

WHEN RECORDED RETURN TO:

Town of Queen Creek
Attn: Town Clerk
22358 S Ellsworth Road
Queen Creek, Arizona 85142

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**DEVELOPMENT AGREEMENT
AND INTERGOVERNMENTAL AGREEMENT**

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**PINAL COUNTY, ARIZONA,
a political subdivision of the State of Arizona,**

**TOWN OF QUEEN CREEK, ARIZONA,
an Arizona municipal corporation,**

AND

**LG ENERGY SOLUTION ARIZONA ESS, INC.,
a Delaware corporation**

=====

_____, 2024

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DEVELOPMENT AGREEMENT AND INTERGOVERNMENTAL AGREEMENT

THIS DEVELOPMENT AGREEMENT AND INTERGOVERNMENTAL AGREEMENT (the “**Agreement**”) is made as of the ____ day of _____, 2024, by, between and among PINAL COUNTY, ARIZONA, a political subdivision of the State of Arizona (“**County**”), TOWN OF QUEEN CREEK, ARIZONA, an Arizona municipal corporation (the “**Town**”), and LG ENERGY SOLUTION ARIZONA ESS, INC., a Delaware corporation (“**Employer**”). County, Town and Employer are sometimes referred to in this Agreement collectively as the “**Parties**,” or each individually as a “**Party**.”

RECITALS

A. Employer wishes to locate, construct and operate a production facility on approximately ninety (90) acres of real property within the corporate limits of Queen Creek, Arizona, in Pinal County, legally described on **Exhibit A** and depicted on **Exhibit B** (the “**Site**”). The Site is owned by LG ENERGY SOLUTION ARIZONA, INC., a Delaware corporation, successor (by conversion) to ES AMERICA, LLC, a Delaware limited liability company (“**Owner**”). Owner leases the Site to Employer by a lease between Owner, as Landlord, and Employer, as Tenant, dated February 7, 2024 (as amended from time to time, the “**Lease**”), a memorandum of which was recorded May 23, 2024 at Fee Number 2024-038709, **[concurrently herewith]** in the Official Records of Pinal County, Arizona (the “**Official Records**”).

B. Employer will develop on the Site a facility consisting of over one and one-half million (1,500,000) square feet, under roof, of manufacturing and appurtenant management, distribution, office and administrative space (the “**Project**”), to be constructed at a projected cost of Two Billion Three Hundred Million Dollars (\$2,300,000,000.00). At the request of Town, Employer has agreed to employ over 850 full-time employees at the Project, subject to the terms and conditions of this Agreement.

C. In recognition of the significant direct economic benefits that will accrue to Town and to County (and the general public) as a result of the Project, as well as so-called “indirect” benefits that further the public purpose of this Agreement, which benefits include (i) resulting employment opportunities for emerging technology, higher-paying energy conservation jobs and other jobs and additional educational opportunities for residents of Town and County, (ii) the dedication of public rights-of-way and improvements, (iii) increased property values, (iv) increased tax revenues, and (v) increased opportunities for commercial property development and incentivizing the development of adjacent properties, County and Town are willing to work together to assist Employer in facilitating the Project, all as more fully set forth in this Agreement. Among other things, Town has agreed to provide reimbursements of certain fees, and County has agreed to reimburse Employer for certain fees.

D. The Site is part of a larger parcel of land (the “**Land**”) owned by Owner. Town and Arizona State Land Department (“**ASLD**”), as Owner’s predecessor in interest with respect to the Land, previously entered into that Pre-Annexation and Development Agreement dated May 18, 2019, and recorded in the Official Records on May 30, 2019 at Fee Number 2019-042122 (as modified, supplemented, restated and replaced from time to time, the “**PADA**”), pursuant to which

the Land (and other property) was annexed into the Town of Queen Creek. In connection therewith, on August 7, 2019, Town rezoned the Site (and other property) pursuant to Zoning Ordinance No. 705-19 (Case No. P19-0101) (the “**Zoning Ordinance**”) and established the Specific Plan. Thereafter, Town amended the Specific Plan pursuant to (i) Ordinance No. 750-21 (Case No. P21-0047), and (ii) Ordinance No. 774-21 (Case No. P21-0192) (collectively, as amended, the “**Specific Plan**”). Pursuant to the Zoning Ordinance and the Specific Plan, the Site has been zoned by Town in Town’s “Urban Employment” zoning classification (“**Zoning Designation**”), and the Project accordingly is appropriate for the Site.

E. The Parties understand and acknowledge that this Agreement is a “Development Agreement” within the meaning of, and is entered into pursuant to, A.R.S. § 9-500.05, and that the terms of this Agreement will constitute covenants running with the Site as more fully described in this Agreement. For clarity, this Agreement is an encumbrance on the Site, but is not an encumbrance on the balance of the Land.

F. Further, Town recites that this Agreement is intended to promote “economic development activities” within the meaning of and entered into in accordance with the terms of A.R.S. § 9-500.11. The actions taken by Town pursuant to this Agreement are for economic development activities as that term is used in A.R.S. § 9-500.11, that will assist in the creation and retention of jobs, and will in numerous other ways improve, enhance and diversify the economic welfare of the residents of Town.

G. Further, County recites that this Agreement is intended to promote “economic development activities” within the meaning of and entered into in accordance with the terms of A.R.S. § 11-254.04. The actions taken by County pursuant to this Agreement are for economic development activities as that term is used in A.R.S. § 11-254.04, that will assist in the creation and retention of jobs and will in numerous other ways improve, enhance and diversify the economic welfare of the residents of County.

H. Further, Town recites that it is entering into this Agreement to implement and facilitate development of the Project consistent with the policies of Town, the Zoning Designation and the previously adopted Specific Plan and Zoning Ordinance.

I. Further, the Parties acknowledge that the employee training conducted by Employer and supported by County will train workers for new economy jobs, supplementing County's existing programs and partnerships created through the Workforce Innovation and Opportunity Act, to create training programs and opportunities to align with the needs of Employer.

J Further, County and Town recite that this Agreement is an intergovernmental agreement entered into by County and Town pursuant to A.R.S. § 11-952.

K. Owner is executing this Agreement solely for purposes of acknowledging this Agreement and consenting to the recordation of this Agreement against the Land.

AGREEMENTS

Now, therefore, in consideration of the foregoing recitals and representations and the mutual promises contained in this Agreement, the Parties agree as follows:

1. DEFINITIONS.

In this Agreement, unless a different meaning clearly appears from the context, the below words and phrases shall be construed as defined in this Article 1, including the use of such in the Recitals. The use of the term “shall” in this Agreement means a mandatory act or obligation. Unless the context requires otherwise, the term “including” means “including but not limited to” or “including without limitation.” Terms used in this Agreement have the meanings set forth below:

(a) “**Affiliate**,” as applied to any person, means any person directly or indirectly controlling, controlled by, or under common control with, that person or a blood relative or spouse of such person, if such person is a natural person. For the purposes of this definition, (i) “**control**” (including with correlative meaning, the terms “controlling,” “controlled by” and “under common control”), as applied to any person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of that person, whether through the ownership of voting securities, by contract or otherwise, and (ii) “**person**” means and includes natural persons, corporations, limited partnerships, general partnerships, joint stock companies, joint ventures associations, limited liability companies, limited liability partnerships, trusts, land trusts, business trusts, or other organizations, whether or not legal entities.

(b) “**Agreement**” means this Agreement, as amended and restated or supplemented in writing from time to time and includes all exhibits and schedules hereto. References to Articles, Sections or Exhibits are to this Agreement unless otherwise qualified. The Recitals set forth in Paragraphs A through K, inclusive, are incorporated into this Agreement by reference and form a part of this Agreement.

(c) “**Annual Employment Certification**” means as defined in Section 5.4(b).

(d) “**Applicable Laws**” means the federal, state, county, and municipal laws (statutory and common law), statutes, ordinances, rules, regulations, permit requirements, and other requirements and official policies of Town (and County, to the extent applicable), as they may be amended from time to time, which apply to the development of the Project as of the date of any application or submission, or that apply to this Agreement and the terms used in this Agreement (expressly including, but not limited to, the 2021 International Building Code (“**IBC**”) and the 2020 National Electric Code (“**NEC**”), as the same may be adopted by Town and thereafter amended during the Term, and expressly excluding any earlier versions of the IBC and NEC).

(e) “**Approved Plan**” or “**Approved Plans**” means as defined in Section 3.2.

(f) “**A.R.S.**” means the Arizona Revised Statutes as presently existing, or as later enacted or amended.

(g) “**ASLD**” means as defined in Recital D.

(h) **“Certificate(s) of Occupancy”** means as defined in Section 3.7.

(i) **“Commencement of Construction,” “Commence Construction,” “Commence,” or “Commencement”** means both (i) the obtaining of permits by Employer that are required to begin the construction of vertical improvements on any portion of the Site, and (ii) the actual commencement of physical construction operations on any portion of the Site, which may include, without limitation, mass grading.

(j) **“Completion of Construction,” “Complete Construction,” “Complete,” or “Completion”** means the date (or dates) on which one or more Certificate(s) of Occupancy have been issued by Town for Improvements constructed by Employer on the Site in accordance with the policies, standards, and specifications contained in applicable Town ordinances, which acceptance shall not be unreasonably withheld, conditioned or delayed.

(k) **“COP Property”** means as defined in Section 4.4(e).

(l) **“County”** means Pinal County, Arizona.

(m) **“County Board”** means the Board of Supervisors of County.

(n) **“County Manager”** means the person designated by County as its County Manager or designee.

(o) **“County Undertakings”** means as defined in Article 5.

(p) **“Default” or “Event of Default”** means, as it applies to the applicable Party, one or more of the events described in Section 10.1, Section 10.2 or Section 10.3; provided, however, that such events shall not give rise to any remedy until effect has been given to all grace periods, cure periods and periods of Force Majeure provided for in this Agreement (including the grace periods set forth in Section 10.4), and that in any event the available remedies shall be limited to those set forth in Section 10.5 (or otherwise as limited in this Agreement).

(q) **“Effective Date”** means the date on which all the following have occurred: (i) this Agreement has been adopted and approved by the Town Council and the County Board, (ii) thirty (30) days have passed pursuant to A.R.S. § 9-500.05(F), (iii) this Agreement has been executed by duly authorized representatives of Town, Employer and County, and (iv) this Agreement has been recorded in the Official Records. For the avoidance of doubt, the date of recordation of this Agreement pursuant to the foregoing clause (iv) shall be deemed the Effective Date.

(r) **“Employee Education Incentive”** means as defined in Section 5.4(a).

(s) **“Employer”** means the Party designated as Employer on the first page of this Agreement, and its successors and assigns that conform with the requirements of this Agreement.

(t) **“Employer Undertakings”** means as defined in Article 4.

(u) **“Employment Objective”** means Employer’s (i) achieving a stated job threshold of not fewer than 850 Full-Time Jobs at the Site with each such Full-Time Job at or above the Median Salary in Pinal County (as the same may change from time to time during the Term), and (ii) maintaining such level of Full-Time Jobs at the Site continuously for at least three (3) consecutive months.

