

MEMORANDUM OF UNDERSTANDING
BETWEEN
SAN FRANCISCO PUBLIC UTILITIES COMMISSION
AND
SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY

THIS MEMORANDUM OF UNDERSTANDING (herein "**MOU**") dated hereof for reference purposes only as of March 23, 2009 is entered into by and between the Public Utilities Commission of the City and County of San Francisco ("**SFPUC**"), and the San Francisco Municipal Transportation Agency ("**SFMTA**") hereinafter sometimes referred to individually as a "Party" and collectively as the "Parties".

RECITALS

A. The purpose of this MOU is to provide for the installation and operation of two on-site solar photovoltaic systems at appropriate SFMTA locations 700 Pennsylvania Avenue and 1095 Indiana Street, in order to provide solar power to serve SFMTA loads, as part of the City and County of San Francisco's (the City) program to increase its development of solar energy in accordance with the Mayor's Executive Directive 05-107 (Rooftops for Municipal Solar) dated October 26, 2005. This MOU provides for the designation of the roofs at 700 Pennsylvania Avenue and 1095 Indiana Street as Sites for the installation of the first of a series of possible Solar Power Projects on SFMTA property.

B. The City acting by and through the SFPUC currently serves SFMTA electricity needs from hydroelectric power from the Hetch Hetchy system. The SFPUC and SFMTA desire to use on-site photovoltaic systems and associated inverters, isolation switches, relay protection equipment and meters to serve some of the SFMTA load. Notwithstanding the change in generating resources used to serve SFMTA load, nothing in this MOU is intended to interfere with or alter the respective responsibilities of the SFPUC and SFMTA as to supply of power by the SFPUC to SFMTA. Solar Power Projects installed at SFMTA locations pursuant to this MOU will be paid for and owned by the SFPUC.

C. The City acting by and through the SFMTA is the owner of certain properties located at 700 Pennsylvania Avenue and 1095 Indiana Street. SFMTA desires to make appropriate locations at SFMTA facilities including 700 Pennsylvania Avenue and 1095 Indiana Street available for the installation and operation of Solar Power Projects used to serve SFMTA loads.

D. On July 15, 2008 (MUNI Ways & Structures Facility), on July 22, 2008 (MUNI Woods Motor Coach Facility), and on July 22, 2008 (Chinatown Public Health Center) the San Francisco Planning Department issued categorical exemptions for the Solar Power Projects pursuant to the California Environmental Quality Act.

NOW THEREFORE IT IS AGREED AS FOLLOWS:

AGREEMENT

1. Recitals.

The foregoing recitals are true and correct and are incorporated herein by this reference.

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2. Definitions.

Whenever used herein, including all appendices hereto, the following terms, when initially capitalized, shall for the purpose of this MOU have the following respective meanings. The singular of a term shall include the plural and the plural shall include the singular.

- (a) MOU: Memorandum of Understanding.
- (b) Allowed Activities: All activities associated with the design, construction, maintenance and operation of the Solar PV Projects.
- (c) Electric Service: The provision of electric power by the SFPUC to the SFMTA at 700 Pennsylvania Avenue and 1095 Indiana Street pursuant to existing arrangements as set by the SFPUC and approved by the Board of Supervisors from time to time.
- (d) Emergency: A condition that gives rise to, or imminently could give rise to, a serious health and/or safety hazard.
- (e) Environmental Credits: Any and all energy or emission credits or any other renewable energy, emissions reduction or other environmental benefit, whether related to any renewable portfolio standard or other renewable energy purchase requirement or otherwise, whether existing as of the Effective Date or enacted thereafter.
- (f) Normal Operating Hours: The normal operating hours of 8 a.m. to 5 p.m. Monday through Friday.
- (g) Site: The SFMTA properties located at 700 Pennsylvania Avenue and 1095 Indiana Street.
- (h) Prudent Utility Practice: Those practices, methods and procedures, as modified from time to time, that are currently and commonly used by electric utilities to design, construct and operate electric power facilities dependably, reliably, safely, efficiently and economically, with due regard to the state of the art in the electric power industry, as applied in the State of California or in the Western Electricity Coordinating Council area, whichever better represents the application of the considerations above. Such practices, methods and procedures are not limited to the optimum, but rather to any within the scope of those currently and commonly used.
- (i) Solar Power Project: A photovoltaic system installed at a SFMTA Site consisting of photovoltaic panels and their mountings, any bird avoidance devices, as well as associated wiring among panels, and wiring from the panels and other associated wiring (e.g. – data instruments) to the boundary of the Site. Components of the photovoltaic system on the Site shall comprise wiring from the roof boundary to the switching area on the Site, inverter(s), an AC disconnect switch, a DC disconnect switch, junction boxes, wiring, the Solar Power Project Meter and wiring to the PG&E main meter. A draft electrical single-line diagram of the proposed Solar Power Project to be installed at the designated SFMTA sites, including interconnection facilities and the location of the Solar Power Project Meter is set forth in

Appendix A.

- (j) Solar Power Project Meter: A time of use revenue-grade meter which will measure the output of each Solar Power Project.

3. Effective Date. The effective date of this MOU (the "**Effective Date**") shall be the date that this MOU is executed by both Parties, conditioned upon the subsequent approval by SFMTA and the SFPUC, each in their sole discretion.

4. Term.

- (a) Term for the Designation of Sites. The term for the designation of Sites shall commence on the Effective Date and shall expire 10 years thereafter.

