

Revolving Savings Fund

Agreement Terms and Conditions

The Southern California Regional Energy Network (SoCalREN) Public Agency Programs believe in the power of public agencies to lead their communities towards a safe, secure, resilient, affordable, and sustainable clean energy future. SoCalREN takes a comprehensive approach to help agencies complete energy efficiency projects. From energy benchmarking to project completion, our team offers a suite of services to identify energy-saving measures and works alongside agency staff—all at no cost. The SoCalREN Revolving Savings Fund (RSF) program was designed to support energy efficiency upgrades of public agency facilities by providing the financing an agency needs to make their projects a reality.

The intent of this document is to provide public agencies with details on the terms and conditions of the Revolving Savings Fund. This document should not be used as an official agreement and sole purpose is for reference only.

SoCalREN REVOLVING SAVINGS FUND AGREEMENT TERMS & CONDITIONS

ARTICLE I - DOCUMENTS

This Agreement, along with the Exhibits expressly listed below herein, collectively form, and are referred to throughout and hereinafter as, the "Agreement." The Parties intend that this Agreement be read and interpreted as a single and unified document, without giving interpretive precedence to where a provision is located in the Agreement. The Exhibits are as follows:

Schedule I – Loan Term Sheet

Exhibit A – Project Energy Efficiency Implementation Activities

ARTICLE II - DEFINITIONS

Except where the context clearly indicates otherwise, the following terms as used in this Agreement shall have the meaning ascribed to them in this Article:

(a) "Approved Application" means the application, dated as of the date specified on the Term Sheet as the "BORROWER Application Date," submitted to SoCalREN together with all attachments, supporting documentation, amendments and supplements thereto as approved by SoCalREN on the date specified on the Term Sheet as the "SoCalREN Application Approval Date," together with any amendments thereto approved by the BORROWER, SoCalREN, and the Fund after the date of this Agreement.

(b) "Borrowing Costs" means the applicable costs payable by BORROWER for participation in the program and to cover current and ongoing costs of the Fund. Borrowing Costs are outlined in the Term Sheet.

(c) "Contract Interest Rate" means the rate specified as such on the Term Sheet.

(d) "Contract Period of Years" means the period commencing on the date specified in the Term Sheet as the "Initial Payment Date" and ending on or before the [MAX TERM] Payment Date.

(e) "Default Rate" means a rate equal to the Administrative Fee plus three percentage points (Administration fee + 3.0%).

(f) "Eligible Project Costs" shall include costs related to the planning, engineering, construction, and commissioning of the energy efficiency measures at or to the Project Facilities; costs incurred for administrative expenses of the Fund in the amount of [X.XX]% of all Eligible Project Costs other than such administrative expenses or [\$\$\$], whichever is greater; and all other costs and expenses necessary or incident to constructing and making operational the energy efficiency measures as described on Exhibit B.

(g) "Payment Date" means the Initial Payment Date and each January 1 and July 1 thereafter during the Contract Period of Years.

(h) “Pledged Revenues” means the revenues pledged by the BORROWER to repay the obligation at the agreed upon terms as defined in the Term Sheet and on the agreed upon Payment Date.

(i) “Original Loan Amount” means those Eligible Project Costs that are paid with moneys disbursed out of the Fund, which costs shall in no event exceed the amount specified on the Term Sheet.

(j) “Semiannual Payment Obligations” means the amounts payable semiannually by the BORROWER to amortize the Original Loan Amount over the Contract Period of Years with interest on the outstanding balance of the Original Loan Amount at the Contract Interest Rate, based upon the following requirement: in the year a rebate is received by the BORROWER, the rebate is applied to the outstanding loan balance along with the semiannual payments in that year, and the loan is re-amortized to achieve lower semiannual payments based on the reduced outstanding balance over the remainder of the original term. Prior to final Payment Date, BORROWER can repay loan balance at any time and without penalty. Three (3) business day notice must be given to the Fund.

ARTICLE III - PERFORMANCE OF EFFICIENCY MEASURE IMPLEMENTATION ACTIVITIES AND RECORD KEEPING AND PAYMENTS RELATING THERETO

Section 2.1. Subject to the terms and conditions of this Agreement, the BORROWER shall perform or cause to be performed the activities set forth in Exhibit B attached hereto and made a part hereof.