(v) **“Employment Objective Date”** means that date that is ten (10) years after the Effective Date.

(w) **“Employment Shortfall”** means as defined in Section 6.1.

(x) **“Fees”** means as defined in Section 6.1.

(y) **“Force Majeure”** means as defined in Section 10.7.

(z) **“Full-Time Employee”** means a single individual hired by Employer who works not fewer than 1,750 paid hours of service during a year and is eligible (after Employer’s standard probationary period) for medical and health benefits offered by Employer and for which Employer contributes at least fifty percent (50%) of the costs for such medical and health benefits. If an employee does not work 1,750 hours because of the date of hire or due to a short taxable year, the hourly requirements shall be prorated.

(aa) **“Full-Time Job”** means an employment opportunity for a single individual to work not fewer than 1,750 paid hours of service during a year and to be eligible (after Employer’s standard probationary period) for medical and health benefits offered by Employer and for which Employer contributes at least fifty percent (50%) of the costs for such medical and health benefits. If an employee does not work 1,750 hours because of the date of hire or due to a short taxable year, the hourly requirements shall be prorated.

(bb) **“FTZ Approval”** means as defined in Section 5.2.

(cc) **“Improvements”** means and refers to all improvements which may be constructed by Employer from time to time on the Site, including all structures, buildings, roads, driveways, parking areas, walls, landscaping, irrigation and other improvements of any type or kind or any other alteration of the natural terrain to be built by Employer pursuant to the terms of this Agreement.

(dd) **“Indemnity”** means as defined in Section 13(a).

(ee) **“Land”** means as defined in Recital D.

(ff) **“Lease”** means as defined in Recital A.

(gg) **“Median Salary in Pinal County”** means an annual wage paid to a single employee, including salary, commissions and bonuses, but excluding benefits and employer contributions, as determined by the Arizona Office of Economic Opportunity on an annual basis during the Term. As of the Effective Date, the Median Urban Salary for the Qualified Facility Tax Credit Program is \$49,274. See state-median-wage-2023.pdf (azcommerce.com).

(hh) **“Notice”** means as defined in Section 12.5(a).

(ii) **“Official Records”** means as defined in Recital A.

(jj) **“Owner”** means as defined in Recital A.

(kk) **“Owner Development Agreement”** means the Development Agreement dated April 19, 2022, by and among County, Town and Owner (with the consent of ASLD), recorded in the Official Records as Fee No. 2022-046997 on April 19, 2022, and as amended by a First Amendment to Development Agreement and Intergovernmental Agreement by and among County, Town and Owner (with the consent of ASLD) recorded in the Official Records as Fee No. 2023-079075 on October 26, 2023.

(ll) **“Owner Project”** means the Project as defined in the Owner Development Agreement.

(mm) **“PADA”** means that Pre-Annexation and Development dated May 18, 2019, and recorded May 30, 2019, at Fee Number 2019-042122, Official Records, as modified, supplemented, restated and replaced from time to time.

(nn) **“Party”** or **“Parties”** means as defined on the first page of this Agreement.

(oo) **“Project”** means as defined in Recital B.

(pp) **“Public Health Event”** means any one or more of the following but only if and as declared by an applicable governmental authority (or its designee): epidemics; pandemics; plagues; viral, bacterial or infectious disease outbreaks; public health crises; national health or medical emergencies; governmental restrictions on the provision of goods or services or on citizen liberties, including travel, movement, gathering or other activities, in each case arising in connection with any of the foregoing, and including governmentally-mandated closure, quarantine, “stay-at-home,” “shelter-in-place” or similar orders or restrictions; or workforce shortages or disruptions of material or supply chains resulting from any of the foregoing.

(qq) **“Required Improvements”** means as described in Section 3.2.

(rr) **“Site”** means as defined in Recital A.

(ss) **“Term”** means as defined in Section 2.3.

(tt) **“Third Party”** means any person (as defined in Section 1(a) above) other than a Party, or an Affiliate of any Party.

(uu) **“Town”** means Queen Creek, Arizona.

(vv) **“Town Code”** means the Code of the Town of Queen Creek, Arizona, as amended from time to time.

(ww) **“Town Council”** means the Town Council of Town.

(xx) “**Town Manager**” means the person designated by Town as its Town Manager or designee.

(yy) “**Town Undertakings**” means as defined in Article 6.

(zz) “**Training Certificate**” means as defined in Section 5.4(c).

(aaa) “**Transfer**” means as defined in Section 12.2(a).

(bbb) “**Zoning Designation**” means as defined in Recital D.

2. **PARTIES, PURPOSE AND TERM OF THIS AGREEMENT.**

2.1 Parties to the Agreement. The Parties to this Agreement are County, Town and Employer.

(a) County. County is Pinal County, Arizona, a political subdivision of the State of Arizona, exercising its governmental functions and powers.

(b) Employer. Employer is a limited liability company, duly organized and validly existing under the laws of the State of Delaware and qualified to do business in the State of Arizona.

(c) Town. Town is the Town of Queen Creek, Arizona, a municipal corporation, duly organized and validly existing under the laws of the State of Arizona, exercising its governmental functions and powers.

2.2 Purpose. The purpose of this Agreement is to provide for the planning and development of the Project; to provide for the construction of the Required Improvements to be designed and constructed by Employer or at Employer’s direction pursuant to the deadlines for Completion of Construction; to acknowledge the Employer Undertakings, the County Undertakings and the Town Undertakings; to establish employment criteria to be achieved by Employer; and to promote employment, education and other economic opportunities in Town and County.

2.3 Term. The term of this Agreement (“**Term**”) is that period of time, commencing on the Effective Date, and terminating on the date on which the Parties have performed all their obligations under this Agreement; provided, however, that notwithstanding the foregoing this Agreement shall automatically terminate on the twentieth (20th) anniversary of the Effective Date. Notwithstanding the foregoing, (a) all indemnity or other obligations of the Parties to indemnify, defend, pay and hold harmless, whether set forth in this Agreement or at common law, survive termination of this Agreement, and (b) the acknowledgements, covenants and representations of the Parties set forth in this Agreement survive termination of this Agreement.

3. SCOPE AND REGULATION OF DEVELOPMENT.

3.1 Vested Rights; Approved Plans. Town agrees that the Zoning Designation and the Specific Plan (including without limitation the amendments thereto adopted subsequent to the date of the PADA, as set forth in Recital D) has been permanently vested, consistent with the terms of the PADA, and that the Site may be developed in accordance with the Specific Plan, subject to Employer's compliance with the terms of this Agreement and the PADA.

3.2 Approved Plans. The Project consists of the Improvements generally described in Exhibit C ("Required Improvements"). Development of the Project shall be in accordance with one or more plans (each, an "Approved Plan," or, collectively, "Approved Plans," as the same may be amended from time-to-time) prepared and submitted by Employer to Town for approval, and which shall: (i) comply with Applicable Laws (subject to the limitations in the PADA), the Specific Plan and the Zoning Designation; (ii) set forth the basic land uses of the Improvements for the Project; and (iii) all other matters relevant to the development of the Project in accordance with this Agreement. The Approved Plans may be amended by Employer from time to time, and any such amendments shall be reviewed by Town in accordance with the PADA, Applicable Laws and this Agreement.

3.3 Traffic Impact Analysis. Employer has prepared at its sole cost and expense, and Town has reviewed and approved, a transportation impact analysis ("TIA") study in accordance with Town's "Traffic Impact Analysis Guidelines (January 2020)," permitting Town to assess the Project's impact on the functional integrity of the roadways that serve both the Project and the surrounding transportation system and to resolve traffic impacts in a manner that permits the Project to proceed, while allowing Town to continue to operate and maintain a safe and efficient transportation system, both during construction of the Improvements as well as during the operation of the Improvements by Employer following completion of construction.

3.4 Expedited Approval Process. The process for the submittal, review, and approval of (i) the proposed Approved Plans, and (ii) the Project's design elements, including building materials, colors, architectural plans, landscaping, irrigation, lighting, exterior cooling, pedestrian linkages, signage, and the character of the improvements, are subject to Town's submittal, review, and approval processes then in effect and set forth in this Agreement. The Parties shall cooperate reasonably in processing the approval or issuance of any permits, plans, specifications, plats, or other development approvals requested by Employer in connection with development of the Project. Town shall expedite its approval and inspection processes with respect to the planning and construction of the Project on the Site without payment of any additional fee or charge, and Town shall designate one employee during the term of planning and construction to manage or supervise the zoning and building review process and shall use commercially reasonable efforts to provide that the same inspectors are used during the construction process to provide consistency in inspection and comment.

3.5 Cooperation in the Implementation of the Approved Plans. Employer and Town shall work together using commercially reasonable and good faith efforts throughout the pre-development and development stages to resolve any Town comments regarding implementation of the Approved Plans. County shall assist and cooperate with such efforts in

order to achieve the benefits contemplated by this Agreement but this obligation does not require the expenditure of funds and use of resources other than in the ordinary course of business.

3.6 Permit and Other Fees. Town's building permit, inspection, development, and other similar fees for the development of the Project shall be those in effect at the time of any application or submission by Employer.

3.7 Certificates of Occupancy. Town shall issue certificates of occupancy (or temporary certificates of occupancy, as applicable) for any portion of the Improvements or other portions of the Project ("**Certificate(s) of Occupancy**"), in a sequence that follows Employer's construction schedule and in accordance with Applicable Laws. Upon Completion of certain portions of the Improvements or other portions of the Project, Employer may request inspections; and upon approval of such work shall receive Certificate(s) of Occupancy for the completed areas, consistent with Town Code. Once a Certificate(s) of Occupancy is issued by Town with respect to any portion of the Required Improvements constructed by Employer within the Project, Employer's obligations with respect to the construction of those particular Improvements as set forth in this Agreement shall be deemed to be satisfied.

4. **EMPLOYER UNDERTAKINGS**. In consideration of the timely performance by County of the County Undertakings and by Town of the Town Undertakings, and provided there is no uncured Default by Town or County of any term or condition of this Agreement, Employer agrees to perform the obligations contained in this Article 4 (the "**Employer Undertakings**") as follows:

4.1 Required Improvements. Employer shall cause the Required Improvements to be designed and constructed in accordance with the requirements of this Agreement, including but not limited to the Approved Plans. For avoidance of doubt, the rights and obligations of Employer in this Agreement are personal to Employer, and shall remain rights and obligations of Employer notwithstanding Employer's election to proceed with the design, construction and/or ownership of the Required Improvements (and/or applicable portion of the Site) in its own name or through a build-to-suit, sale-subleaseback, sale-leaseback, or other similar structure where Employer leases or subleases, but does not own in fee title or in leasehold, the Required Improvements and/or Site (or portions thereof), with any such Transfer having been completed (and approved, if required) in compliance with Section 12.2 of this Agreement; provided, however, in all circumstances Employer's right to claim the benefits of this Agreement requires full and timely compliance of all terms and conditions of this Agreement, whether performed by Employer or for the benefit of Employer by a permitted third party. Subject to Force Majeure, Employer shall:

(a) Commence (or cause to be Commenced) Construction of the Required Improvements on or before November 1, 2024;

(b) Complete (or cause to be Completed) Construction of the Required Improvements on or before sixty (60) months after Commencement of Construction of the Required Improvements; and

(c) Begin its manufacturing operations within the Required Improvements on or before (6) months after Completion of Construction of the Required Improvements.