- (b) Term for the MOU. The term of this MOU shall commence on the Effective Date and shall expire 25 years after the date of commercial operation of the last Solar Power Project designated during the Term for the Designation of Sites, hereafter (the "**Expiration Date**"). If, with the permission of the SFMTA, a Solar Power Project remains on a Site after the Expiration Date, such a Site shall continue to be used for a Solar Power Project on all the terms and conditions stated herein, terminable by either Party on ninety (90) days written notice to the other.

5. Use of the Sites. Subject to the provisions of this MOU, the SFMTA will make the Premises available for all activities associated with the design, construction, maintenance and operation of the Solar PV Projects, including but not limited to project management and administration, permitting, design, equipment procurement, construction, installation, and commissioning, and all activities associated with contracting for such, including but not limited to, project management and administration, bidding, contracting, and the development and enforcement of performance guarantees and liquidated damages clauses ("**Allowed Activities**").

6. Use of the Output from the Solar Power Projects. Subject to the provisions of this MOU, all of the output of the Solar Power Projects shall be used to supply some or all of SFMTA's electric requirements at various SFMTA sites at the applicable rates set forth in existing arrangements between the Parties for Electric Service.

7. Cost Responsibility, Ownership, Operation, and Maintenance of the Solar Power Projects. Subject to the provisions of this MOU, the SFPUC shall be responsible for the costs of procuring, installing, operating, and maintaining the Solar Power Projects and shall be the sole owner of the Solar Power Projects and any and all associated energy or environmental credits.

8. Designation of Sites and Required Site Documentation.

- (a) Identification of Potential Sites. During the 10-year Term for the Designation of Sites, the SFPUC and the SFMTA will cooperate to identify mutually acceptable Sites at various SFMTA facilities that are suitable for the installation and operation of Solar Power Projects. SFMTA will provide all records concerning roof leaks at the various sites and/or certify that the roof does not have any leaks with a letter from the Deputy Director, Maintenance of Way to the SFPUC. In the event that no such certification is provided, the SFPUC can, at its

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option, decide not to proceed at that particular site, or with approval of SFMTA determine the cost of roof repair, and arrange to have the necessary repairs made.

(b) Plans and Descriptions (As-Built Drawings/Reports). Upon the identification of a potential Site by the SFMTA and the SFPUC, and within thirty (30) business days of the SFPUC's written request, the SFMTA will provide to the Manager of Energy Generation Projects at the SFPUC Power Enterprise one set of drawings of the potential Site, that include in particular: the roof and the roof's structural support, electrical drawings that show all relevant details of the electric room where the output from the Solar Power Project could potentially be connected to the grid, the possible conduit routing of the output from the Solar Power Project to the electrical room, and final as-built drawings for the facility. If the SFMTA does not provide such drawings and description, the SFMTA shall work with the SFPUC to create specifications for the conduit routing and any necessary repair or maintenance of the roof prior to the installation of a Solar Power Project.

(c) Electrical, Structural, and Roof Condition Assessment Review and Designation of Sites. Upon receipt or development of the information set forth in subparagraph (b) above, the SFPUC shall undertake an electrical and structural review of a potential Site to determine whether it is electrically or structurally adequate to support a Solar Power Project, as well as undertake a Roof Condition Assessment Review. If the SFMTA and the SFPUC determine that a potential Site is adequate to support a Solar Power Project, the project will become a candidate for funding by the SFPUC.

(d) Roof Leak Test. As part of any eventual contract to install a solar system at a designated site, the SFPUC may require the Contractor to perform a roof leak test prior to the start of any construction. The SFPUC shall provide SFMTA at least five (5) business days advance written notice of any such roof leak test and shall afford SFMTA a reasonable opportunity to have a representative present upon such test. Also, the Contractor will be required to perform their own Roof Condition Assessment and review, and agree with any of the above mentioned SFPUC Electrical and Structural Reports prior to the start of construction.

9. Access To and Use of the Sites. Subject to the provisions of this MOU, the SFMTA will make the Premises available for the **Allowed Activities**. Any amendments or alterations to the Allowed Activities must be pre-approved in writing by SFMTA. SFMTA approval will not be unreasonably withheld, and in any event, notification by the SFMTA of its decision will be given within two (2) weeks. Subject to the execution by SFMTA and the SFPUC of a mutually acceptable written agreement regarding compensation and other key terms, SFMTA may undertake any of the Allowed Activities on behalf of the SFPUC consistent with the agreement thereon between the Parties.

(a) Access to the Sites. The SFPUC and its agents shall have the non-exclusive right of ingress and egress to and from the Sites over roads, ramps, walkways, and other areas of the Sites designated by the Deputy Director, Maintenance of Way of SFMTA ("**Director**"). Without limiting the foregoing, the Director shall have the right to alter or amend access routes at any time, and to impose reasonable restrictions on such access; provided SFMTA gives the SFPUC reasonable notice of any such alteration or amendment or imposition of any such restrictions. The SFMTA shall allow the SFPUC, its employees, agents, contractors and sub-

