



LODI ENERGY EFFICIENCY FINANCING PROGRAM AGREEMENT

The undersigned customer ("Customer") and the undersigned contractor ("Contractor") have contracted for the provision by Contractor to Customer of energy efficiency/demand response equipment and services (the "Work"). Subject to the conditions (including the process for Adjustment) set forth in the next paragraph, City of Lodi Electric Utility ("COL") shall extend a loan (the "Loan") to Customer in the amount of the loan balance (the "Loan Balance") pursuant to the terms of this Energy Efficiency Financing Program Agreement ("Loan Agreement"). Contractor shall provide the Work as described in the Energy Efficiency Financing Program Application ("Application") and any contract between Customer and Contractor, which shall be attached to the Application.

The estimated Loan Balance is set forth below. However, the total cost of the Work as installed, Loan Balance, monthly payment, and loan term specified in this Loan Agreement may be adjusted, if necessary, after the Work and the post-installation inspection described in the Application and/or herein are completed (the "Adjustment"). The Adjustment will be calculated using the actual total cost of the Work, as installed, and estimated energy savings (as described in the Application) of such Work. In no event will the Loan Balance be increased without Customer's written consent, even if Customer is eligible for such increased Loan Balance. Moreover, in no event will the Loan Balance exceed the maximum loan amount stipulated in the Application. Customer understands that in order to be eligible for an energy efficiency financing loan, the initial Loan Balance for Work may not fall below the minimum loan amount, nor may the payback period exceed the maximum payback period. **Accordingly, if after the Adjustment, the Loan Balance falls below the minimum loan amount or if the simple payback period exceeds the program maximum payback period, each as described in the Application, COL shall have no obligation to extend the Loan, as the Work would not meet program requirements.** The Adjustment described in this paragraph will be communicated to the Customer and Contractor in writing and will automatically become part of this Loan Agreement, except that any proposed increase in the Loan Balance will only become part of this Loan Agreement upon Customer's written consent to such increase. Collectively the Application, and this Loan Agreement (including any Adjustment hereunder) comprise the "Agreement." In the event of any conflict among the foregoing components of the Agreement, the following order of priority shall apply: 1. this Loan Agreement; 2. the Application.

COL shall have no liability in connection with, and makes no warranties, expressed or implied, regarding the Work.

Customer and Contractor agree that the Customer and Contractor shall jointly and severally indemnify and hold harmless COL, its officers, directors, employees and agents thereof, from and against all claims, demands, liabilities, damages, fines, settlements or judgments which directly arise from or are caused by (a) any breach of the Agreement (subject to the proviso regarding Contractor at the end of this sentence regarding obligations to repay the Loan Balance) or (b) the wrongful or negligent acts of omissions of any party in the conduct or performance of the Work or Contractor's or Customer's duties under the terms of this Agreement; provided, however, that in no event shall Contractor be deemed a co-obligor, surety or guarantor of Customer's obligations to repay the Loan Balance under this Agreement.

Customer represents and warrants that (a) Customer is receiving this Loan for Work obtained in connection with Customer's business, and not for personal, family or household purposes; (b) Customer, if not an individual, is duly organized, validly existing and in good standing under the laws of its state of formation, and has full power and authority to enter into this Agreement and to carry out the provisions of this Agreement. Customer is duly qualified and in good standing to do business in all jurisdictions where such qualification is required; (c) this Loan Agreement has been duly

authorized by all necessary proceedings, has been duly executed and delivered by Customer and is a valid and legally binding agreement of Customer duly enforceable in accordance with its terms; (d) no consent, approval, authorization, order, registration or qualification of or with any court or regulatory authority or other governmental body having jurisdiction over Customer is required for, and the absence of which would adversely affect, the legal and valid execution and delivery of this Loan Agreement, and the performance of the transactions contemplated by this Loan Agreement; (e) the execution and delivery of this Loan Agreement by Customer hereunder and the compliance by Customer with all provisions of this Loan Agreement: (i) will not conflict with or violate any Applicable Law; and (ii) will not conflict with or result in a breach of or default under any of the terms or provisions of any loan agreement or other contract or agreement under which Customer is an obligor or by which its property is bound; (f) all factual information furnished by Customer to COL is true and accurate; and (g) the Energy Efficiency Financing Program was a determining factor in its decision to have the Work performed.