For the avoidance of doubt, Employer shall be deemed to begin its manufacturing operations within the Required Improvements at the start of production of any product, including prototypes, samples, and products for quality assurance and testing. The foregoing dates are all subject to delays to the extent caused by (a) Force Majeure, and (b) delays by Town and/or County in performing their obligations under this Agreement or, as to Town, the PADA.

4.2 Employment Objective. Following the start of its manufacturing operations at the Site, Employer agrees to achieve the Employment Objective by the Employment Objective Date. Town and County confirm that any reports that Employer may deliver to the State of Arizona pursuant to any grants received from the Arizona Competes Fund, as established pursuant to A.R.S. 41-1545.01 et seq., shall be a form reasonably satisfactory to provide evidence to Town and County of Employer's progress to achieve the Employment Objective.

4.3 Town Services. During the Term, Employer agrees that it shall contract for and use the Town of Queen Creek services for water, wastewater, solid waste, and to the extent the Town provides such services, recycling services. Except to the extent set forth in this Agreement or the PADA or other agreements to which Town or County, as applicable, may be a party, Employer is responsible to provide and pay for, or to cause third parties other than Town or County to provide and pay for, all design and construction costs within the Site for utility infrastructure and services for the Project.

4.4 Germann Road.

(a) The Owner Development Agreement provides that Town will construct, among other things, certain road and public utility improvements to Germann Road. In order to adapt to existing built conditions on land adjacent to Germann Road, and in anticipation of new construction along the Germann Road corridor, based on the findings of a traffic impact analysis, Town and County have elected to expand and reconfigure such improvements to Germann Road beyond the improvements contemplated in the Owner Development Agreement. In connection therewith, Town and County entered into that Intergovernmental Agreement Between Pinal County and the Town of Queen Creek to Define Responsibilities for the Design and Construction of Germann Road from Ironwood Road to Kenworthy Road dated February 7, 2024, and recorded in the Official Records on February 27, 2024, at Fee No. 2024-013657 (the "**Germann IGA**"). Pursuant to the Germann IGA, Town has agreed to cause the design and construction of such expanded Germann Road improvements, and County and Town have agreed to fund the costs associated with such design and construction, all as more fully set forth in the Germann IGA.

(b) The Parties have approved the general alignment and reconfiguration of Germann Road and associated utilities contemplated in the Germann IGA, including the relocation and construction of existing above and below ground utility facilities, generally in accordance with Exhibit E to this Agreement (the "**Approved Germann Alignment**"). Town and County, following the execution of this Agreement by the Parties, will proceed diligently to cause the completion of, and Employer will then promptly and reasonably

approve, final plans and specifications for the Approved Germann Alignment that are consistent with the Approved Germann Alignment (“**Final Plan Set**”). Following approval of the Final Plan Set, Town will not make any modifications (other than de minimis) to the Final Plan Set or the Approved Germann Alignment without Employer’s prior consent, not to be unreasonably withheld.

(c) Town and County agree to perform their respective obligations under the Germann IGA to construct the improvements associated with the Approved Germann Alignment, as and when required by the terms of the Germann IGA, and in compliance with this Section 4.4 and, where applicable, in compliance with the Owner Development Agreement. Subject to Force Majeure and timely compliance by Owner and Employer of their respective obligations described in this Section 4.4, Town will use commercially reasonable efforts to complete the construction of all such improvements by June 30, 2026, but in any event shall cause the completion of construction of all such improvements no later than April 19, 2027 (the “**Outside Date**”). Town will reasonably cooperate with Employer, and assist Employer, in providing for temporary access (including granting Employer such approvals as are needed for Employer’s ongoing access and utilization of the existing Germann Road prior to the expansion of Germann Road, as reasonably required by Employer) to the Site as needed until such improvements are complete.

(d) As soon as practicable following the full execution of this Agreement, and in a manner that permits Town to complete the construction of all improvements associated with the Germann Road Alignment on or before the Outside Date, Employer will, or will cause Owner to, dedicate to Town in fee simple the additional required rights of way for the Approved Germann Alignment to the extent such rights of way are located on the Site. Such rights of way will abut upon (without gaps or gores) the entire length of the existing right of way for Germann Road. Upon completion of the improvements associated with the Approved Germann Alignment, (i) Owner will maintain, or will cause Employer (or others) to maintain that area depicted as “Owner Responsibility” on the map attached as Exhibit F, and (ii) each of Town and County will maintain the respective areas marked as “Town Maintenance Responsibility” and “Pinal County Maintenance Responsibility”, as applicable, on the map attached as Exhibit F, pursuant to the terms of the Germann IGA.

(e) As soon as practicable following the full execution of this Agreement, and in a manner that permits Town to complete the construction of all improvements associated with the Germann Road Alignment on or before the Outside Date, Employer will, or will cause Owner to, reasonably and collaboratively work with Town and County, to obtain from ASLD any required rights of way (“**Public ROWs**”) at appraised value as required by applicable law, on ASLD’s standard right-of-way form, for public access and public utilities for the Approved Germann Alignment, to the extent the same are located on property west of the Kenworthy Road right of way and east of the Site (such property is owned by ASLD and is referred to as the “**COP Property**”). Such rights of way will abut upon (without gaps or gores) the entire length of the existing right of way for Germann Road, and will be in locations reasonably approved by Employer and Owner. Upon completion of the improvements associated with the Approved Germann Alignment, each of Town and County will maintain the respective areas marked as “Town Maintenance Responsibility” and “Pinal County Maintenance Responsibility”, as applicable, on

the map attached as **Exhibit F**, pursuant to the terms of the Germann IGA (provided that upon development of the land abutting the area of Town Maintenance Responsibility, Town may require the owner of such developed land to maintain the area immediately adjacent to the developed land, in accordance with Town's standard requirements). The Parties acknowledge that Owner holds Certificate of Purchase No. 53-122513 issued by ASLD, granting Owner the right to acquire the COP Property upon which such rights of way will be located (for clarity, the COP Property is larger than the area required for the rights-of-way described in this Section 4.4(e) and Section 4.4(f) below). Employer will cause Owner to pay to ASLD the appraised value and ASLD's costs associated with the acquisition of the Public ROWs. County will reimburse Owner for such costs within thirty (30) days after County's receipt of an invoice for same. If Owner or Employer elects, in its sole discretion, to acquire fee title to the COP Property, Employer will, or will cause Owner to, dedicate to Town in fee simple the Public ROWs that are located on the COP Property, at no additional cost to the Town or County.

(f) As soon as practicable following the full execution of this Agreement, and in a manner that permits Town to complete the construction of all improvements associated with the Germann Road Alignment on or before the Outside Date, Employer will, or will cause Owner to, grant, at no cost to Town or County, to the applicable electric utility provider the required easements on the Site as required for relocation of the electric utility facilities as necessitated by the Approved Germann Alignment, and as reasonably approved by Employer and Owner. Further, Employer will, or will cause Owner to, reasonably and collaboratively work with Town and County to facilitate the purchase from ASLD any such rights of way at appraised value as required by applicable law, to the extent the same are located on the COP Property, and in locations reasonably approved by Employer and Owner. County will be responsible to pay to ASLD the appraised value and ASLD's costs of such rights of way. Such payment may be made in the form of direct payment to ASLD, or reimbursement to the utility provider or Owner if the utility provider or Owner makes such payment to ASLD. Any payments to Owner will be made within thirty (30) days after County's receipt of an invoice for same.

(g) Employer will consent, and will cause Owner to consent, to all required dedications and grants of right-of-way and easements described in this Section 4.4. Employer will, and will cause Owner to, release from Lease any property that is dedicated in fee title by Owner to Town or County pursuant to this Section 4.4.

4.5 Separate Agreement. The Site is subject to the Owner Development Agreement as well as this Agreement. For avoidance of doubt, the Parties confirm that (i) as more specifically depicted on **Exhibit A**, and on the site plan for the Project submitted to Town, and on the site plan submitted to Town for the Owner Project, the Project is located on a discrete subdivided parcel, on a different portion of the Land than the Owner Project, (ii) the projected cost of the Project (as set forth in Recital B) and the projected cost of the Owner Project (as set forth in the Owner Development Agreement) are separate and distinct cost investments by Employer and Owner, respectively, (iii) the Employment Objective is calculated with respect to Full-Time Jobs at the Site, and such Full-Time Jobs are separate and distinct from the Full-Time Jobs (as defined in the Owner Development Agreement) at the Owner Project, which are located on a different portion of the Land, and (iv) the incentives provided by Town and County to Employer in this Agreement are separate and distinct from the incentives provided by Town and County to Owner

in the Owner Development Agreement, and the benefits provided by Employer in this Agreement are separate and distinct from the benefits provided by Owner in the Owner Development Agreement. This Agreement does not encumber any portion of the Land other than the Site.

4.6 Lease. Since Employer is not the owner of the Site, Employer agrees and makes the following representations and warranties to Town, with the understanding, agreement and expectation that Town may rely on these representations and warranties, and has the full legal right to rely on these representations and warranties:

(a) The Lease has been authorized by all required corporate action of Developer, and has been entered into with, and delivered to, Owner, and is in full force and effect.

(b) The Lease permits Employer to construct and operate the Project as described in this Agreement, without hindrance from Owner, subject to Employer's compliance with the terms of the Lease.

(c) The term of the Lease is for a term of ninety-nine (99) years, commencing on February 7, 2024.

(d) Employer has the financial capability to construct and operate the Project as described in this Agreement.

(e) There is no provision in the Lease that would prevent Employer's performance as required by this Agreement.

(f) The Lease does not presuppose or require performance by Town in excess of any requirements of this Agreement and the Owner Development Agreement.

(g) Employer will promptly notify Town if Employer no longer has a possessory right to the Site, whether pursuant to the Lease, a sublease, fee ownership, license, or otherwise.

5. COUNTY UNDERTAKINGS. In consideration of the timely performance by Employer of the Employer Undertakings and by Town of the Town Undertakings, and provided there is no uncured Default by Employer of any term or condition of this Agreement, County agrees to perform the obligations contained in this Article 5 (as applicable to County, the "County Undertakings") as follows:

5.1 Air Quality Permitting. County shall expedite air quality permitting and dust permits that Employer may be required to obtain from County in connection with development of the Project, without payment of any additional fee or charge.