- contractors entry to the Premises subject to notice of two (2) business days and prior approval by the SFMTA. All such access shall be subject to SFMTA rules and regulations as amended from time to time, including those pertaining to badge, permitting, and other security requirements, and the requirements of this MOU.
- (b) Rights-of-Way for the Benefit of the SFPUC. The SFPUC shall have the use and enjoyment of suitable rights-of-way over lands at the various SFMTA sites in a manner first to be approved by the Director in writing. Such rights-of-way shall be for the purpose of enabling the SFPUC to install and maintain conduits, connections, ducts, pipes, wires, sewer, gas, telephone, and incidental accessories, equipment and devices which are necessary or convenient in connection with the Allowed Activities, including any installations necessary to provide connectivity to the SFMTA electricity grid and the statewide interconnected electricity grid (collectively, the “**Infrastructure**”), and shall not interfere with the SFMTA facility. All costs relative to the installation, maintenance, repair and replacement of the Infrastructure shall be paid for by the SFPUC; provided, the SFPUC shall not be required to pay for the use of the land or related facilities in which the Infrastructure is placed.
- (c) Rights-of-Way for the Benefit of the SFMTA. SFMTA shall have the right, at all times and for any purpose, to enter upon the Sites without unreasonably or unduly interfering with the Allowed Activities.
- (d) Changes to SFMTA Sites. The SFPUC acknowledges and agrees that (a) the SFMTA shall have the right at all times to reasonably change, alter, expand, and contract SFMTA sites or any portion thereof, and (b) SFMTA has made no representations, warranties, or covenants to the SFPUC regarding the design, construction, pedestrian traffic, SFMTA schedules, or views of or relating to SFMTA or any of the Sites. Without limiting the generality of the foregoing, the SFPUC acknowledges and agrees that the SFMTA may from time to time adopt rules and regulations relating to security and other operational concerns that may affect the SFPUC’s business and its use of the Sites. The SFMTA will use reasonable efforts to minimize the effect of SFMTA changes on the SFPUC’s business.
- (e) Notice of Scheduled Work. Unless otherwise agreed by the Parties, at least two weeks before any scheduled work by the SFPUC, the SFPUC shall provide notice to SFMTA’s Deputy Director, Maintenance of Way.
- (f) Compliance with Laws/Permits and Approvals. The SFPUC, at its expense, shall comply with all laws, regulations and requirements of the Federal, State, County and Municipal authorities, now in force or which may hereafter be in force relative to the SFPUC’s use of each of the Sites.
- (g) Roof Repairs. The SFPUC will be responsible, at the SFPUC’s sole cost and expense, prior to the installation of the Solar Power Project to perform any roof repair or maintenance necessitated by or required to enable or support the Solar Power Project. In the event that the SFPUC determines, in its sole discretion, that the cost associated with said roof repair or maintenance are prohibitive, the SFPUC may elect to terminate this MOU and not to proceed with the Solar Power Project on the Premises.

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- (h) Removal. The SFPUC, at its sole cost and expense, shall remove each of the Solar Power Projects upon expiration or SFPUC's termination of this MOU. The SFPUC shall surrender each of the Sites in the same condition as received, free from hazards and clear of all debris. Subject to any applicable building permits, the SFPUC shall remove all of its property and improvements from each of the Sites. The SFPUC shall provide at least thirty (30) days written notice to the SFMTA of its intention to remove each Solar Power Project and shall complete removal of such Solar Power Project within one hundred and eighty (180) days of such notice.
- (i) Repairs After the Installation of the Solar Power Project. The SFMTA shall provide the Manager of the Energy Generation Projects, Power Enterprise at the SFPUC with written notice at least one hundred and eighty (180) days prior to any planned roof repair, rehabilitation projects or other projects that could affect a Solar Power Project. Subject to any applicable building permits, if a Solar Power Project must be moved or removed to accommodate such SFMTA projects, the SFPUC shall move or remove the Solar Power Project within one hundred and eighty (180) days, unless the Parties agree otherwise. Thereafter, the SFPUC, at its sole option, may reinstall the Solar Power Project on the respective Site subject to the conditions of this MOU.
- (j) "As Is" Condition. Subject only to the requirements of subparagraph 9(g) above, the SFPUC accepts each of the Sites in its "As Is" condition, without representation, warranty or covenant of any kind by the SFMTA, including without limitation, the suitability of the Sites for the SFPUC's proposed use. The SFPUC waives any and all rights to seek reimbursement or indemnity from SFMTA for any loss or cost relating to the condition of the Premises.
- (k) Maintenance: SFPUC's Responsibilities. Except as set forth in subparagraph (l) below, the SFPUC shall at all times during the term of this MOU, at its sole expense and cost, maintain in good working order, condition and repair all improvements placed in or on the Sites pursuant to this MOU. The SFMTA shall not be obligated to make any repairs, replacement or renewals of any kind to the Solar Power Projects. The SFPUC shall utilize best efforts to repair damage to any of the Sites caused by the SFPUC or its agents within ninety (90) days from receipt of written notice from the SFMTA.
- (l) Maintenance: SFMTA's Responsibilities. The SFMTA shall, at its sole cost and expense, maintain the structural and physical integrity of each Site in the "As Is" condition in which it was made available for the installation of the Solar Power Project. The SFPUC shall ensure that the contract for each solar installation includes a 5-year maintenance agreement that the installer must provide as part of its performance guarantee. At the end of the five-year performance guarantee, SFMTA and SFPUC shall mutually agree on the form of a maintenance agreement for future years.
- (m) Charges. There shall be no charge for the use of the Sites for the Allowed Activities in accordance with this MOU. Any utilities or services provided by the SFMTA to the SFPUC in connection with the Allowed Activities shall be at the SFMTA's standard rates, as applied to other SFMTA tenants. If any possessory interest taxes are due as a result of the SFPUC's use of the Sites, then such taxes shall be the SFPUC's responsibility.

(n) Limitations on Use. The SFPUC shall not (i) create a nuisance or commit or permit any waste on any of the Sites; (ii) permit the dumping or other disposal of landfill, refuse, hazardous material or any other material that could pose a hazard to health or safety or the environment, on any of the Sites; (iii) create or permit any liens, including mechanic's, materialmen's or tax liens, to be placed on any of the Sites as a result of the SFPUC's activities without promptly discharging the same; and (iv) do anything in, on, under or about any of the Sites that could cause damage or interference to any of SFMTA's facilities.