Section 2.2. The BORROWER shall keep accurate records of the Eligible Project Costs. All requests submitted by the BORROWER for the payment or reimbursement of incurred Eligible Project Costs shall include evidence of the costs incurred and will be prepared so that such costs may be readily itemized. The BORROWER shall permit the Fund, acting by and through the Executive Director of the Fund or his or her authorized representatives, to inspect all books, documents, papers and records relating thereto at any and all reasonable times for the purpose of audit and examination, and the BORROWER shall submit to the Fund such documents and information as they may require in connection therewith.

Section 2.3. Subject to the terms and conditions of this Agreement, the Eligible Project Costs shall be paid from the Fund.

Section 2.4. The Fund shall deliver to the BORROWER a certificate, certifying that moneys in the amount necessary to pay the Eligible Project Costs obligated or to be obligated up to the Maximum Original Loan Amount are available or are in the process of collection and have been encumbered by the Fund. When such Eligible Project Costs have been incurred and payment requested from the Fund by the BORROWER in form and detail satisfactory to the Fund, the Fund shall cause to be delivered checks in payment of the invoices, demands for payment, approved contractors' estimates or other evidence of cost incurrence to the persons or entities entitled to payment in conformity with the encumbrance of funds to pay such obligated Eligible Project Costs.

Section 2.5. The BORROWER shall promptly notify the Fund in writing when the implementation activities for the Project Facilities have been completed and when no further Eligible Project Costs are to be paid with Fund disbursements under this Agreement.

Section 2.6. Notwithstanding anything contained herein to the contrary, the obligation of the Fund to pay Eligible Project Costs pursuant to the terms and conditions of this Agreement shall expire

twelve (12) months from the date hereof. Upon the expiration of the aforementioned period of months, the Fund shall not be obligated to pay any additional Eligible Project Costs to the BORROWER hereunder. In the event that the County, in its sole discretion, decides to pay additional Eligible Project Costs after the expiration of its obligation to do so hereunder, it shall so notify the BORROWER. No such decision by the County to pay any additional Eligible Project Costs hereunder shall be deemed to constitute an extension of its obligation to pay Eligible Project Costs hereunder. Funds available, as long as they do not exceed Maximum Loan Amount, and not used by the BORROWER to pay for Eligible Project Costs, will be returned to the Fund and returned amounts will reduce the outstanding loan balance accordingly and the loan will be re-amortized to achieve lower semiannual payments based on the reduced outstanding balance over the remainder of the original term.

ARTICLE III - PAYMENTS BY BORROWER

Section 3.1. Subject to the further provisions hereinafter set forth, the BORROWER agrees to pay in full, and shall pay, to the Fund on or before the end of the Contract Period of Years. In the event that the BORROWER pays less than the full amount due hereunder on any date, then the amount so paid shall be applied first to interest payable hereunder and then to the Original Loan Amount payable hereunder.

The obligation of the BORROWER to pay the charges set forth shall not be assignable, and the BORROWER shall not be discharged therefrom, without the prior written consent of the Fund. In the event that the BORROWER defaults in the payment of any of the charges set forth in this Section 3.1, the amount of such default shall bear interest at the Default Rate from the date of the default until the date of the payment thereof. Interest at the Default Rate shall be calculated for the actual number of days of default from the due date until payment on the basis of a 360-day year. In no event shall the Fund collect interest or Default Rate charges in excess of the maximum amount permitted by law.

Anything in this Agreement to the contrary notwithstanding, the general resources of the BORROWER shall be required to be used by the BORROWER be pledged for the performance of any duty under this Agreement, but any payment to be made under this Agreement shall be required to be made from the Pledged Revenues, which are hereby pledged to such payment; provided, however, that, if otherwise lawful, nothing herein shall be deemed to prohibit the BORROWER from using, of its own volition, any of its general resources for the fulfillment of any of the terms and conditions of this Agreement.

The BORROWER may at any time and from time to time pay all or any portion of the Original Loan Amount prior to the time such payment is due hereunder, and may do so from any legally available funds (whether obtained through the Fund or by other means). Upon the receipt of any prepayment of all or any portion of the Original Loan Amount, the Fund shall credit such payment in the same manner that it would credit the payment of a portion of the Original Loan Amount made through the payment of a Semiannual Payment Obligation.