5.2 Foreign Trade Zone. County acknowledges that Employer intends to seek approval by the Foreign Trade Zone Board for status as a Foreign Trade Zone pursuant to the City of Phoenix Foreign Trade Zone No. 75 Alternative Site Framework (the "FTZ Approval"). County shall support the Employer's application to the City of Phoenix to obtain FTZ Approval and to the Pinal County Tax Assessor for any beneficial tax treatments that may be available to Employer in conjunction therewith, including, without limitation, reclassifying the tax

classification of the Site as a “class six property” pursuant to A.R.S. §42-12006. County and Employer shall exercise good faith efforts in executing necessary resolutions or separate agreements and obtain necessary concurrence letters from other taxing authorities or governmental agencies to support the FTZ application process to the Foreign Trade Zones Board. Upon approval by the Foreign Trade Zones Board, County shall assist Employer in executing such documents and agreements in order to activate such FTZ Approval. To the extent that such FTZ status approval or activation is not granted, County agrees to assist Employer and the City of Phoenix in appealing such decision. However, any application or assistance shall be at no cost to County, except to the extent such costs are a normal cost of government administration.

5.3 Facilitation of Workforce Development. At no cost to Employer, County shall make *ARIZONA@WORK - Pinal* available to assist Employer in connection with the recruitment, screening, interviewing of potential Employer employees for the Project and shall assist Employer by holding job fairs. In addition, County shall (to the extent of available County owned office space) provide office space and related equipment for job interviews.

5.4 Employee Education Incentive.

(a) To accelerate reemployment and transition workers to higher-paying, “green” industry and “new economy” jobs, County shall reimburse Employer with a one-time payment of \$3000 per Full-Time Employee who is a Pinal County resident, or \$1500 per Full-Time Employee if the employee is not a resident of Pinal County (the “**Employee Education Incentive**”), for an education and training assistance program for employment in Pinal County. The amount of the Employee Education Incentive represents a reimbursement to Employer of a portion of the costs incurred by Employer to provide the training described in Section 5.4(c) below.

(b) On or before August 31, 2026, and on or before August 31 of each year thereafter until and including August 31, 2033, County shall make an Employee Education Incentive payment to Employer in an amount equal to the sum of (i) the product of multiplying \$3000 by the number of Full-Time Employees who are Pinal County residents trained and employed by Employer, plus (ii) the product of multiplying \$1500 by the number of Full-Time Employees who are non-Pinal County residents trained and employed by Employer. The foregoing information shall be certified by Employer in a certification (the “**Annual Employment Certification**”) from Employer’s director, human resources officer or other management representative reasonably acceptable to County, and in a form reasonably satisfactory to County. The Annual Employment Certification shall cover the twelve-month period ending on June 30 of the same year. County confirms that any reports that Employer may deliver to the State of Arizona pursuant to the Arizona Competes Grant shall be a form reasonably satisfactory to County for purposes of this Section. The Annual Employment Certification shall be accompanied by Employer’s estimate of the Full-Time Employees for the upcoming 12-month period (commencing July 1 of such year); such estimate shall be provided by Employer solely for County’s planning and budgeting purposes and shall not be binding on Employer.

(c) An employee shall be deemed trained by Employer when the employee receives a certificate from Employer confirming that the employee has completed the training required by Employer (the “**Training Certificate**”). The general scope of the required

training is set forth in **Exhibit D**. The determination of whether an employee is a Full-Time Employee, and the location of the employee's residence shall be made as of the date of the Training Certificate.

(d) The Annual Employment Certification shall be submitted to County no later than July 31, 2026, and no later than July 31 of each year thereafter, except that the Annual Employment Certification for 2032 shall be submitted to County no later than July 15, 2033. County shall reimburse Employer the Employee Education Incentive amount based on the most recently submitted Annual Employment Certification no later than thirty (30) days after receipt of the Annual Employment Certification, except in the case of 2033, in which case County shall reimburse Employer the Employee Education Incentive no later than August 31, 2033.

(e) The aggregate payment of Employee Education Incentive amounts paid by County shall not exceed Two Million Six Hundred Thousand Dollars (\$2,600,000.00).

6. **TOWN UNDERTAKINGS**. In consideration of the timely performance by Employer of the Employer Undertakings and by County of the County Undertakings, and provided there is no uncured Default by Employer of any term or condition of this Agreement, Town agrees to perform the obligations contained in this Article 6 (the "**Town Undertakings**") as follows:

6.1 **Building and Permitting Fees**. In partial consideration for the benefits to Town arising out of or in connection with this Agreement, including but not limited to the construction of the Required Improvements and the expectation that Employer shall timely achieve the Employment Objective, Town shall pay all building, inspection and permitting fees relating to the development of the Required Improvements ("**Fees**"). In the event that Employer has not achieved the Employment Objective by the Employment Objective Date (with the shortfall in the number of Full-Time Jobs being referred to herein as the "**Employment Shortfall**"), Employer shall reimburse Town for the allocable portion of the Fees paid by Town within thirty (30) days of demand by Town for reimbursement of amounts so paid by Town on behalf of Employer, which allocable portion shall be calculated as follows: Total Fees paid by Town divided by 850 (i.e., the Employment Objective), with the end result multiplied by the Employment Shortfall. Employer's repayment of the amounts due pursuant to this Section 6.1 and Section 6.2 shall be Town's sole remedy with respect to Employer's failure to achieve the Employment Objective by the Employment Objective Date.

6.2 **Development Impact Fees**. In partial consideration for the benefits to Town arising out of or in connection with this Agreement, including but not limited to the construction of the Required Improvements and the expectation that Employer shall timely achieve the Employment Objective (as defined below), Town shall pay all development impact fees relating to the development of the Site by Employer. In the event that Employer has not achieved the Employment Objective by the Employment Objective Date, Employer shall reimburse Town for the applicable portion of such development impact fees paid by Town within thirty (30) days of demand by Town for reimbursement of amounts so paid by Town on behalf of Employer, which portion shall be calculated as follows: Total development impact fees paid by Town divided by 850 (i.e., the Employment Objective), with the end result multiplied by the Employment Shortfall. Employer's repayment of the amounts due pursuant to Section 6.1 and this Section 6.2 shall be

Town's sole remedy with respect to Employer's failure to achieve the Employment Objective by the Employment Objective Date.

6.3 Project Utility Rate.

(a) Town and Employer agree to work cooperatively and in good faith to negotiate and enter into one or more separate utility agreements that establish water and wastewater utility delivery, wastewater treatment, water recharge and infrastructure rates and costs for water acquisition, wastewater treatment, water recharge and additional water and wastewater infrastructure to provide the capacity for the increased demands of the Project, with Employer's obligations for acquisition, treatment, recharge and infrastructure costs being those attributable to the Project as reasonably determined and agreed to in such utility agreements.

(b) Town has expressly determined that it is in the best interest of Town to waive the application of Article 16-11 (Sustainable Water Allocation Regulations) of the Town Municipal Code, and any successor provision of the Town Municipal Code, to the Project; and Town therefore has waived Article 16-11 such that it will not apply to the Project.

6.4 Job Reimbursement.

(a) Town shall reimburse Employer with a one-time payment of \$250 per employee, for employee education and training assistance ("**Town Education Incentive**"). Such payment, together with the Employee Education Incentive, represents a reimbursement to Employer of a portion of the costs incurred by Employer to provide the training described in Section 5.4(c).

(b) Commencing on August 31, 2026, and on August 31 of each year thereafter until the Employment Objective is achieved, Town shall make Town Education Incentive payments to Employer in an amount equal to the product of \$250 multiplied by the number of persons employed and trained by Employer (and for which Employer did not receive a previous Town Education Incentive payment). The foregoing information shall be certified by Employer in an Annual Employment Certification in a form reasonably satisfactory to Town. Town confirms that any reports that Employer may deliver to the State of Arizona pursuant to the Arizona Competes Grant shall be a form reasonably satisfactory to Town for purposes of this Section.

(c) An employee shall be deemed employed and trained by Employer on the date the employee receives a Training Certificate confirming that the employee has completed the training required by Employer.

(d) The Annual Employment Certification shall be submitted to Town no later than July 31, 2026, and no later than July 31 of each year thereafter, and shall cover the period ending on June 30 of such year. If the Employment Objective is achieved prior to the next June 30 following achievement of the Employment Objective, the Annual Employment Certification for that year shall be submitted to Town following the date that the Employment Objective is achieved. Town shall reimburse Employer the Town Education Incentive amount

based on the most recently submitted Annual Employment Certification no later than thirty (30) days after receipt of the Annual Employment Certification.

(e) The aggregate payment of Town Education Incentive amounts paid by Town shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00).

6.5 Temporary Office and Living Space. Town shall assist Employer in identifying temporary office space and corporate housing within Town pending completion of construction of the Project.

6.6 Assistance with Job Training Programs. Town shall assist local and state educational institutions with respect to applicable job training programs.

6.7 Foreign Trade Zone. Town acknowledges that Employer intends to seek FTZ Approval. Town shall support Employer's application to the City of Phoenix to obtain FTZ Approval and to the Pinal County Tax Assessor for any beneficial tax treatments that may be available to Employer in conjunction therewith, including, without limitation, reclassifying the tax classification of the Site as a "class six property" pursuant to A.R.S. §42-12006. Town and Employer shall exercise good faith efforts in executing necessary resolutions or separate agreements and obtain necessary concurrence letters from other taxing authorities or governmental agencies to support the FTZ application process to the Foreign Trade Zones Board. Upon approval by the Foreign Trade Zones Board, Town shall assist Employer in executing such documents and agreements in order to activate such FTZ Approval. To the extent that such FTZ status approval or activation is not granted, Town shall assist Employer and the City of Phoenix in appealing such decision. However, any application or assistance shall be at no cost to Town, except to the extent such costs are a normal cost of government administration.

6.8 Electric and Gas Utility Connections. Town shall reasonably cooperate with and assist Employer in connection with Employer's obtaining appropriate electrical service to the Site from Salt River Project and gas service to the Site from the City of Mesa Natural Gas Utility, including (without limitation) reviewing plans and facilitating utility connections if required; provided, however that Town's obligations under this Section 6.8 shall not require any financial commitment from or payment by Town.

7. **COUNTY REPRESENTATIONS.** County represents and warrants to Town and Employer that:

7.1 County has the full right, power, and authorization to enter into and perform this Agreement and each of County's obligations and undertakings under this Agreement, and County's execution, delivery and performance of this Agreement have been duly authorized and agreed to in compliance with the requirements of the County ordinances and Arizona law.

7.2 All consents and approvals necessary to the execution, delivery and performance of this Agreement have been obtained, and no further County Board action needs to be taken in connection with such execution, delivery and performance.

7.3 County shall execute and acknowledge when appropriate all documents and instruments and take all actions necessary to implement, evidence and enforce this Agreement.

7.4 County knows of no litigation, proceeding, initiative, referendum, investigation, or threat of any of the same contesting the powers of County or its officials with respect to this Agreement that has not been disclosed in writing to Town and Employer

7.5 The execution, delivery and performance of this Agreement by County is not prohibited by, and does not conflict with, any other agreements, instruments or judgments or decrees to which County is a party or is otherwise subject.

7.6 County has been assisted by counsel of its own choosing in connection with the preparation and execution of this Agreement.