(o) Antennae and Telecommunications Dishes. No antennae, telecommunications dish, wireless telecommunications system, or other similar facilities other than solar monitoring, metering, and meteorological equipment may be installed on any of the Sites without prior written approval of the SFMTA Superintendent, Buildings and Grounds.

(p) Exercise of Due Care. The SFPUC shall use, and shall cause its agents to use, due care at all times to avoid any damage or harm to SFMTA facilities and all of the Sites.

10. Procurement and Installation of Solar Power Projects by the SFPUC.

(a) Installation of Solar Power Projects by the SFPUC. If the SFMTA and the SFPUC so agree with respect to a particular Site, the SFPUC may itself install a Solar Power Project at the Site in accordance with the requirements of this MOU. Before beginning any work on installation of a Solar Power Project, the SFPUC shall obtain any and all necessary permits and other approvals, including without limitation, building permits and other federal, state, county and municipal permits or approvals, and other taxes, fees or other assessments as may be applicable to the City by reason of its ownership of the Solar Power Project for the installation of a Solar Power Project on the Site and shall maintain such approvals as necessary throughout the Term of this MOU. Upon request, the SFPUC shall provide to the SFMTA copies of all such permits and approvals.

(b) Cost Responsibility for the Procurement and Installation of the Solar Power Project by the SFPUC. If the SFPUC is responsible for the purchase and installation of a Solar Power Project on a Site, the SFPUC will be responsible for all the costs of such purchase and installation, including but not limited to all utility services provided to the premises and all of the construction management costs.

11. Procurement and Installation of Solar Power Projects by the SFMTA.

(a) Installation of Solar Power Projects by the SFMTA. If the SFMTA and the SFPUC so agree with respect to a particular Site, the SFMTA shall procure and install a Solar Power Project on that Site. Ownership of the solar system shall remain with the SFPUC. Before beginning any work on procurement and installation of a Solar Power Project, the SFMTA shall obtain any and all necessary permits and other approvals, including without limitation, building permits and other federal, state, county and municipal permits or approvals for the installation of a Solar Power Project on the Site. The SFMTA shall maintain such approvals as necessary throughout the Term of this MOU. Permits issued by SFMTA will be charged at standard rates. The SFMTA shall provide to the SFPUC copies of all such permits and approvals.

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- (b) Cost Responsibility for the Procurement and Installation of Solar Power Projects by the SFMTA. If the SFMTA procures and installs a Solar Power Project on a Site with approval by the SFPUC, the SFPUC will be responsible for the SFMTA's actual, documented, and reasonable costs of designing, purchasing and contracting to install the Solar Power Project, including but not limited to the costs of the photovoltaic panels, the inverters, the meters to measure the output of the Solar Power Projects, the electrical wiring and conduit between a Solar Power Project and the interconnection to the SFMTA electrical system at the Sites, the installation of the Solar Power Projects, and any necessary permits. The SFPUC will be responsible for reimbursement of the SFMTA's reasonable construction management costs for the procurement and installation of the Solar Power Projects.

The SFPUC shall have the right to review all purchases and contract work associated with the SFMTA's procurement and installation, or contracting to install any Solar Power Project, including but not limited to all scopes of work, designs, drawings, specifications, contracts, task orders, invoices and other relevant project matters. SFPUC shall respond to a SFMTA's request for review of any of these documents within a reasonable period of time, not to exceed two (2) weeks.

- (c) Terms for Installation. In cases where the SFPUC and the SFMTA agree that the SFMTA shall procure and install a Solar Project on a Site, the SFMTA and the SFPUC shall execute mutually acceptable written Terms for Installation that include, but need not be limited to, the following key terms:
- (1) an estimate of the SFMTA's costs to be paid by the SFPUC;
 - (2) milestones for the completion of key tasks by the SFMTA or its third party contractor and an associated schedule for payments by the SFPUC to the SFMTA;
 - (3) specifications for the warranties that will be required for the photovoltaic system components;
 - (4) specifications for the performance guarantee that will be required of a third party contractor installing a Solar Power Project that addresses (a) project performance characteristics, based on a photovoltaic system that operates at a certain standard, and (b) the delivery date;
 - (5) the process and method for determining compliance with the performance guarantee;
 - (6) the liquidated damage amounts that will be required of a third party contractor for a failure to meet the components of the performance guarantee and delivery dates; and
 - (7) a line diagram of the Solar Power Project to be installed including interconnection facilities and the location of the Solar Power Project Meter.

This MOU in conjunction with the Terms for Installation for a particular Site shall set forth the respective responsibilities of the SFMTA and the SFPUC regarding the procurement and installation of a Solar Power Project at that particular Site.

- (d) Warranty for the Photovoltaic System. Irrespective of the entity named in any warranty for a photovoltaic system component that comprises a Solar Power Project, all benefits from any such warranty shall accrue to the SFPUC.