Section 3.2. The BORROWER hereby agrees that: (a) the BORROWER will furnish to the County annually reports of the Eligible Projects; and (d) if and to the extent that the Approved Application indicates that any of the payments to be made by the BORROWER hereunder are to be made from revenues derived from special assessments, the BORROWER will take all actions required to be taken under all applicable laws of the State and all applicable charter, ordinance or resolution provisions of the BORROWER to collect such special assessments to the full extent required to pay all amounts payable to the Fund hereunder in full when due. All of the obligations under this Section are hereby established as duties specifically enjoined by law and resulting from an office, trust or station upon the BORROWER.

ARTICLE IV – REPRESENTATIONS AND AGREEMENTS OF THE BORROWER IN REGARD TO ENVIRONMENTAL MATTERS; EVENTS OF DEFAULT AND REMEDIES THEREFOR; INDEMNIFICATION

Section 4.1. The BORROWER hereby represents that:

(a) It is, and the BORROWER hereby covenants that it shall remain, in compliance with all applicable federal, state and local environmental laws and regulations during the Contract Period of Years;

(b) There is no litigation or administrative action or proceeding pending or, to the best of its knowledge, threatened against the BORROWER, alleging a violation of any federal, state or local environmental law or regulation applicable to the eligible project(s) except as set forth in the attached;

(c) No judgment or consent order has been rendered against it nor is it a party to any agreement, which consent order, judgment or agreement imposes, will impose or has imposed any fines or monetary penalties for the violation of any federal, state or local environmental law or regulation applicable to the eligible project(s) that have not been paid in full except as set forth in the attached; and

(d) If and to the extent that the Approved Application indicates that any of the payments to be made by the BORROWER hereunder are to be made from revenues derived from utility incentives, rebates and/or financing, the BORROWER has taken all actions required by the corresponding utility programs and under all applicable laws of the State and all applicable charter, ordinance or resolution provisions of the BORROWER in order for such utility monies to be delivered at the times and in the amounts necessary to enable the BORROWER to pay all amounts payable to the Fund hereunder in full when due, and has provided to SoCalREN a copy of all utility program applications and approvals or resolutions authorizing the use of those monies towards the Fund obligation per this loan agreement.

Section 4.2. The BORROWER agrees that each of the following shall be an event of default (“Event of Default”) under this Agreement:

(a) The BORROWER shall fail to make any payment to the Fund required pursuant to this Agreement when the same is due and payable, including, without limitation, any amount due and payable pursuant to Article III hereof.

(b) The BORROWER shall fail to observe and perform any obligations, agreements or provisions herein, which failure shall continue for thirty (30) days after receipt of written notice.

(c) Any representations made by the BORROWER in Section 4.1. shall at any time during the Contract Period of Years prove to be false.

Section 4.3. Whenever an Event of Default shall have happened, the County may exercise any and all rights and remedies for the enforcement of the obligations of the BORROWER hereunder, including but not limited to terminating this Agreement for default. In addition to any other rights or remedies provided herein, by law or otherwise, the County may, to the extent permitted under any judgment, consent order or agreement affecting the BORROWER, require the BORROWER to agree to pay all fees or penalties imposed for the violation of any federal, state or local environmental law or regulation applicable to the eligible project(s) to the payment of the Original Loan Amount and the interest and any late charges due thereon, and the BORROWER hereby agrees to use its best efforts to effect

such subordination.

Section 4.4. No right or remedy conferred upon the County under Section 4.3 hereof is intended to be exclusive of any other right or remedy given herein, by law or otherwise. Each right or remedy shall be cumulative and shall be in addition to every other remedy given herein, by law or otherwise.