8. **TOWN REPRESENTATIONS.** Town represents and warrants to County and Employer that:

8.1 Town has the full right, power, and authorization to enter into and perform this Agreement and each of Town's obligations and undertakings under this Agreement, and Town's execution, delivery and performance of this Agreement have been duly authorized and agreed to in compliance with the requirements of the Town Code and Arizona law.

8.2 All consents and approvals necessary to the execution, delivery and performance of this Agreement have been obtained, and no further Town Council action needs to be taken in connection with such execution, delivery and performance.

8.3 Town shall execute and acknowledge when appropriate all documents and instruments and take all actions necessary to implement, evidence and enforce this Agreement.

8.4 Town knows of no litigation, proceeding, initiative, referendum, investigation, or threat of any of the same contesting the powers of Town or its officials with respect to this Agreement that has not been disclosed in writing to County and Employer.

8.5 The execution, delivery and performance of this Agreement by Town is not prohibited by, and does not conflict with, any other agreements, instruments or judgments or decrees to which Town is a party or is otherwise subject.

8.6 Town has been assisted by counsel of its own choosing in connection with the preparation and execution of this Agreement.

9. **EMPLOYER REPRESENTATIONS.** Employer represents and warrants to Town that:

9.1 Employer has the full right, power, and authorization to enter into and perform this Agreement and of the obligations and undertakings of Employer under this Agreement, and the execution, delivery and performance of this Agreement by Employer has

been duly authorized and agreed to in compliance with the organizational documents of Employer.

9.2 All consents and approvals necessary to the execution, delivery and performance of this Agreement have been obtained, and no further action needs to be taken in connection with such execution, delivery, and performance.

9.3 Employer shall execute and acknowledge when appropriate all documents and instruments and take all actions necessary to implement, evidence and enforce this Agreement.

9.4 As of the date of this Agreement, Employer knows of no litigation, proceeding or investigation pending or threatened against or affecting Employer, which could have a material adverse effect on Employer's performance under this Agreement that has not been disclosed in writing to County and Town.

9.5 The execution, delivery and performance of this Agreement by Employer is not prohibited by, and does not conflict with, any other agreements, instruments, judgments or decrees to which Employer is a party or to which Employer is otherwise subject.

9.6 Employer has not paid or given, and shall not pay or give, any Third Party any money or other consideration for obtaining this Agreement other than normal costs of conducting business and costs of professional services such as the services of architects, engineers, and attorneys.

9.7 Employer has been assisted by counsel of its own choosing in connection with the preparation and execution of this Agreement.

Prior to the Effective Date, Employer shall provide to Town and County the entity resolutions or authorizations of Employer, authorizing Employer to enter into this Agreement.

10. **EVENTS OF DEFAULT; REMEDIES.**

10.1 Events of Default by Employer. "**Default**" or an "**Event of Default**" by Employer under this Agreement shall mean one or more of the following:

(a) Any representation or warranty made in this Agreement by Employer was materially inaccurate when made or shall prove to be materially inaccurate during the Term;

(b) Employer fails to comply with the deadlines for the Commencement of Construction of the Required Improvements or Completion of Construction of the Required Improvements, as applicable, established in this Agreement, for any reason other than Force Majeure;

(c) Employer transfers or attempts to transfer or assign this Agreement in violation of Section 12.2(a);

(d) Employer fails to observe or perform any other covenant, obligation or agreement required of it under this Agreement; or

(e) Employer no longer has a possessory right to the Site, whether pursuant to the Lease, a sublease, fee ownership, license, or otherwise; provided, however, that the foregoing shall not be a Default or Event of Default if Employer has performed its obligations under Section 4.1 and has achieved the Employment Objective.

10.2 Events of Default by Town. “**Default**” or an “**Event of Default**” by Town under this Agreement shall mean one or more of the following:

(a) Any representation or warranty made in this Agreement by Town was materially inaccurate when made or shall prove to be materially inaccurate during the Term; or

(b) Town fails to observe or perform any other covenant, obligation or agreement required of it under this Agreement.

10.3 Events of Default by County. “**Default**” or an “**Event of Default**” by County under this Agreement shall mean one or more of the following:

(a) Any representation or warranty made in this Agreement by County was materially inaccurate when made or shall prove to be materially inaccurate during the Term; or

(b) County fails to observe or perform any other covenant, obligation or agreement required of it under this Agreement.

10.4 Grace Periods; Notice and Cure. Upon the occurrence of an Event of Default by any Party, such Party shall, upon written Notice from any other Party, proceed immediately to cure or remedy such Default and, in any event, such Default shall be cured within thirty (30) days after receipt of such Notice; or, if such Default is of a nature is not capable of being cured within thirty (30) days shall be commenced within such period and diligently pursued to completion, but in no event exceeding ninety (90) days in total.

10.5 Remedies for Default. Whenever any Event of Default occurs and is not cured (or cure undertaken) by the defaulting Party in accordance with Section 10.1, 10.2, or 10.3, as applicable, and Section 10.4 of this Agreement, a non-defaulting Party may take any of one or more of the following actions:

(a) Remedies of County. County’s remedies for an uncured Event of Default by Employer may include any of the following:

(i) If an uncured Event of Default by Employer occurs at any time, County may terminate its obligations under this Agreement.

(ii) County may seek actual damages resulting from Employer's Event of Default for a failure by Employer to provide Indemnity as required by Section 13(a) of this Agreement.

(b) Remedies of Town. Town's remedies for an uncured Event of Default by Employer may include any of the following:

(i) If an uncured Event of Default by Employer occurs at any time, Town may terminate its obligations under this Agreement.

(ii) Town may seek special action or other similar relief (whether characterized as mandamus, injunction or otherwise), requiring Employer to undertake and to fully and timely address or to enjoin any construction or similar activity undertaken by Employer which is not in accordance with the terms of this Agreement.

(iii) Town may seek actual damages resulting from Employer's Event of Default for a failure by Employer to provide Indemnity as required by Section 13(a) of this Agreement.

(c) Remedies of Employer. Upon an uncured Event of Default by Town or County, Employer may pursue as its exclusive remedies, the following: (i) to seek special action or other similar relief (whether characterized as specific performance, mandamus, injunction or otherwise), requiring County or Town (as applicable) to undertake and to fully and timely perform its obligations under this Agreement, or (ii) to enjoin any threatened or attempted violation of this Agreement.

(d) Waiver of Certain Damages. Notwithstanding anything in this Agreement to the contrary, each of County, Town and Employer waives its right to seek and recover consequential, exemplary, special, beneficial, numerical, punitive, or similar damages from each other Party, the only permitted claim for damages being actual damages reasonably and directly incurred by the aggrieved Party to the extent expressly allowed by this Agreement.

10.6 Delays; Waivers. Except as otherwise expressly provided in this Agreement, any delay by any Party in asserting any right or remedy under this Agreement shall not operate as a waiver of any such rights or limit such rights in any way; and any waiver in fact made by such Party with respect to any Default by any other Party shall not be considered as a waiver of rights with respect to any other Default by the performing Party or with respect to the particular Default except to the extent specifically waived in writing. It is the intent of the Parties that this provision shall enable each Party to avoid the risk of being limited in the exercise of any right or remedy provided in this Agreement by waiver, laches or otherwise at a time when it may still hope to resolve the problems created by the Default involved.

10.7 Force Majeure. Neither County, Town nor Employer, as the case may be, shall be considered not to have performed its obligations under this Agreement or in Default in the event of force majeure ("**Force Majeure**") due to causes beyond its reasonable control and without its fault, negligence or failure to comply with Applicable Laws, including: acts of God; acts of public enemy; litigation concerning the validity and enforceability of this Agreement or relating to transactions contemplated hereby (including the effect of petitions for initiative or

referendum); fires, floods, epidemics, pandemics, quarantine, restrictions, strikes, embargoes, labor disputes, and unusually severe weather or the delays of subcontractors or materialmen due to such causes; a Public Health Event; acts of a public enemy, war, terrorism or act of terror (including bio-terrorism or eco-terrorism); nuclear radiation; declaration of national emergency or national alert; blockade, insurrection, riot, labor strike or interruption; extortion, sabotage, or similar occurrence; any exercise of the power of eminent domain, condemnation, or other taking by the action of any governmental body on behalf of any public, quasi-public, or private entity; or declaration of moratorium or similar hiatus directly affecting the Project (whether permanent or temporary) by any public, quasi-public or private entity. In addition, if after good faith efforts by Employer to comply, if the Employment Objective is not met by the Employment Objective Date, as may be extended, the Employment Objective Date shall be extended for a reasonable period of time as requested by Employer and reasonably approved by County and Town but in any event not less than two (2) years. In no other event shall Force Majeure include any delay resulting from general economic or market conditions, unavailability for any reason of particular tenants of portions of the Project, nor from the unavailability for any reason of particular contractors, subcontractors, vendors, investors or lenders desired by Employer in connection with the development of the Project, it being agreed that Employer shall bear all risks of delay which are not Force Majeure. In the event of the occurrence of any such Force Majeure, the time or times for performance of the obligations of the Party claiming delay shall be extended for the actual duration of the Force Majeure event; provided that the Party seeking the benefit of the provisions of this Section 10.7, within thirty (30) days after such event, shall notify each other Party of the specific delay in writing and claim the right to an extension for the period of the Force Majeure.

10.8 Rights and Remedies Cumulative. The rights and remedies of each Party are cumulative, and the exercise by any Party of any one or more of such rights shall not preclude the exercise by it, at the same or different times, of any other right or remedy for any other uncured Default by any other Party.

11. COOPERATION AND DESIGNATED REPRESENTATIVES; ESTOPPEL CERTIFICATES.

11.1 Representatives. To further the cooperation of the Parties in implementing this Agreement, County, Town and Employer each shall designate and appoint a representative to act as a liaison among and between County (and its various departments), Town (and its various departments) and Employer. The initial representative for County shall be its County Manager; the initial representative for Town shall be its Town Manager, and the initial representative for Employer shall be its Project Manager, as identified by Employer from time to time. County's, Town's and Employer's representatives shall be available at all reasonable times to discuss and review the performance of the Parties to this Agreement and the development of the Project.

11.2 Estoppel Certificates. Each Party shall, within ten (10) days after receipt of the written request of the other Party or any other interested party (including any lender), furnish a certificate (a) regarding whether to such certifying Party's knowledge (i) this Agreement is in full force and setting forth any amendments to this Agreement, (ii) any breach or default exists under in this Agreement, or any other event exists that, with the passage of time and the giving of

any notice required under this Agreement, would constitute a breach or default under this Agreement, (b) confirming the amounts paid under this Agreement, and (c) confirming such other matters reasonably required by the requesting Party. The recipient of such certificate, without actual notice to the contrary, shall be entitled to rely on said certificate with respect to all matters set forth therein.