- (e) Performance Guarantees and Liquidated Damages. Irrespective of the entity named in any performance guarantee or liquidated damages clause from a third party contractor for the installation of a Solar Power Project, all benefits from any such performance guarantee or liquidated damages clause shall accrue to the SFPUC except for Special SFMTA liquidated damages. The SFMTA shall promptly provide to the SFPUC any amounts collected pursuant to a performance guarantee and any liquidated damages it receives from a third party contractor associated with the installation of a Solar Power Project except for Special SFMTA liquidated damages. If at the time that a contract for the installation of a Solar Power Project is developed, the SFMTA and the SFPUC agree that the SFMTA may suffer damages due to interruptions in SFMTA operations or loss of SFMTA revenues caused by third party contractor delays, Special SFMTA liquidated damages will be separately identified in the contract documents and will be separately assessed against the contractor from standard liquidated damages. Such Special SFMTA liquidated damages will be payable to the SFMTA.
- (f) Payments by the SFPUC to the SFMTA. Payments by the SFPUC to the SFMTA for the procurement and installation of a Solar Power Project on a Site shall be made in accordance with the schedule in the Terms for Installation.
- (g) As-Build Drawings/O&M Manuals/Reports. Promptly upon completion of a Solar Power Project, the SFMTA shall furnish to the Manager of Energy Generation Projects at the SFPUC two (2) complete copies of final as-built drawings (with electronic files on a CD-ROM in pdf and AutoCad) and two (2) complete copies of the O&M Manuals (with electronic files on a CD-ROM) for the Solar Power Project, which drawings shall include sufficient detail so as to allow the SFPUC to precisely locate the Solar Power Project. In the event that the SFMTA or its agents prepares any environmental, seismic, geophysical or other written report relating to any of the Sites and/or any work performed thereon, the SFMTA shall furnish these reports to the SFPUC.

12. Ownership of the Solar Power Projects.

- (a) Each Solar Power Project shall be and shall remain the property of the SFPUC. Any and all of the Environmental Credits associated with the Solar Power Projects shall be and shall remain the property of the SFPUC. The SFPUC will be solely responsible for the payment of federal, state, local and other taxes, fees or other assessments as may be applicable to the SFPUC by reason of its ownership of the Solar Power Projects. Fixed and unmovable parts of the Solar Power Projects (including conduit and replacement roofing material) will become the property of the SFMTA upon final removal of the Solar Power Projects by the SFPUC upon expiration or termination of this MOU.

13. Operation of the Solar Power Projects.

- (a) Operation of the Solar Power Projects. The SFPUC will be responsible for all the Allowed Activities, including operation, associated with the Solar Power Projects that are not made the responsibility of the SFMTA pursuant to this MOU or an executed written agreement between the Parties. The SFPUC shall undertake the Allowed Activities in accordance with

the terms of this MOU and Prudent Utility Practice; and in compliance with all permits and applicable laws and regulations.

- (b) Planned Service Interruptions. The SFPUC will work with the SFMTA to minimize the number and extent of any interruptions in Electric Service related to the Allowed Activities. All planned Electric Service interruptions related to the Allowed Activities shall be subject to approval by the SFMTA, which approval shall not be unreasonably withheld. In the event of a planned Electric Service interruption, the SFPUC shall submit a written request to the Deputy Director, Maintenance of Way for the SFMTA at least ten (10) business days before the interruption date. A failure on the part of the SFMTA to respond within five (5) business days shall be deemed an approval of the service interruption. The SFPUC will not be responsible for any of the SFMTA's direct or indirect expenses caused by or related to an Electric Service interruption or its cancellation.
- (c) Planned and Emergency Shut Downs by SFMTA. In the event that SFMTA needs to shut down all or a portion of the electrical system at any of the Sites, the SFMTA shall provide as much advance notice to the Manager of Energy Generation Projects of the SFPUC, as possible. For planned shutdowns, the SFMTA shall provide at least ten (10) business days written notice to the SFPUC. In the event of a process or emergency shutdown, the SFMTA shall provide the SFPUC as much prior notice as possible.
- (d) Operation of the Solar Power Projects during Emergencies. In an Emergency, if necessary to protect the health or safety of the public or the SFMTA employees, the SFMTA may shut down a Solar Power Project, provided that it notifies and seeks approval for these actions from the Manger of Energy Generation Projects of the SFPUC. The SFMTA shall make all reasonable attempts to notify the SFPUC and to obtain approval for such actions prior to taking them. If prior notice and approval are impossible, the SFMTA shall notify the SFPUC and obtain approval as soon as possible thereafter. The SFMTA shall work with the SFPUC to reconnect the Solar Power Project as soon as possible. The parties shall establish mutually agreeable emergency protocols for implementation during Emergencies.

14. Use of the Output from the Solar Power Project.

- (a) Use of the Output. The SFMTA agrees to use the output from the Solar Power Project to serve SFMTA's electric needs at the Premises.
- (b) Metering. The SFPUC shall meter the output of the Solar Power Project using meters owned, operated, maintained and read by the SFPUC. The SFPUC shall be solely responsible for all costs and charges associated with such metering. The SFMTA shall provide, at no expense to the SFPUC, a suitable location for all meters and associated equipment. The meters shall be sealed and the seals shall be broken only upon occasions when meters are to be inspected, tested or adjusted, and representatives of the SFMTA shall be afforded reasonable opportunity to be present upon such occasions. The meters shall be tested at any reasonable time upon request therefore by either Party. Any metering equipment found to be defective or inaccurate shall be repaired and re-adjusted or replaced. If a meter fails to register or if the measurement made by a meter during a test varies by more than two (2) percent from the measurement made by the standard meter used in the test, an adjustment to correct all meter

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records of measurements made by the inaccurate meter shall be made for: (i) the period since the last meter test, or (ii) the actual period during which inaccurate measurements were made if the City determines this period can be established, provided that the period covered by the correction shall not exceed six (6) months or half the time since the previous test. If necessary, the corrections may be estimated from the best information available for the period of defect or inaccuracy.

- (c) Payment for Electricity from the Solar Power Project. The SFMTA shall pay the SFPUC for the output from the Solar Power Project used to serve the electrical requirements at the Premises, as measured by the Solar Power Project Meter, at the otherwise applicable rates for the provision of Electric Service by the SFPUC to the SFMTA.