Section 4.5. The BORROWER releases the County from, agrees that the County shall not be liable for, and agrees, to the fullest extent permitted by law, to hold the County, its officers, employees and agents harmless against, any loss or damage to property, or any loss or injury to or death of any person, or any other loss or damage, that may be occasioned by any cause whatsoever pertaining to the eligible improvement(s), the Project, or the use thereof; provided that such indemnity under this Section shall not be effective for damages that result from negligent or intentional acts of the County, its officers, employees and agents. The BORROWER further agrees, to the fullest extent permitted by law, to indemnify and hold harmless the County and its officers, employees and agents against and from any and all cost, liability, expenses and claims arising from any breach or default on the part of the BORROWER in the performance of any covenant or agreement on the part of the BORROWER to be performed pursuant to the terms of this Agreement, arising from the acquisition, construction, installation, or improvement of the Project or arising from any act or negligence of or failure to act by the BORROWER, or any of its agents, contractors, servants, employees or licensees, or arising from any accident, injury or damage whatsoever caused to any person, firm, or corporation resulting from the eligible project(s) (other than any accident, injury, or damage that results from negligent or intentional acts of the County, its officers, employees and agents), and from and against all cost, liability and expenses incurred in or in connection with any such claim or action, arbitration or proceeding brought thereon.

In case any action or proceeding be brought against the County by reason of any claim described in this Section, the County agrees to cause written notice of such action or proceeding to be given to the BORROWER, and the BORROWER upon notice from the County covenants to resist or defend such action or proceedings at the BORROWER's expense including all legal and other expenses (including reasonable attorneys' fees).

Each party agrees that the venue of any suit, action or proceedings relating to this Agreement will be the courts of Los Angeles, California or the California Supreme Court, and each party irrevocably waives any objection that it may have to that venue.

ARTICLE V – MISCELLANEOUS PROVISIONS

Section 5.1. Any invoice, accounting, demand, or other communication under this Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prep aid, return receipt requested, or delivered personally, and

(i) in the case of the County, is addressed to or delivered personally to
Revolving Loan Fund at:

County of Los Angeles
Internal Services Department,
Energy and Environmental Service
1100 N Eastern Ave
Los Angeles, CA 90063
Attn: Ana Rosales
Email: aerosales@isd.lacounty.gov

and

(ii) in the case of the BORROWER, is addressed to or delivered personally to the BORROWER at the address specified on the Term Sheet as the "BORROWER Notice Address," or at such other addresses with respect to either such party as that party may from time to time, designate in writing and forward to the other as provided in this Section.

Section 5.2. Any approval of the County required by this Agreement shall not be unreasonably withheld and shall be deemed to have been given on the thirtieth day following the submission of the matter requiring approval unless disapproved in writing prior to such thirtieth day.

Section 5.3. This Agreement shall become effective as of the date first set forth hereinabove and shall continue in full force and effect until the final day of the Contract Period of Years, or until the day the obligations of the BORROWER under Section 4.1 hereof have been fully satisfied, whichever day is later.

Section 5.4. This Agreement shall be binding upon and inure to the benefit of the parties hereto and to any person, office, board, department, agency, municipal corporation, or body politic and corporate succeeding by operation of law to the powers and duties of either of the parties hereto. This Agreement shall not be assigned by the BORROWER without the prior written consent of the County. The County, at its option, may assign this Agreement without the consent of the BORROWER.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized officers as of the day and year first hereinabove written.

Schedule I

TERM SHEET

NOTE: The term sheet will be generated by SoCalREN after the loan is approved. Example is provided for reference only.

Loan Terms

Borrower: [Agency Name]

Amount of Loan: \$[Loan amount]

Issuer: County of Los Angeles

Purpose of Loan: The purpose of the Loan is to [EE measures being funded].

Term: The Loan is repayable on demand after [60] months from the Settlement Date.

Loan Service (administrative) 0% (limited time through Dec. 31st, 2020) to be applied to the original

Fee: loan amount and included as the total to be paid at settlement. The total RLF Repayment amount is \$[XXX].

Anticipated Settlement Date: [Insert date] or [5] business days after satisfaction of all conditions precedent in the Loan Agreement (actual settlement date being referred to as **Settlement Date**).

Payment Terms of Loan Amount: The repayment term is up to five years. There is no penalty for early payment. Agencies that do not complete repayment within 90 days of the five (5) year term deadline will be subject to a 3% late payment charge.

Repayment of the partial balance of loan within 90 days of receipt of Incentives and On-Bill Financing from Southern California Edison (SCE) and/or SoCalGas is expected. Ten (10) semi-annual payments of the Financed Amount proposed below [Insert Repayment Table from Repayment Schedule].

REFERENCE

EXHIBIT A

DESCRIPTION OF ENERGY EFFICIENCY SCOPE OF WORK AND MEASURES TO BE
IMPLEMENTED BY BORROWER

REFERENCE