12. MISCELLANEOUS PROVISIONS.

12.1 Governing Law; Choice of Forum. This Agreement shall be deemed to be made under, shall be construed in accordance with, and shall be governed by the internal, substantive laws of the State of Arizona (without reference to conflict of law principles). Any action brought to interpret, enforce or construe any provision of this Agreement shall be commenced and maintained in the Superior Court of the State of Arizona in and for the County of Pinal (or, as may be appropriate, in the Justice Courts of Pinal County, Arizona, or in the United States District Court for the District of Arizona, if, but only if, the Superior Court lacks or declines jurisdiction over such action). The Parties irrevocably consent to the exclusive jurisdiction and venue in such courts for such purposes and agree not to seek transfer or removal of any action commenced in accordance with the terms of this Section 12.1.

12.2 Restrictions on Assignment and Transfer.

(a) Restriction on Transfers. No assignment or similar transfer of Employer's interest in this Agreement (each, a "**Transfer**") may occur without County's and Town's prior written consent, which may be granted, withheld, conditioned or delayed in County's and Town's sole discretion; provided, however, if there is no uncured Event of Default of Employer existing at the time of the Transfer, Employer may take any of the following actions without the consent of County and Town:

(i) Employer may assign this Agreement to a successor entity by merger, consolidation, reorganization, operation of law, or similar event, or that is otherwise an Affiliate of Employer (so long as such successor entity retains ownership of the leasehold or other interest in the Site), and/or

(ii) Employer may assign this Agreement to the transferee of Employer's interest in the Site in connection with the conveyance of Employer's interest in the Site (A) to any Affiliate of Employer, or (B) in connection with a change in ownership of Employer as a result of a merger, consolidation, reorganization, or joint venture, or (C) in connection with the sale or transfer of all or substantially all of the assets of Employer.

Nothing in this Agreement shall prohibit or restrict, or require the approval of Town or County for, changes in the direct or indirect management, ownership or control of Employer.

Upon any Transfer, Employer shall provide to Town with a true and correct copy of any such assignment, together with a copy of the document or instrument pursuant to which such assignee fully assumes all of Employer's covenants and obligations under this Agreement arising from and after the date of the Transfer and agrees to be bound by the terms and provisions of this Agreement. The assignment by Employer of its rights under this Agreement shall not relieve Employer personally of any obligations, unless County and Town shall expressly agree to such

relief in writing. Any Transfer or other purported assignment that does not comply in all respects with this Section 12.2(a) shall be void, and not voidable.

(b) Transfers by County. County's rights and obligations under this Agreement shall be non-assignable and non-transferable, without the prior express written consent of Employer, which consent may be given or withheld in Employer's sole and unfettered discretion

(c) Transfers by Town. Town's rights and obligations under this Agreement shall be non-assignable and non-transferable, without the prior express written consent of Employer, which consent may be given or withheld in Employer's sole and unfettered discretion.

12.3 Limited Severability. County, Town and Employer each believes that the execution, delivery, and performance of this Agreement are in compliance with all Applicable Laws. However, in the unlikely event that any provision of this Agreement is declared void or unenforceable (or is construed as requiring Town or County to do any act in violation of any Applicable Laws), such provision shall be deemed severed from this Agreement and this Agreement shall otherwise remain in full force and effect; provided that this Agreement shall retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed agreement (and any related agreements effective as of the same date) provide essentially the same rights and benefits (economic and otherwise) to the Parties as if such severance and reformation were not required. The Parties further agree, in such circumstances, to do all acts and to execute all amendments, instruments and consents necessary to accomplish and to give effect to the purposes of this Agreement, as reformed.

12.4 Construction. The terms and provisions of this Agreement represent the results of negotiations between the Parties, each of which has been or has had the opportunity to be represented by counsel of its own choosing, and none of which has acted under any duress or compulsion, whether legal, economic, or otherwise. Consequently, the terms and provisions of this Agreement shall be interpreted and construed in accordance with their usual and customary meanings, and the Parties each hereby waive the application of any rule of law which would otherwise be applicable in connection with the interpretation and construction of this Agreement that ambiguous or conflicting terms or provisions contained in this Agreement shall be interpreted or construed against the Party who prepared or whose attorney prepared the executed Agreement or any earlier draft of the same.

12.5 Notices.

(a) Addresses. Except as otherwise required by law, any notice required or permitted under this Agreement (each, a "**Notice**") shall be in writing and shall be given by (i) personal delivery, or (ii) any nationally recognized express or overnight delivery service (e.g., Federal Express or UPS), delivery charges prepaid, or (iii) sent by electronic mail (email) provided that notice shall also be delivered within two (2) business days by another method permitted under this Section. Notices shall be addressed as follows:

If to County: Pinal County
135 North Pinal Street
Administrative Complex
PO Box 827
Florence, Arizona 85132
Attn: County Manager
Email: clerkoftheboard@pinal.gov

With a required copy to: Pinal County
135 North Pinal Street
Administrative Complex
PO Box 827
Florence, Arizona 85132
Attn: County Attorney
Email: pinalcountyattorney@pinal.gov

If to Town: Town of Queen Creek
Attn: Town Manager
22358 S Ellsworth Road
Queen Creek, Arizona 85142
Email: bruce.gardner@queencreekaz.gov

With a required copy to: Town of Queen Creek
Attn: Town Attorney
c/o Dickinson Wright PLLC
1850 North Central Avenue, Suite 1400
Phoenix, Arizona 85004
Email: sholcomb@dickinsonwright.com

If to Employer: LG Energy Solution Arizona ESS, Inc.
Attn: LG Energy Solution, Ltd. (Kwonhee Jeong)
Parc1 Tower1, 108 Yeoui-daero,
Yeongdeungpo-gu, Seoul, 07335, Korea
Email: jeongkwonhee@lgensol.com

With a required copy to: Quarles & Brady LLP
Attn: Diane Haller
One Renaissance Square
Two North Central Avenue, Suite 600
Phoenix, Arizona 85004
Email: diane.haller@quarles.com

Each Party may by notice in writing change its address for the purpose of this Agreement, which address shall thereafter be used in place of the former address.

(b) Effective Date of Notices. Any Notice sent by a recognized national overnight delivery service shall be deemed effective one (1) business day after deposit with such service. Any Notice personally delivered or delivered through a same-day delivery/courier service shall be deemed effective upon its receipt (or refusal to accept receipt) by the addressee. Any Notice sent by email shall be deemed effective on the date of delivery, provided that notice shall also be delivered within two (2) business days by another method permitted under this Section.

12.6 Time of Essence. Time is of the essence of this Agreement and each provision hereof.

12.7 Article and Section Headings. The Article and Section headings contained in this Agreement are for convenience in reference only and do not define or limit the scope or meaning of any provision of this Agreement.

12.8 Attorneys' Fees and Costs. In the event of a breach by any Party and commencement of a subsequent legal action in an appropriate forum, the prevailing Party in any such dispute shall be entitled to reimbursement of its reasonable attorneys' fees and court costs, including its costs of expert witnesses, transportation, lodging and meal costs of the parties and witnesses, costs of transcript preparation and other reasonable and necessary direct and incidental costs of such dispute.

12.9 Waiver. Without limiting the provisions of Section 10.6 of this Agreement, the Parties agree that neither the failure nor the delay of any Party to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver of such right, remedy, power or privilege, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of the same or of any other right, remedy, power or privilege, nor shall any waiver of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence. No waiver shall be effective unless it is in writing and signed by the Party asserted to have granted such waiver.

12.10 Third Party Beneficiaries. No person or entity shall be a third party beneficiary to this Agreement, except for permitted transferees and assignees to the extent that they assume or succeed to the rights and/or obligations of Employer under this Agreement.

12.11 Exhibits. Without limiting the provisions of Article 1 of this Agreement, the Parties agree that all references to this Agreement include all Exhibits designated in and

attached to this Agreement, such Exhibits being incorporated into and made an integral part of this Agreement for all purposes. In the event of a conflict with or ambiguity between a general description in this Agreement and the terms and provisions included in a more detailed and specific Exhibit referred to in such general description, the terms and provisions of the Exhibit shall supersede and prevail.

12.12 Integration. Except as expressly provided in this Agreement, this Agreement constitutes the entire agreement between the Parties with respect to the subject matters hereof and supersedes any prior agreement, understanding, negotiation or representation regarding the subject matters covered by this Agreement.

12.13 Further Assurances. Each Party agrees to perform such other and further acts and to execute and deliver such additional agreements, documents, affidavits, certifications, acknowledgments and instruments as any other Party may reasonably require to consummate, evidence, confirm or carry out the matters contemplated by this Agreement or confirm the status of (a) this Agreement as in full force and effect and (b) the performance of the obligations hereunder at any time during its Term.

12.14 Calculation of Days. If the last day of any time period stated in this Agreement or the date on which any obligation to be performed under this Agreement falls on a day other than a business day, then the duration of such time period or the date of performance, as applicable, shall be extended so that it shall end on the next succeeding business day. A “business day” means a day other than a Saturday, Sunday or day that is a legal holiday in the State of Arizona or a national holiday in the country of Korea.

12.15 Good Faith of Parties; Consents and Approvals. Except where any matter is expressly stated to be in the sole discretion of a Party, in performance of this Agreement or in considering any requested extension of time, each Party agrees that it shall act in good faith and shall not act unreasonably, arbitrarily, or capriciously and shall not unreasonably withhold, delay, or condition any requested approval, acknowledgment or consent.

(a) Any consent or approval of Town required by this Agreement may be provided by the Town Manager unless otherwise specified or required by Applicable Laws. In addition, the Town Manager is expressly authorized to execute and deliver all amendments to this Agreement and other transaction documents required by, contemplated under or authorized in this Agreement.

(b) Any consent or approval of County required by this Agreement may be provided by the County Manager unless otherwise specified or required by Applicable Laws. In addition, the County Manager is expressly authorized to execute and deliver all amendments to this Agreement and other transaction documents required by, contemplated under or authorized in this Agreement.

12.16 Covenants Running With Land; Inurement. The covenants, conditions, terms and provisions of this Agreement relating to use of the Site shall run with the land and shall be binding upon and shall inure to the benefit of the Parties and their respective permitted successors and assigns with respect to the Site. Wherever the term “Party” or the name of any

particular Party is used in this Agreement such term shall include any such Party's permitted successors and assigns.

12.17 Recordation. Within ten (10) days after this Agreement has been approved by Town and executed by the Parties, Town shall cause this Agreement to be recorded in the Official Records.

12.18 Amendment. Except as otherwise expressly provided for or permitted in this Agreement (for example, for administrative adjustments that may be made by the Town Manager, including the approval of Extended Compliance Dates), no change or addition shall be made to this Agreement except by written amendment executed by the Parties. Within ten (10) days after any amendment to this Agreement, such amendment shall be recorded in the Official Records. Upon amendment of this Agreement, references to "Agreement" or "Development Agreement" shall mean the Agreement as amended. If, after the effective date of any amendment(s), the Parties find it necessary to refer to this Agreement in its original, unamended form, they shall refer to it as the "Original Development Agreement." When the Parties mean to refer to any specific amendment to the Agreement which amendment is unmodified by any subsequent amendments, the Parties shall refer to it by the number of the amendment as well as its effective date.

