.

Warranty:

Materials and labor provided in the scope of work will be warrantied for a period of 1 year from substantial completion.

Project scope is as follows:

ECM-1: Street Lighting Retrofit

Retrofit of (qty) 881 PacifiCorp-owned streetlights to LED technology

Baseline Condition

Utility-owned streetlighting throughout the city is a combination of older high-pressure sodium (HPS) and mercury vapor (MV) technology.

Proposed Condition

This measure upgrades the cobrahead or barn street lighting to LED cobraheads based on the following fixture replacements, or equivalent as approved by the City and Utility. Each fixture that currently has an individual photocell will get a new long-life photocell. Fixtures served as a group by an existing photocell will remain on that service and the existing photocell will remain. Design and as-built documentation will be provided through an online GIS mapping tool, and the data will be made available to the City.

<u>Existing</u>				
Quantity	Ownership	Type	Technology	Watts
33	PacifiCorp	Cobrahead or other legacy types	High Pressure Sodium or Mercury Vapor	70
464	PacifiCorp	Cobrahead or other legacy types	High Pressure Sodium or Mercury Vapor	100
7	PacifiCorp	Cobrahead or other legacy types	High Pressure Sodium or Mercury Vapor	150
99	PacifiCorp	Cobrahead or other legacy types	High Pressure Sodium or Mercury Vapor	175
76	PacifiCorp	Cobrahead or other legacy types	High Pressure Sodium or Mercury Vapor	200
37	PacifiCorp	Cobrahead or other legacy types	High Pressure Sodium or Mercury Vapor	250
165	PacifiCorp	Cobrahead or other legacy types	High Pressure Sodium or Mercury Vapor	400
881				
<u>New</u>				
Quantity	Ownership	Type	Technology	Watts
307	PacifiCorp	Cobrahead	Light Emitting Diode	22
166	PacifiCorp	Cobrahead	Light Emitting Diode	36
126	PacifiCorp	Cobrahead	Light Emitting Diode	56
111	PacifiCorp	Cobrahead	Light Emitting Diode	76
171	PacifiCorp	Cobrahead	Light Emitting Diode	110
881				

CALCULATION OF COST SAVINGS

Annual utility savings based on the scope of services are \$40,691. Incentives from the Energy Trust of Oregon may be available for this project. Ameresco will pursue the utility incentives on behalf of City of Sweet Home if it’s available.

Utility rates are based on Pacific Power Schedule 51 in effect as of May 24, 2023.

Pacific Power Saving Estimation:

Item	Watts	Type	Monthly Rate	Pre Qty	Post Qty	Pre Cost/Year	Post Cost/Year	Pre kWh	Post kWh
Pre-condition Item#1	70	HPS or MV	\$ 7.72	33		\$ 3,055.44		11,070	
Pre-condition Item#2	100	HPS or MV	\$ 9.69	464		\$ 53,970.62		222,351	
Pre-condition Item#3	150	HPS or MV	\$ 12.13	7		\$ 1,018.73		5,032	
Pre-condition Item#4	175	HPS or MV	\$ 7.72	99		\$ 9,166.32		83,022	
Pre-condition Item#5	200	HPS or MV	\$ 14.30	76		\$ 13,044.77		72,839	
Pre-condition Item#6	250	HPS or MV	\$ 17.06	37		\$ 7,573.52		44,326	
Pre-condition Item#7	400	HPS or MV	\$ 21.58	165		\$ 42,722.54		316,275	
Proposed-condition Item 1	22	LED	\$ 5.02		307		\$ 18,483.22		28,144
Proposed-condition Item 2	36	LED	\$ 6.82		166		\$ 13,584.05		24,902
Proposed-condition Item 3	56	LED	\$ 9.24		126		\$ 13,976.47		29,402
Proposed-condition Item 4	76	LED	\$ 11.38		111		\$ 15,155.87		35,153
Proposed-condition Item 5	110	LED	\$ 13.97		171		\$ 28,661.27		78,381
Total				881	881	\$130,551.95	\$ 89,860.88	754,916	195,982

Saving Summary:

Utility	Pre Cost/Year	Post Cost/Year	Saving	Pre kWh	Post kWh	kWh Saving
PacifiCorp	\$ 130,551.95	\$ 89,860.88	\$40,691.07	754,916	195,982	558,933