15. Insurance. The SFPUC shall require that its vendors, contractors, and agents obtain and maintain insurance coverage as relates to the Solar Power Projects in the types and amounts approved by the City's Risk Manager and approved by SFMTA. All insurance policies shall contain a cross-liability clause, and shall name as additional insured the City and County of San Francisco, the SFMTA, the SFPUC, and their officers, directors, employees, and agents.

16. Security. The SFMTA shall provide the same level of security at the Premises as it otherwise provides at each of the SFMTA's facilities.

17. Damages/Indemnity. It is the understanding of the parties that the SFMTA shall not expend any funds due to or in connection with the SFPUC's construction and installation or maintenance of the Solar Power Project, or the use of the Premises, except as otherwise set forth herein. Therefore, the SFPUC agrees to indemnify the SFMTA and to be responsible for all costs associated with all claims, damages, liabilities or losses which arise (i) out of the SFPUC's construction and installation or maintenance of the Solar Power Project, (ii) the use of the Premises, including but not limited to the release or handling of hazardous materials on or about the Premises by the SFPUC, its agents or contractors, but excluding pre-existing hazardous materials (which are the responsibility of the SFMTA or its tenants), or (iii) out of any injury or death of any person or damage of any property occurring in, on or about the Premises from any cause other than the sole negligence or willful misconduct of the SFMTA. The foregoing obligation of the SFPUC shall survive the expiration or termination of this MOU. As used herein, "hazardous materials" shall mean any substance, water or material which has been determined by any state, federal or local government authority to be capable of posing a risk of injury to health, safety or property. In addition, the SFPUC will ensure that the SFMTA is indemnified to the same extent that the SFPUC is indemnified by any of the SFPUC's vendors, contractors or agents for the Solar Power Project.

18. No Assignment. The SFPUC shall not assign, sublet, encumber, or otherwise transfer, whether voluntary or involuntary or by operation of law, the Premises or any part thereof, or any interest herein, without the SFMTA's prior written consent.

19. Liability of Each Party. Except as set forth in Section 15 above, the SFPUC shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by the SFMTA or by any of its employees, even though such equipment is furnished, installed or loaned by the SFMTA. Notwithstanding Section 17 above, in no event shall the SFPUC be

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liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages including, but not limited to, lost profits, arising out of or in connection with this MOU or the services performed in connection with this MOU.

20. Cooperation. Subject to the terms and conditions of this MOU, the SFMTA and SFPUC agree to use reasonable efforts to do, or cause to be done, all things reasonably necessary or advisable to carry out the purposes of this MOU and SFPUC's use of the Premises contemplated hereby as expeditiously as practicable, including, without limitation, performance of further acts and the execution and delivery of

any additional documents in form and content reasonably satisfactory to both Parties. Notwithstanding anything to the contrary in this MOU, neither the SFMTA nor the SFPUC are in any way limiting their discretion or the discretion of any department, board or commission with jurisdiction over the Solar Power Project from exercising any discretion available to such department, board or commission with respect to the Solar Power Project, including but not limited to the discretion to (i) make such modifications deemed necessary to mitigate significant environmental impacts, (ii) select other feasible alternatives to avoid such impacts, (iii) balance the benefits against unavoidable significant impacts prior to taking final action if such significant impacts cannot otherwise be avoided, or (iv) determine not to proceed with the proposed Solar Power Project. In addition to any conditions described in this MOU, the obligations of the SFMTA and the SFPUC are expressly subject to the receipt of all legally required approvals following environmental review.

21. Dispute Resolution. The SFMTA and the SFPUC will cooperate to attempt to resolve issues that arise under this MOU informally, promptly and fairly. If staff involved in accomplishing the tasks set forth in this MOU are unable to resolve an issue after good faith attempts to do so, either Party may request a meeting of the appropriate Managers of each department to address the issue. If such a meeting is requested, it shall be held within two (2) weeks unless the Parties agree to a later date.

22. Miscellaneous.

(a) This MOU may be amended or modified only by a written agreement signed by the SFMTA and the SFPUC.

(b) No waiver by any Party of any of the provisions of this MOU shall be effective unless in writing and signed by an authorized representative, and only to the extent expressly provided in such written waiver.

(c) This MOU (including the Attachments) contains the entire understanding between the Parties as of the date of this MOU, and all prior written or oral negotiations, discussions, understandings and agreements are merged herein.

(d) Notwithstanding anything to the contrary set forth herein, no officer, director or employee of the SFMTA has the authority to bind the SFMTA hereto unless and until the San Francisco SFMTA Board approves this MOU.

(e) All transactions described herein are subject to and must be conducted in accordance with the applicable requirements of the City's Charter and codes and applicable state and/or federal laws.

23. Notices.

All notices, demand, consents or approvals which are or may be required to be given by either Party to the

other under this MOU shall be in writing and shall be deemed to have been fully given when delivered in person to such representatives of the SFMTA and the SFPUC as shall from time to time be designated by the Parties for the receipt of notices, or when deposited in the United States mail, postage prepaid, and addressed, if to the SFPUC to:

San Francisco Public Utilities Commission
Attn: Barbara Hale
Assistant General Manager, SFPUC Power Enterprise
1155 Market Street, 4th Floor
San Francisco CA, 94103

Tel No. (415) 934- 5751
Fax No. (415) 554-2465

and if to the SFMTA to:

Thomas Kennedy, SFMTA Deputy Director
Maintenance of Way
SFMTA Infrastructure Maintenance
700 Pennsylvania Ave
Bldg D. Room 226
San Francisco, CA 94107

Fax No. (415) 401-3159
Tel No. (415) 401-3156

or such other address with respect to either Party as that Party may from time to time designate by notice to the other given pursuant to the provisions of this Paragraph.

IN WITNESS WHEREOF, the Parties have caused this agreement to be executed as of the date first written above.

AGREED TO AS WRITTEN ABOVE:

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation operating by and through its SAN FRANCISCO MTA BOARD OF DIRECTORS

By: 
SFMTA Executive Director/CEO

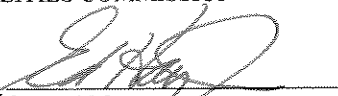
Date: 3/30/09

San Francisco Municipal Transportation Authority Board Resolution No. _____

Approved: _____

AGREED TO AS WRITTEN ABOVE:

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation operating by and through its PUBLIC UTILITIES COMMISSION

By: 
General Manager

Date: _____

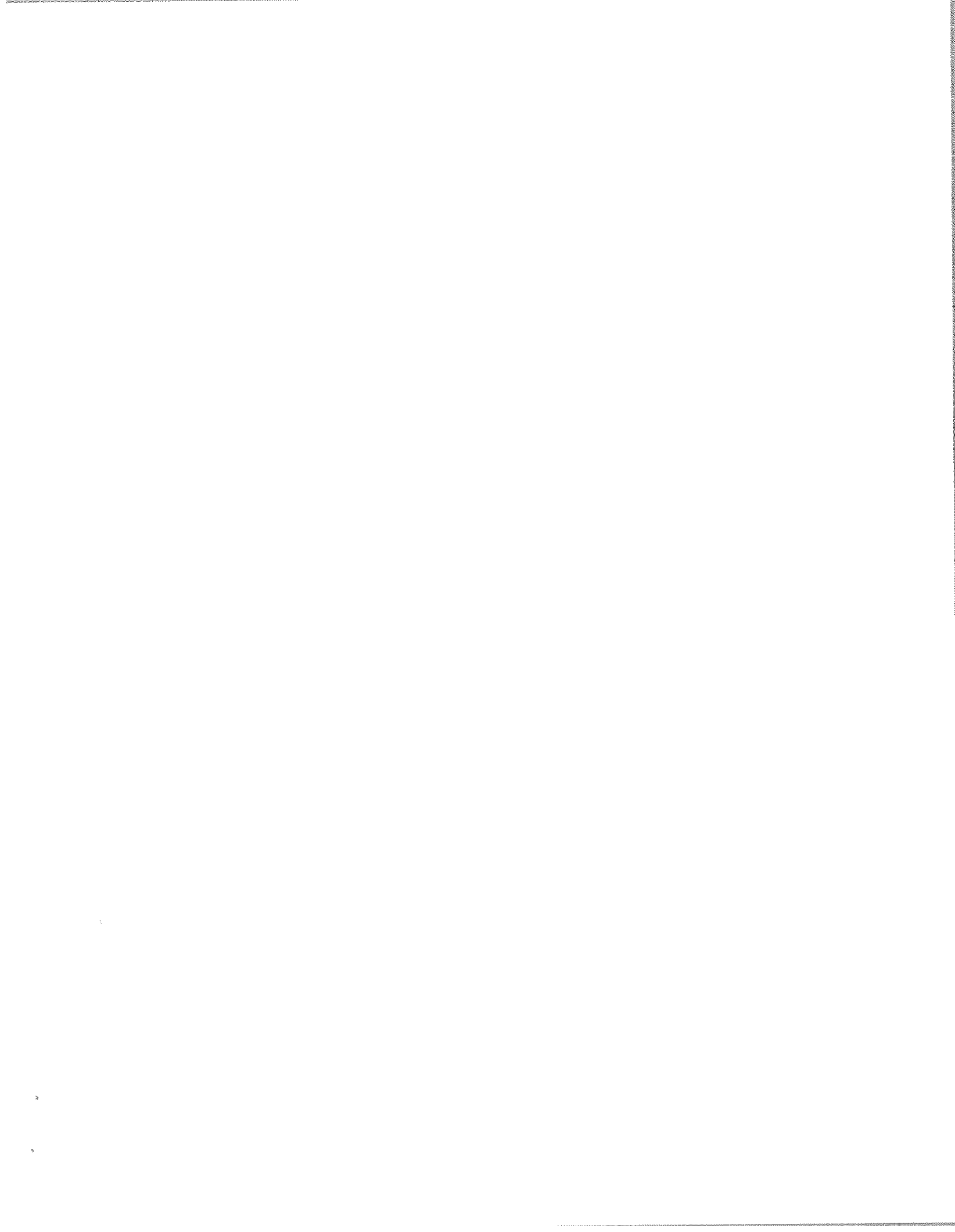
San Francisco Public Utilities Commission Resolution No. _____

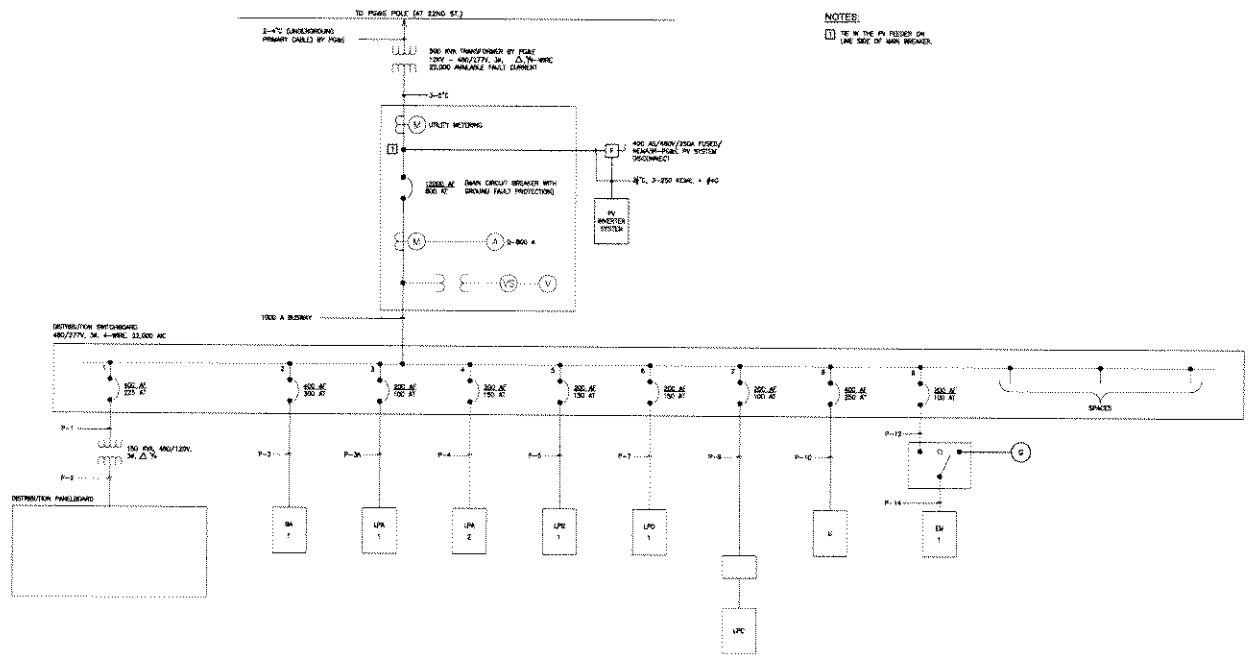
Approved: _____

APPENDIX A

MEMORANDUM OF UNDERSTANDING
DB-117, Chinatown Public Health Center, MUNI Woods Motor Coach Facility and MUNI Ways & Structures
Facility







NOTES:
 1. TO BE IN THE PV FEEDER ON THE SIDE OF MAIN BREAKER.

NO.	DATE	DESCRIPTION
1	5/14/08	ELECT. REVIEW
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		

ELECTRICAL - SINGLE LINE DIAGRAM

SCALE: NTS

1

MUNI WAYS & STRUCTURES
 MAINTENANCE FACILITY
 781 PENNY WALK REHABILITATION
 SAN FRANCISCO, CA
 PHOTOVOLTAIC PROJECT

PROJECT NUMBER: SP07-1104
 SCALE: AS SHOWN
ELECTRICAL SINGLE LINE DIAGRAM



E5.1



Executive Directive 05-107
Rooftops for Municipal Solar

October 26, 2005

By virtue of the power and authority vested in me by Section 3.100 of the San Francisco Charter to provide administration and oversight of all departments and governmental units in the executive branch of the City and County of San Francisco, I do hereby issue this Executive Directive to become effective immediately:

1. The City declares its commitment to increasing the pace of municipal solar development.

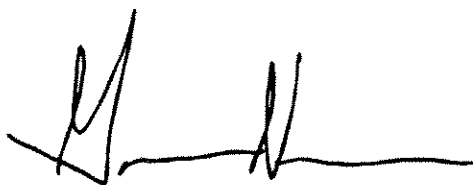
San Francisco City Government has long led the country in its commitment to renewable energy. With the expertise and drive of our SFPUC, we have built the nation's largest City-owned solar photovoltaic installation (675 kWp) at the Moscone Convention Center. We have completed our newest photovoltaic installation at our Southeast Water Pollution Control Plant (255 kWp) in the Bayview neighborhood. We are about to enter into a contract to install another 283 kWp photovoltaic system at Pier 96 adjacent to PG&E's Hunter's Point Power Plant. Next year, the City will be building four smaller photovoltaic systems on public libraries and medical centers in the Western Addition, Chinatown and Pacific Heights. While these are great first steps, the City set a goal in 2002 to reduce San Francisco's greenhouse gas emissions by 20% below 1990 levels by 2012, and to have 28 MW solar on municipal buildings, residences and businesses by 2008. The City commits to increasing our development of solar energy, and encourages residences and businesses to follow.

2. Departments shall assist the Public Utilities Commission (PUC) in advancing municipal solar development by taking the following actions:

- a) Identify facilities that could be good locations for photovoltaic systems. Specifically, buildings with:
 - o New roofs that are not shaded on the south side,
 - o Roofs with at least 20,000 square feet of open space, and
 - o Buildings with space for an additional meter and an inverter in their electrical rooms.
- b) Before November 30, 2005, send to the PUC a list of the locations of recommended facilities, as well as the name of the department staff member who can accompany an SFPUC representative to review these locations' roofs and electrical rooms. This report should be transmitted to Barbara Hale, Assistant GM for Power at the PUC, and copied to my office.
- c) Make your facility rooftops the PUC's solar development space.

- 3. PUC shall prepare a yearly report each September on the efforts that departments are making towards the City's renewable energy goals through the municipal solar program.**

The PUC will continue to provide reliable, low cost power to all city departments. Departments participating in the municipal solar development program will continue to pay the same electricity tariff they are now paying but they can use clean, on-site energy from the installed photovoltaic system, which helps all San Franciscans by reducing greenhouse gas emissions. For more information about this program and how you can help, please contact John Doyle of the Public Utilities Commission at 554-1541 or jdoyle@sfgov.org.

A handwritten signature in black ink, appearing to read 'Gavin Newsom', with a long horizontal line extending to the right.

Gavin Newsom
Mayor