12.19 Survival. All indemnification obligations in this Agreement shall survive the execution and delivery of this Agreement, the closing of any transaction contemplated in this Agreement, and the rescission, cancellation, expiration or termination of this Agreement upon the terms and for the period set forth in each respective Section.

12.20 Nonliability of Town Officials, of County Officials, and of Employees, Members and Partners, of Employer. No Town Council member, official, representative, agent, attorney or employee of Town, and no County Board member, official, representative, agent, attorney or employee of County, shall be personally liable to any of the other Parties hereto, or to any successor in interest to any of the other Parties, in the event of any Default or breach by Town or County (as applicable) or for any amount which may become due to any of the other Parties or their successors, or with respect to any obligation of Town or County (as applicable) under the terms of this Agreement. Notwithstanding anything contained in this Agreement to the contrary, the liability of Employer under this Agreement shall be limited solely to the assets of Employer and shall not extend to or be enforceable against: (i) the individual assets of any of the individuals or entities who are shareholders, members, managers constituent partners, officers or directors of the general partners or members of Employer; (ii) the shareholders, members or managers or constituent partners of Employer; or (iii) officers of Employer.

12.21 Conflict of Interest Statute. This Agreement is subject to, and may be terminated by Town or County in accordance with, the provisions of A.R.S. §38-511.

12.22 No Boycott of Israel. Employer certifies pursuant to A.R.S. §35-393.01 that it is not currently engaged in, and for the duration of this Agreement shall not engage in, a boycott of Israel.

12.23 Proposition 207 Waiver. Employer hereby waives and releases Town (“**Prop 207 Waiver**”) from any and all claims under A.R.S. § 12-1134, *et seq.*, including any right to compensation for reduction to the fair market value of all or any part of the Site, as a result of Town’s approval of this Agreement, any and all restrictions and requirements imposed on Employer, the Project and the Site by this Agreement or the Zoning, Town’s approval of Employer’s plans and specifications for the Project, the issuance of any permits, and all related zoning, land use, building and development matters arising from, relating to, or reasonably inferable from this Agreement. The terms of this Prop 207 Waiver shall run with all land that is the subject of this Agreement and shall be binding upon all subsequent landowners, assignees, lessees, and other successors, and shall survive the expiration or earlier termination of this Agreement.

12.24 A.R.S. § 35-394 Certification.

(a) If and to the extent required by A.R.S. § 35-394, Employer hereby certifies to Town and agrees for the duration of this Agreement that Employer will not use:

(i) The forced labor of ethnic Uyghurs in the People’s Republic of China.

(ii) Any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China.

(iii) Any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China.

(b) If Employer becomes aware during the term of this Agreement that Employer is not in compliance with the above written certification, Employer shall notify Town within five (5) business days after becoming aware of the noncompliance. If Employer does not provide Town with a written certification that Employer has remedied the noncompliance within one hundred eighty days after notifying Town of the noncompliance, this Agreement will terminate, except that if the Agreement termination date occurs before the end of the remedy period, the Agreement terminates on the Agreement termination date.

12.24 Preserve State Shared Revenue; Other Challenges.

(a) Notwithstanding any other provision of, or limitation in, this Agreement to the contrary, if pursuant to A.R.S. § 41-194.01 the Attorney General (i) commences an investigation based on a claim alleging that this Agreement, or any action of Town or County approving this Agreement, violates any provision of state law or the Constitution of Arizona (a “**Violation**”), (ii) thereafter determines that a Violation exists pursuant to A.R.S. § 41-194.01(B)(1), and (iii) thereupon provides the statutorily-required notice of the Violation to Town and County (the “**Violation Notice**”), Town and County shall promptly meet with Employer and use all good faith efforts to modify the Agreement (or otherwise address the matter or matters constituting the Violation) in a manner to resolve the Violation and to substantially provide to the Parties the practical realization of the principal benefits intended by the Agreement. If within the thirty (30) day period set forth in the Violation Notice (the “**Violation Notice Resolution**”

Period”), County, Town and Employer cannot agree to modify this Agreement so as to resolve the Violation, this Agreement shall automatically (that is, without further act or Notice to the Parties required) terminate at the expiration of the Violation Notice Resolution Period, and upon such termination the Parties shall have no further rights, interests, or obligations in this Agreement or claim against any other Party for a breach or default under this Agreement.

(b) Notwithstanding any other provision of, or limitation in, this Agreement to the contrary, if pursuant to A.R.S. § 41-194.01 the Attorney General (i) commences an investigation into a Violation as described above, (ii) thereafter determines that a Violation may exist pursuant to A.R.S. § 41-194.01(B)(2), and (iii) thereupon files a special action in the Arizona Supreme Court to resolve the issue, Town, County shall jointly and vigorously defend the legality of this Agreement with respect to any such investigation and action. Employer may, at Employer’s sole discretion, join such defense, but at a minimum Employer shall reasonably cooperate with Town and County in such defense, at no cost to Employer. Additionally, if the Arizona Supreme Court determines that a Violation exists, this Agreement shall automatically (that is, without further act or Notice to the Parties required) terminate, and the Parties shall have no further rights, interests, or obligations in this Agreement or claim against any other Party for a breach or default under this Agreement.

(c) Additionally, if a Third Party claims that this Agreement violates any provision of state law or the Constitution of Arizona (excluding any Violation), (i) Town, County shall vigorously defend any such claim, and (ii) County, Town and Employer shall use all and best faith efforts to modify the Agreement so as to substantially provide the practical realization of the principal benefits intended by this Agreement, concurrently with Town and County defending such claim. Employer may, at Employer’s sole discretion, join such defense, but at a minimum Employer shall reasonably cooperate with Town and County in such defense, at no cost to Employer. If an appellate court of the State, beyond any applicable appeals period, has determined that this Agreement violates any provision of state law or the Constitution of Arizona, either of County, Town or Employer may terminate this Agreement and the Parties thereafter shall have no further rights, interests, or obligations in this Agreement or claim against any other Party for a breach or default under this Agreement.

(d) Town and County shall promptly notify Employer upon receipt of any written notice of any investigation or action alleging a Violation, as described in clauses (a) or (b) above, or a Third Party claim, as described in clause (c).

12.25 Public Action.

(a) Town and Employer acknowledge that, notwithstanding any language of this Agreement or any subsequent additional document, no act, requirement, payment or other agreed-upon action to be done or performed by Town which would, under any federal, state or local constitution, statute, charter provision, ordinance or regulation, require formal action, approval or concurrence by the Town Council, shall be required to be done or performed by Town unless and until said formal Town Council action has been taken and completed. **“Completed”** under this provision means that such Town Council action is no longer subject to referral. This Agreement does not bind Town or the Town Council or remove its independent authority to make determinations related to formal action of the Town Council in any way.

(b) County and Employer acknowledge that, notwithstanding any language of this Agreement or any subsequent additional document, no act, requirement, payment or other agreed-upon action to be done or performed by County which would, under any federal, state or local constitution, statute, charter provision, ordinance or regulation, require formal action, approval or concurrence by the County Board, shall be required to be done or performed by County unless and until said formal County Board action has been taken and completed. **“Completed”** under this provision means that such County Board action is no longer subject to referral. This Agreement does not bind County or the County Board or remove its independent authority to make determinations related to formal action of the County Board in any way.

12.26 References to Authority. Any reference to a statute, ordinance, regulation, or similar legal authority, including the Applicable Laws, in this Agreement refers to the legal authority as it existed on the Effective Date or as the same may be amended from time-to-time during the Term.

13. **INDEMNITY OF TOWN AND COUNTY BY EMPLOYER.**

(a) Subject to the limitations in Section 10.5(d), Employer shall indemnify, defend, pay and hold harmless Town and its Town Council members, officers, officials, agents, and employees (collectively, including Town, **“Town Indemnified Parties”**), and Employer shall indemnify, defend, pay and hold harmless County and its County Board members, officers, officials, agents, and employees (collectively, including County, **“County Indemnified Parties”**) for, from, and against any and all claims, demands, fines, penalties, costs, expenses, damages, losses, obligations, judgments, liabilities, and suits (including reasonable attorneys’ fees, experts’ fees and court costs associated with such matters) which may be imposed upon, incurred by or asserted against Town Indemnified Parties or County Indemnified Parties by a Third Party (all of the foregoing, collectively, **“Claims”**) to the extent the Claims arise from the gross negligence or willful misconduct of Employer with respect to the design, construction, and structural engineering acts or omissions with respect to the Required Improvements (collectively, **“Indemnity”**). Such Indemnity shall survive the expiration or earlier termination of this Agreement for a period of two (2) years. The indemnification set forth in this Section 13 shall not apply to the extent such Claims against Town Indemnified Parties arise from or relate solely to the negligent or intentional acts of Town Indemnified Parties, or to the extent such Claims against County Indemnified Parties arise from or relate solely to the negligent or intentional acts of County Indemnified Parties. In the event any Town Indemnified Parties or County Indemnified Parties should be made a defendant in any action, suit or proceeding brought by a Third Party by reason of any of the occurrences described in this Section 13, Employer shall at its own expense: (i) resist and defend such action, suit or proceeding or cause the same to be resisted and defended by counsel designated by Employer and reasonably approved by Town (with respect to Claims asserted against Town Indemnified Parties), or County (with respect to Claims asserted against County Indemnified Parties); and (ii) if any such action, suit or proceeding should result in a final judgment against any of the Town Indemnified Parties or County Indemnified Parties, Employer shall promptly satisfy and discharge such judgment or shall cause such judgment to be promptly satisfied and discharged, provided that nothing in this Section 13 limits the rights of the Parties to seek indemnification under common law, subject to (A) the limitations in Section 10.5(d), and (B) the limitations in Section 10.5 with respect to the remedies of a Party relating to an uncured Event of Default.

(b) Nothing in Section 13(a) limits the right of any Party to seek indemnification under common law from any other Party with respect to matters other than an uncured Event of Default.

[Signatures appear on following pages]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

COUNTY

PINAL COUNTY, ARIZONA, a political
subdivision of the State of Arizona

By: _____
Its: _____

ATTEST:

By: _____
County Clerk

APPROVED AS TO FORM:

By: _____
County Attorney

STATE OF ARIZONA)
) ss.
COUNTY OF PINAL)

The foregoing instrument was acknowledged before me this ____ day of _____, 2024, by _____ the _____ of Pinal County, Arizona, a subdivision of the State of Arizona, who acknowledged that he/she signed the foregoing instrument on behalf of Pinal County.

Notary Public

My commission expires:

**SIGNATURE PAGE TO DEVELOPMENT AGREEMENT AND
INTERGOVERNMENTAL AGREEMENT**

TOWN

TOWN OF QUEEN CREEK, ARIZONA, an
Arizona municipal corporation

By: _____
Its: _____

ATTEST:

By: _____
Town Clerk

APPROVED AS TO FORM:

By: _____
Town Attorney

STATE OF ARIZONA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2024, by _____ the _____ of the Town of Queen Creek, Arizona, an Arizona municipal corporation, who acknowledged that he/she signed the foregoing instrument on behalf of Town.