The Application must include the Federal Tax Identification Number or Social Security Number of the party who will be the recipient of the check for the loan amount. Checks may be issued directly to the Customer or the Contractor or both, for the benefit of the Customer, as specified below. Customer and Contractor each understand that COL will not be responsible for any tax liability imposed on the Customer or Contractor in connection with the transactions contemplated under the Agreement, whether by virtue of the Loan contemplated under the Agreement, or otherwise, and Customer and Contractor shall jointly and severally indemnify COL for any tax liability imposed upon COL as a result of the transactions contemplated under the Agreement.

Within sixty (60) days of Customer's and Contractor's written confirmation sent to COL Energy Efficiency Financing Program Administrator at address listed below of completion of the Work, COL will (a) conduct a post installation inspection and project verification; (b) adjust, if necessary, the total cost, incentive, loan balance, monthly payment, and loan term as stated above; and (c) issue a check (the "Check") for all amounts COL approves for payment in accordance with the Agreement. The date of such issuance is the "Issuance Date." The Check shall be issued if the Work conforms to all requirements of the Agreement including, without limitation, the Application. If the Check is made payable to Customer, Customer shall be responsible to pay the amount thereof to Contractor. If the Check is less than the amount due from Customer to Contractor, Customer shall be responsible for the excess. Customer shall repay the Loan Balance to COL as provided in this Loan Agreement irrespective of whether or when the Work is completed, or whether the Work is in any way defective or deficient.

The Customer agrees to repay to COL the Loan Balance, in the number of payments listed below and in equal installments (with the final installment adjusted to account for rounding), by the due date set forth in each COL utility bill rendered in connection with Customer's account (identified by the number set forth below) ("Account"), commencing with the bill which has a due date falling at least 30 days after the Issuance Date. Amounts due under this Loan Agreement shall be deemed to be amounts due under each bill to the Account, and a default under this Loan Agreement shall be treated as a default under the Account. Although a late payment fee may be assessed for delinquent payment of a utility bill, however, no late payment fee will be assessed for delinquent Loan repayment. If the Customer is unable to make a full utility bill payment in a given month, payment arrangements may be made at COL's discretion. Any partial utility bill payments will be applied to energy charges before payment of the Loan Balance. Further payment details are set forth below. Any notice from COL to Customer regarding the Program or the transactions contemplated under the Loan Agreement may be provided within any such bill, and any such notices may also be provided to Customer or Contractor at the addresses below or as elsewhere specified in the Loan Agreement, and shall be effective five (5) days after they have been mailed. The monthly payments will be included by COL on the Account's regular energy service bills. **The Loan Balance shall not bear interest.** There are no pre-payment penalties; however, Customer agrees to notify the Energy Efficiency Financing Program Staff of pre-payment amounts at the time of payment by telephoning and by

sending written notice to COL Energy Efficiency Financing Program Administrator at the address listed below. In the event the Account is closed or terminated for any reason, or Customer defaults under the Agreement, the Customer will be required to repay the entire then-unpaid Loan Balance within 30 days. Customer understands that without limiting any other remedy available to COL against Contractor or Customer, failure to repay the Loan Balance in accordance with the terms of the Agreement could result in shut-off of utility energy service, adverse credit reporting, and collection procedures, including, without limitation, legal action.

\$	\$	\$	\$	Months	
Total Cost	Incentive	Loan Balance	Monthly Payment	Term	Number of Payments

Check Made Payable to Contractor \$ _____ (Loan Balance Amount) Customer \$ _____ (Loan Balance Amount)

CUSTOMER INFORMATION

<i>Name on Account (Customer of Record)</i>
<i>COL Account Number</i>
<i>Service Address</i>
CA
<i>City, State, Zip</i>
<i>Name and Title of Authorized Representative of Customer</i>
<i>Relationship to Customer of Record</i>
<i>Federal Tax ID or Social Security #</i>
<i>Signature of Authorized Representative of Customer</i>
/ /
<i>Date</i>
Accepted: City of Lodi Electric Utility

CONTRACTOR INFORMATION

<i>Contractor (Vendor) Name</i>
<i>Name and Title of Authorized Representative of Contractor</i>
<i>Business Address</i>
CA
<i>City, State, Zip</i>
<i>Business Phone Number</i>
<i>Federal Tax ID or Social Security #</i>
<i>Signature of Authorized Representative of Contractor</i>
/ /
<i>Date</i>

By: _____
City of Lodi Electric Utility

_____ **Date**

Printed Name, Title

Address: