

## PV SOLAR CONTRACTOR AGREEMENT

THIS PHOTOVOLTAIC SOLAR CONTRACTOR AGREEMENT (the "Agreement") is dated this \_\_\_\_\_ (the "Effective Date").

<p style="text-align: center;"><b>CLIENT</b></p> <p style="text-align: center;">(the "Client")</p>
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<p style="text-align: center;"><b>CONTRACTOR</b> 93Energy LLC 4517 Oakton Street Skokie, IL 60076 (the "Contractor")</p>
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### BACKGROUND

- A. The Client is of the opinion that the Contractor has the necessary qualifications, experience and abilities to provide services to the Client.
- B. The Contractor is agreeable to providing such services to the Client on the terms and conditions set out in this Agreement.

**IN CONSIDERATION OF** the matters described above and of the mutual benefits and obligations set forth in this Agreement, the receipt and sufficiency of which consideration is hereby acknowledged, the Client and the Contractor (individually the "Party" and collectively the "Parties" to this Agreement) agree as follows:

### SERVICES PROVIDED

1. The Client hereby agrees to engage the Contractor to provide the Client with the following services (collectively, the "Services") at Client's real property located at:  
Euclid Elementary School, 711 E Euclid Ave, Mt Prospect, IL 60056 (the "Property"):
  - a. Install Commercial Photovoltaic Solar System (the "System"), including: Solar Panels, Inverters, Racking, Mounting, Monitoring, associated wiring for the solar system and equipment for interconnection to the existing building's electrical system (the "Installation Services").
  - b. System details: See Appendix A for full breakdown of Services included in this System.
  - c. Apply for Solar Renewable Energy Credits ("SREC") through the Illinois Adjustable Block Program ("ABP") with the Illinois Power Agency on behalf of the Client (the "SREC Services") through its Renewable Energy Credit Agreement with Commonwealth Edison Company (the "SREC Contract").
  - d. Apply for Solar Distribution Generation Rebate through Commonwealth Edison Company once installation is complete and ready for inspection.
  - e. Contractor shall secure and pay for the building permit for the Installation Services from all applicable municipal authorities (e.g., City of Chicago) and utility authorities (e.g., ComEd) at Contractor's sole expense. Client shall do all things reasonably requested by Contractor to assist Contractor in obtaining permits and completing the Installation Services in compliance with applicable laws, statutes, ordinances, building codes, rules, and regulations.
2. The Services will also include any other tasks which the Parties may mutually agree upon in writing. The Contractor hereby agrees to provide such Services to the Client. See Appendix A for additional services included in this Agreement, if applicable.

## TERM OF AGREEMENT

3. The term of this Agreement (the "Term") will begin on the Effective Date of this Agreement and will remain in full force and effect for sixteen (16) years, through and including December 31, 2041, subject to earlier termination as provided in this Agreement. The Term may be extended by the mutual written consent of the Parties.

## PERFORMANCE

4. The Parties agree to do everything necessary to ensure that the terms of this Agreement take effect.

## CURRENCY

5. Except as otherwise provided in this Agreement, all monetary amounts referred to in this Agreement are in USD (US Dollars).

## COMPENSATION

6. The Contractor will charge the Client a flat fee of \$644,000 for the Installation Services (the "Compensation").
7. A retainer of \$193,200 (the "Retainer"), equal to 30% of the total Compensation, is payable by the Client upon execution of this Agreement. This retainer shall be used to initiate engineering, permitting, Illinois incentive applications, and other pre-construction administrative activities.
  - a. \$193,200, or 30% of the total Compensation, is due once permits have been received and all major materials have been delivered to the project site.
  - b. \$161,000, or 25% of the total Compensation, is due once the project has reached "substantial completion," defined as all major solar and electrical materials installed.
  - c. \$96,600, or the remaining balance of the total Compensation, is due at final, successful interconnection.
8. Invoices submitted by the Contractor to the Client are **due within thirty (30) days of receipt**.
9. The above Compensation includes all applicable sales tax and duties as required by law.
10. Additionally, as compensation for the SREC Services, Contractor will retain a percentage of the SREC collected by Contractor on Client's behalf. This will be used by Contractor and the applicable Utility Company as collateral, per Illinois Adjustable Block Program guidelines, and to cover administrative costs.
  - a. Note that this collateral has already been removed from the SREC estimated on the Client's proposal for this project.
  - b. Please reference the attached Illinois Adjustable Block Program Disclosure Agreement for more details and specific figures.
11. The Contractor will not be reimbursed for any expenses incurred in connection with providing the Services of this Agreement.

## INTEREST ON LATE PAYMENTS

12. Interest payable on any overdue amounts under this Agreement is charged at a rate of **2.00% per month** or at the maximum rate enforceable under applicable legislation, whichever is lower.

## NOTICE

13. All notices, requests, demands or other communications required or permitted by the terms of this Agreement will be given in writing and delivered to the Parties at the following addresses:

- a. \_\_\_\_\_ Email:  
\_\_\_\_\_ Phone:
- b. 93Energy LLC Email: customerservice@93energy.com  
4517 Oakton St, Skokie, IL 60076, USA Phone: +1 773.797.6527

or to such other address as either Party may from time to time notify the other, and will be deemed to be properly delivered (a) immediately upon being served personally, (b) three days after being deposited with the postal service if served by registered mail, or (c) the following day after being deposited with an overnight courier.

## INDEMNIFICATION

14. Except to the extent paid in settlement from any applicable insurance policies, and to the extent permitted by applicable law, each Party agrees to indemnify and hold harmless the other Party, and its respective directors, shareholders, affiliates, officers, agents, employees, and permitted successors and assigns against any and all claims, losses, damages, liabilities, penalties, punitive damages, expenses, reasonable legal fees and costs of any kind or amount whatsoever (collectively, "Losses"), which result from or arise out of any negligent or intentional act or omission of the indemnifying party, its respective directors, shareholders, affiliates, officers, agents, employees, and permitted successors and assigns that occurs in connection with this Agreement. The indemnifying party shall not be required to indemnify the other party for any Losses to the extent caused by the indemnified party. This indemnification will survive the termination of this Agreement.

## ROOF WARRANTY

15. Contractor shall warranty the roof against any leaks that occur at any penetration created during the installation of the solar system. Warranty repairs shall not extend beyond what is required to prevent the roof from continuing to leak. The Term of this warranty shall be 5 years from the date of installation.
16. Contractor will work with Client's roofing manufacturer in an attempt to identify a pre-approved penetration solution should one be necessary for this project. Contractor cannot guarantee that roofer or roof manufacturer warranties will remain in full force, but will make every attempt to install solutions with their best practices in mind.

## WORKMANSHIP WARRANTY

17. Contractor warrants that the system will be constructed and installed in a good workmanship manner according to the standards of care and diligence generally practices by solar engineering, construction, and installation companies when installing commercial photovoltaic solar power systems of a similar size and type as the System in the geographic region where your Property is located, and pursuant to (i) good engineering design practices, (ii) manufacturer's instructions, (iii) applicable law (including local codes and standards), (iv) required governmental approvals and permits, and (v) applicable requirements of the local utility. This 5-year Limited Workmanship and Installation Warranty will extend for a period of five (5) years from the date of the installation of the System.
18. No warranty is provided on any existing materials that are moved and/or reinstalled by the Contractor within the Property (including any warranty that existing/used materials will not be damaged during the removal and reinstallation process). Following the five (5) year Limited Warranty period, the Client's sole remedy (for materials and labor) on all materials that are covered by a manufacturer's warranty is strictly

with the manufacturer, not with the Contractor. Repair of the following items and related damages of every kind are specifically excluded from Contractor's warranty: problems caused by lack of Client maintenance; problems caused by Client abuse, Client misuse, vandalism, Client modification, or alteration; and ordinary wear and tear. Damages resulting from mold, fungus, and other organic pathogens are excluded from this warranty. Deviations that arise such as the minor cracking of concrete, stucco, and plaster; minor stress fractures in drywall due to the curing of lumber; warping and deflection of wood; shrinking/cracking of grouts and caulking; fading of paints and finishes exposed to sunlight are all typical (not material) defects in construction and are strictly excluded from Contractor's warranty.

19. THIS LIMITED WARRANTY EXCLUDES CONSEQUENTIAL, INCIDENTAL, AND SPECIAL DAMAGES AND LIMITS THE DURATION OF IMPLIED WARRANTIES TO THE FULLEST EXTENT PERMISSIBLE UNDER STATE AND FEDERAL LAW. SOME STATES RESTRICT LIMITATIONS ON VARIOUS WARRANTIES AND SO A CONSUMER'S RIGHTS UNDER THIS WARRANTY MAY VARY. THIS LIMITED WARRANTY MAY NOT BE VERBALLY MODIFIED BY ANY PERSON. THIS LIMITED WARRANTY IS GOVERNED BY THE LAWS OF THE STATE WHERE THE WORK WAS PERFORMED.

#### **DISPUTE RESOLUTION AND ATTORNEY'S FEES**

20. Any controversy or claim between the Parties arising out of or related to this Agreement shall be filed in the Municipal Courts of Cook County, Illinois. The prevailing Party shall be entitled to payment of reasonable attorney's fees and costs.

#### **ILLINOIS ABP PAYMENTS (SREC)**

21. Contractor agrees to apply for SREC (also known as the Illinois Adjustable Block Program) funds on the Client's behalf and pay those funds, less any Contractor Fees and Collateral due Contractor (mentioned in Section 11), to the Client after interconnection of the System. SREC incentive values included in the solar proposal agreed upon by both parties is an estimate based on program guidelines and Contractor experience. Any SREC's generated by the system during the contract period are the property of 93Energy and may be transferred or sold by the Contractor. Contractor will provide payment to the Client in the amount listed on the proposal document attached to this contract. Payments will be made in seven equal annual installments, unless otherwise communicated by the Contractor. First payment will occur 30 days after the Contractor receives the first payment for the project from the Illinois ABP. The SREC incentive payment will be no less than the estimated amount within the proposal document.

#### **Other Incentives**

22. Any incentives other than the Adjustable Block Program or ComEd's Distributed Generation Rebate are the responsibility of the Client. Contractor will assist in the application and processing by providing all necessary documentation upon request, but it is the Client's responsibility to make sure incentives are applied for as per the rules of each incentive.

#### **CHANGES TO CONTRACT**

23. Any changes to this contract or the scope of work therein shall be approved in writing by both parties prior to commencement of that portion of work.
24. After the solar system is installed and upon inspection by the local municipality or utility company; any required changes to the work included in the scope of this contract shall be the responsibility of the Contractor; changes due to an existing deficient condition in the building shall be the Responsibility of the Client.

## OTHER CLIENT OBLIGATIONS

25. Client acknowledges and understands that proper and continuous operation of the System is required to fulfill the Contractor's SREC obligations and to maximize the SREC funds earned by the System. In furtherance of this, Client agrees to:
- a. not remove any markings or identification tags on the System;
  - b. keep trees, bushes and hedges trimmed so that the System receives as much sunlight as it did when the dealer/installer installed it;
  - c. not modify the Property or structures on it in any way that will cause shading to the System;
  - d. not energize the System without Contractor's permission;
  - e. maintain and make available, at Client's cost, a functioning internet connection, via either: one available wired Ethernet port and standard AC power outlet within eighty (80) feet of the System's AC/DC inverter(s); one secure access to your wireless internet at all times during the fifteen (15) year SREC Term;
  - f. pay any penalties levied by any third party in the event that internet access is not maintained;
  - g. maintain adequate insurance on the System equal to the cost of replacement;
  - h. notify Contractor at least sixty (60) days in advance of any event that will affect the fifteen (15) year term of the SREC Contract including but not limited to:
    - i. Sale of the Property;
    - ii. Any event causing transfer of ownership of the System;
    - iii. Any event that could cause SREC production to fall below the projected amount;
  - i. in the event that SREC delivery falls below the projected amount due to Client failing to meet the obligations of this Agreement, the Client will be responsible for all fees and SREC recovery costs incurred by Contractor;
  - j. if the System falls into disrepair, is destroyed or its production is otherwise interrupted – except in cases that are otherwise covered by manufacturer warranty or Contractor Limited Warranty, Client shall be responsible for bringing the System back online and operational and ensuring the System recommences the production and delivery of electricity to the grid within thirty (30) days of such interruption. If the System is destroyed or damaged by fire or casualty to the Property that renders the Property uninhabitable by occupants, then Client shall be excused from this requirement until the Property has been repaired and restored sufficiently for re-occupancy and for reinstallation of the System on the roof, after which time Client shall be responsible for bringing the System back online and operational and ensuring the System recommences the production and delivery of electricity to the grid within thirty (30) days;
  - k. only have the System repaired in accordance with the Manufacturers guidelines and reasonably cooperate when repairs are made;
  - l. be responsible for any conditions at the building and Property that affect the installation (e.g., blocking access to the roof or removing a tree that is in the way);
  - m. permit a service provider retained by Contractor, after Contractor gives Client reasonable notice, to inspect the System for proper operation as Contractor reasonably determines necessary;
  - n. not do anything, permit or allow to exist any condition or circumstance that would cause the System not to operate as intended at the Property, excluding force majeure events;
  - o. notify Contractor promptly if you think the System is not working properly, is damaged or appears unsafe, if the System is stolen, and prior to changing Client's power supplier;
  - p. execute and return any documents Contractor sends you for signature, including incentive claim forms, consents to assignment or joinder, or additional documents that may be reasonably necessary or requested by Contractor within seven (7) days of receipt;

- q. give Contractor at least sixty (60) days prior notice of your intent to repair or improve the Property such that Contractor can remove or otherwise protect and secure the System, at Client's sole cost and expense prior to commencement of such repairs or improvements, and reinstall the System after the repair or improvements have been completed. If there is an emergency situation, such as fire, extreme weather, or other unforeseen dangerous event, the Client must give Contractor reasonable notice of intent to repair or improve Property for the same purpose;
- r. pay Contractor the cost of removal and reinstallation before beginning repairs or improvements on the Property;
- s. if Client is notified of any recall of the System or its components, cooperate in the de-installation and return of the System;
- t. not allow a judgment, tax lien, municipal charge or tax levy to be filed against the System;
- u. take reasonable steps to prevent unauthorized access to the roof of Client's building and prevent System vandalism;
- v. keep Client's Monitoring System connected to the System and the internet at all times.

## **DEFAULT**

26. Either Party may terminate this Agreement upon the other Party's breach of this Agreement provided that the non-breaching Party provides written notice of the alleged breach to the other Party and the alleged breaching Party fails to respond or correct said alleged breach of this Agreement within 30 days of receipt of the notice. In the event this Agreement is terminated by Contractor for Client's breach and failure to cure prior to expiration of the sixteen (16) year Term, Client shall reimburse Contractor for any unrealized SREC funds that are due back to ComEd. Contractor shall also be entitled to reimbursement of any unrecoverable costs associated with the project. If Client breaches this agreement prior to Contractor receiving final payment from the Client of all amounts due under paragraph 8 of this agreement, Contractor shall also be entitled to reimbursement of any unrecoverable costs associated with this project as well as an additional early termination fee equal to 20% of the total project cost. In the event of default by the Contractor, Client shall be entitled to reimbursement of any costs due to such breach and default associated with the project.

## **MARKETING RELEASE**

27. Client agrees to allow Contractor to use photos of the work for marketing purposes. Contractor agrees to not use any photos that include images of Client's employees without additional written consent.

## **RIGHT OF SUBSTITUTION AND SUBCONTRACTING**

28. Except as otherwise provided in this Agreement, the Contractor may, at the Contractor's absolute discretion, engage a third party subcontractor to perform some or all of the obligations of the Contractor under this Agreement and the Client will not hire or engage any third parties to assist with the provision of the Services. Client will have the right to retain outside consultants throughout the agreement.

## **AUTONOMY**

29. Except as otherwise provided in this Agreement, the Contractor will have full control over working time, methods, and decision making in relation to provision of the Services in accordance with the Agreement. The Contractor will work autonomously and not at the direction of the Client. However, the Contractor will be responsive to the reasonable needs and concerns of the Client to be addressed in the pre-construction planning phase and weekly meetings.

## **MODIFICATION OF AGREEMENT**

30. Any amendment or modification of this Agreement or additional obligation assumed by either Party in connection with this Agreement will only be binding if evidenced in writing signed by each Party or an authorized representative of each Party.

## **TIME OF THE ESSENCE**

31. Time is of the essence in this Agreement. No extension or variation of this Agreement will operate as a waiver of this provision.

## **ASSIGNMENT**

32. The Contractor will not voluntarily, or by operation of law, assign or otherwise transfer its obligations under this Agreement without the prior written consent of the Client.

## **ENTIRE AGREEMENT**

33. It is agreed that there is no representation, warranty, collateral agreement or condition affecting this Agreement except as expressly provided in this Agreement.