Notary Public

My commission expires:

**SIGNATURE PAGE TO DEVELOPMENT AGREEMENT AND
INTERGOVERNMENTAL AGREEMENT**

EMPLOYER

LG ENERGY SOLUTION ARIZONA ESS, INC.,
a Delaware corporation

By: _____
Name: _____
Title: _____

STATE OF ARIZONA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2024,
by _____, the _____ of LG ENERGY
SOLUTION ARIZONA ESS, INC., a Delaware corporation, who acknowledged that he/she
signed the foregoing instrument on behalf of such corporation.

Notary Public

My commission expires:

**ACKNOWLEDGMENT AND CONSENT OF OWNER
TO DEVELOPMENT AGREEMENT AND INTERGOVERNMENTAL AGREEMENT
(AND RECORDATION)**

The undersigned has executed and delivered this Agreement to County and Town for the purpose of expressly consenting to the recordation of this Agreement against the interest of Owner in and to the Site and confirming its agreement with Section 4.4 of this Agreement, and has authorized and approved the execution and delivery of this Agreement to County and Town by Employer.

OWNER

LG ENERGY SOLUTION ARIZONA, INC., a
Delaware corporation, successor (by conversion) to
ES AMERICA, LLC, a Delaware limited liability
company

By: _____
Name: _____
Title: _____

STATE OF ARIZONA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2024, by _____, the _____ of LG ENERGY SOLUTION ARIZONA, INC., a Delaware corporation, successor (by conversion) to ES AMERICA, LLC, a Delaware limited liability company, who acknowledged that he/she signed the foregoing instrument on behalf of such corporation.

Notary Public

My commission expires:

List of Exhibits

- Exhibit A: Legal Description of Site
- Exhibit B: Depiction of Site
- Exhibit C: Description of Required Improvements
- Exhibit D: Training Program
- Exhibit E: Approved Germann Alignment
- Exhibit F: Map Depicting Maintenance Responsibility for Germann Road

Exhibit A
to Development Agreement and
Intergovernmental Agreement

Legal Description of Site

A PORTION OF SECTION 5, TOWNSHIP 2 SOUTH, RANGE 8 EAST OF THE GILA & SALT RIVER MERIDIAN, PINAL COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION;

THENCE NORTH 00°26'59" WEST, ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 1,681.87 FEET;

THENCE DEPARTING SAID WEST LINE OF THE SOUTHWEST QUARTER, NORTH 89°49'08" EAST, A DISTANCE OF 2,732.12 FEET, TO A POINT ON A LINE 85.00 FEET EAST AND PARALLEL TO THE NORTH-SOUTH MID-SECTION LINE OF SAID SECTION;

THENCE SOUTH 00°20'15" EAST, ALONG SAID PARALLEL LINE, A DISTANCE OF 1,669.62 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION;

THENCE DEPARTING SAID PARALLEL LINE SOUTH 89°33'07" WEST, ALONG SAID SOUTH LINE OF THE SOUTHEAST QUARTER, A DISTANCE OF 85.00 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION;

THENCE DEPARTING SAID SOUTH LINE OF THE SOUTHEAST QUARTER, SOUTH 89°33'44" WEST, ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION, A DISTANCE OF 2,643.82 FEET TO THE SOUTHWEST CORNER OF SAID SECTION BEING THE POINT OF BEGINNING.

BEING SHOWN AS LOT 3 OF MINOR LAND DIVISION FOR PROJECT ALPHA ACCORDING TO THE MINOR LAND DIVISION OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF PINAL COUNTY, ARIZONA RECORDED AS FEE NO. 2024-015025.

**Exhibit B
to Development Agreement and
Intergovernmental Agreement**

Depiction of Site

[see attached map; Site is Parcel 3]

PECOS ROAD

PARCEL 1

PARCEL 2

PARCEL 3

IRONWOOD ROAD

GERMANN ROAD

Exhibit C
to Development Agreement and
Intergovernmental Agreement

Description of Required Improvements

An approximately 1,000,000 square foot manufacturing facility with mezzanine, together with associated warehouse, office, training, storage and distribution space of approximately 500,000 square feet under roof. The Required Improvements shall also include associated site improvements inclusive of parking facilities, utility improvements, landscaping, sidewalks, retention areas, and recreational areas.

Exhibit D
to Development Agreement and
Intergovernmental Agreement

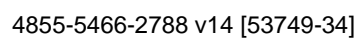
General Scope of Required Training

1. Orientation. New employees undergo an orientation process to learn critical information about their job position. Instructors may present information in a classroom environment or host one-on-one discussions.
2. Onboarding. Training process that helps new employees learn key information about their job position and a company's protocols. When onboarding with a group of new employees, the company may provide lecture-based instructions or digital presentations.
3. Internal Training. Existing employees work with new hires to discuss skill-building techniques and other professional development goals in either a classroom setting or hands on.
4. Outsourced Training. Third parties may be used to train employees on a certain skill set in either a classroom setting or hands on. This type of training may take place at the Site and/or at other Employer or third party facilities to learn and bring back the skills to the Project.
5. Technical Skills Training. Technical skills training involves teaching both incumbent and new employees how to apply their technical knowledge to their job position. This type of training may take place at the Site and/or other Employer or third party facilities to learn and bring back the skills to the Project.
6. Shadowing. Shadowing describes a process where two employees follow each other throughout the workday to gain insight into different job positions within the same company. This type of training may take place at the Site and/or other Employer or third party facilities to learn and bring back the skills to the Project.
7. Mandatory Training. Mandatory training is a program that a federal or state regulation requires employees to complete.

**Exhibit E
to Development Agreement and
Intergovernmental Agreement**

**Approved Germann Alignment
[depiction on following page]**

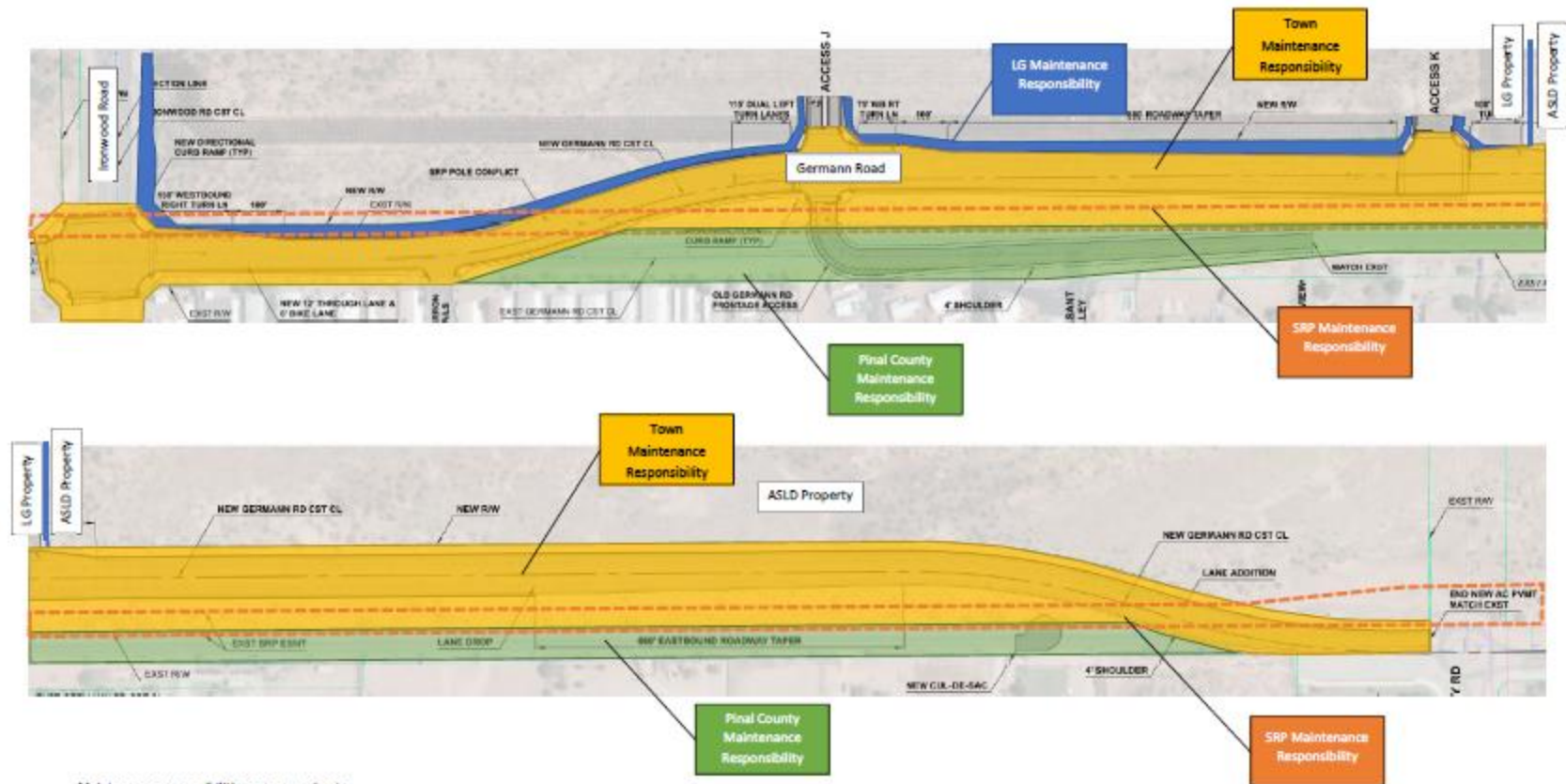
[NTD: When this document is recorded, the following page will be removed, and replaced with a page that states: This exhibit page has been removed for purposes of recording. A copy is available for inspection at the office of the Town Clerk.]



**Exhibit F
to Development Agreement and
Intergovernmental Agreement**

**Map Depicting Maintenance Responsibility for Germann Road
[depiction on following page]**

[NTD: When this document is recorded, the following page will be removed, and replaced with a page that states: This exhibit page has been removed for purposes of recording. A copy is available for inspection at the office of the Town Clerk.]



Maintenance responsibilities are approximate.

LG Phase 2 (Gemini) is responsible for landscape installation and maintenance from the back of curb toward their property adjacent to Germann Road and Ironwood Road.

The Maintenance responsibility for LG Phase 2 (Gemini) is only on property owned by LG. This obligation does not extend east of their purchased property.

The Town is responsible for maintenance of the new Germann Road including curb & gutter, pavement, sidewalks and sidewalk ramps.

Pinal County is responsible for maintenance of the existing Germann Road and the new connection to the existing roadway.

The Town and Pinal County may agree to adjust their maintenance responsibility between their identified areas as needed. No input from LG or SRP is required to adjust those maintenance responsibilities.

The ultimate maintenance responsibility for the SRP easement area will be determined after final design. Maintenance responsibilities should be identified within SRP easement agreements/dedications.