## **ENUREMENT**

34. This Agreement will enure to the benefit of and be binding on the Parties and their respective heirs, executors, administrators and permitted successors and assigns.
35. This Agreement and all other rights granted to Contractor in this Agreement shall run with and against the land as to the Property, shall be a burden on the Property, and shall be binding upon and enforceable against Client and all heirs, legal representatives, successors, assigns, permittees, licensees, and agents of Client. Contractor and Client shall execute a Memorandum of this Agreement in recordable form, which Client agrees may be recorded against the Property by Contractor. With reasonable promptness after the conclusion of the fifteen (15) year term of the SREC Contract, Contractor shall prepare and file a complete release and satisfaction of the Memorandum and pay any recordation costs. If an event causes transfer of ownership of the System, such as Client selling or transferring the Property to a subsequent owner ("Transferee"), then so long as Client is not at that time in default of any Client obligations under this Agreement, Contractor shall not unreasonably withhold, condition, or delay the joinder of the Transferee to this Agreement and the simultaneous release of Client from all obligations.

## **TITLES/HEADINGS**

36. Headings are inserted for the convenience of the Parties only and are not to be considered when interpreting this Agreement.

## **GENDER**

37. Words in the singular mean and include the plural and vice versa. Words in the masculine mean and include the feminine and vice versa.

## **GOVERNING LAW**

38. This Agreement will be governed by and construed in accordance with the laws of the State of Illinois.

**SEVERABILITY**

39. In the event that any of the provisions of this Agreement are held to be invalid or unenforceable in whole or in part, all other provisions will nevertheless continue to be valid and enforceable with the invalid or unenforceable parts severed from the remainder of this Agreement.

**WAIVER**

40. The waiver by either Party of a breach, default, delay or omission of any of the provisions of this Agreement by the other Party will not be construed as a waiver of any subsequent breach of the same or other provisions.

**ADDITIONAL CLIENT APPROVALS**

The Contractor has the express permission of the Client to act on the Client's behalf in matters concerning electric utility interconnection and net metering. This includes the Contractor's ability to submit applications to the electric utility company and acknowledgement of Client's prior consent to act on their behalf. The Client will be notified as this stage in the project is completed.

The Contractor has the express permission of the Client to act on the Client's behalf in matters concerning the construction permitting process. This includes electrical and structural engineering, document creation, permit application signature (when applicable), application submission, and payment. The Client will be notified as this stage of the project is completed. Contractor may require Client signature prior to application submission.

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Date

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93Energy, LLC

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Date

**APPENDIX A (Additional Services and Project Notes)**



## **BABA COMPLIANCE**

Contractor understands that this project is funded in part or in full via government funds. As such, Contractor must make every effort to maintain compliance with the Build America Buy America provisions of Public Law 117-58 Infrastructure Investment and Jobs Act (“BABA”). To that end, Contractor will not begin construction prior to confirmation of BABA compliance from the appropriate governing body.

To allow River Trails School District to meet their obligations with the Build America, Buy America act, 93Energy will provide documentation for all major components of the solar array. We will provide a statement letter, spec sheets, and country of origin documentation for modules, inverters, racking, and monitoring equipment. This documentation will allow the school district’s team to submit these products for compliance or waivers to the government body providing project funding.

## **APPENDIX B (Production Guarantee)**

93Energy is committed to delivering a successful customer experience to all. Therefore, we are presenting the following Production Guarantee for this project:

- A. Contractor will perform testing over three separate days following energization to ensure the solar array’s expected level of overall output and performance will be achieved in the first year. Should any repairs or adjustments remain to be made, these will be corrected prior to operation.
  - a. Contractor will guarantee 85% of expected production for the first full year of operation following completed testing and any remediation.
  - b. At the conclusion of one year, should there be any shortage in production beyond 85%, Contractor will pay the kWh difference between actual production and 85% at the district’s utility supply rate.
- B. As the approved vendor for the Illinois Adjustable Block Program (Illinois Shines), the Contractor will also be committed to delivering all of the contracted SRECs that this system is estimated to produce over a 15-year span to ComEd. While we cannot guarantee there will not be shortages or overages in production during this span of time, we do have a financial stake in ensuring that this system does not fall into a state whereas both the Client and Contractor would be liable for SREC claw back of funds from ComEd, the utility.
- C. Last, the Contractor will provide documentation of all manufacturer warranties. This includes solar module warranties which include year-over-year degradation (system loss) guarantees.