

EASEMENT AGREEMENT

This EASEMENT AGREEMENT ("Easement Agreement") is made and entered into as of March 14, 2025 (the "Effective Date") by and between the SAN DIEGO UNIFIED PORT DISTRICT, a public corporation ("Grantor"), and PASHA AUTOMOTIVE SERVICES, a California corporation ("Grantee"). Grantor and Grantee may individually be referred to in this Easement as "party" or collectively as "parties".

RECITALS

A. WHEREAS, Grantor and Grantee entered into that certain Terminal Operator Agreement dated December 7, 2010, and on file in the Office of the Clerk of Grantor as Document No. 57251 ("TOA"), for use of certain tidelands located at the National City Marine Terminal in the City of National City, California ("TOA Property").

B. WHEREAS, The TOA has a term of ten years, commencing January 1, 2011, and ending December 31, 2020, with four, five-year options to extend, for a total term of 40 years ending December 31, 2040, if all option periods are fully exercised, and Grantee has exercised the first option through December 31, 2025.

C. WHEREAS, Grantor, in accordance with the California Environmental Quality Act, completed an Environmental Impact Report for Grantee's Marine Terminal Tank Farm Paving and Street Closures Project and Port Master Plan Amendment (UPD EIR-2014-188; SCH #20144121046) which was certified by the Board of Port Commissioners on September 8, 2016, via Resolution 2016-140 ("Tank Farm EIR").

D. WHEREAS, The Tank Farm EIR contains Mitigation Measure GHG-6 that requires Grantee to implement a renewable energy project or purchase the equivalent greenhouse gas offsets from a California Air Resources Board approved registry ("MM-GHG-6").

E. WHEREAS, Grantee desires to place solar panels on the roof of Warehouse 24-B located on the National City Marine Terminal under a Power Purchase Agreement with Catalyze National City Terminal Avenue Microgrid, LLC, a California limited liability company ("Solar Provider"), in connection with Grantee's obligations under MM-GHG-6.

F. WHEREAS, Warehouse 24-B is owned by Grantor and is currently utilized for Grantee operations under the TOA.

G. WHEREAS, Grantee has requested an easement from Grantor allowing placement of solar panels on the roof of Warehouse 24-B and transfer and assignment of certain rights and obligations under the easement to Solar Provider in connection with placement of the solar panels.

H. WHEREAS, The parties intend to enter this Easement Agreement to allow Grantee's placement of solar panels within the Easement Area as defined below under the terms and conditions set forth below.

AGREEMENT

NOW, THEREFORE, in consideration of the covenants set forth in this Easement Agreement, and for other good and valuable consideration, including the reduction in greenhouse gas emissions, which benefit the People of the State of California, the receipt of which is hereby acknowledged, Grantor and Grantee agree as follows:

1. **Grant of Easement.** Grantor hereby grants to Grantee, for the Term, a non-exclusive easement

(the "Easement") on and over the Easement Area defined in Section 2 below for the placement of solar panels, electrical conduit, and related improvements and equipment for a solar electric generating facility (collectively, the "Facilities"), consistent with Grantor's Project Approval No. _____ and subject to Grantor approval under Section 5 below, along with the right of ingress and egress to, from, and along said Easement Area via practical routes across the adjacent land of Grantor within the TOA Property; said routes to be determined by Grantor from time to time and notified to Grantee in the event of any change.

2. **Easement Area.** The real property in which the Easement is granted is located in the County of San Diego, State of California, and is described as follows (the "Easement Area"):

Approximately **194,216 square feet** of roof area at **Warehouse 24-B** located within the TOA Property, as more particularly described in the surveyed plat set forth in Exhibit A-1 and the surveyed legal description set forth in Exhibit A-2 attached hereto and incorporated herein by reference.

3. **Term.** The term of the Easement shall be concurrent and coterminous with the term of the TOA, unless sooner terminated as provided herein, and shall be for a period of approximately nine (9) months, commencing on March 14, 2025 and ending on December 31, 2025 (the "Term"). The Term shall be automatically extended upon successful exercise of each of the three available five-year options to extend the term of the TOA, for a total potential Term hereunder of fifteen (15) years and nine (9) months, unless sooner terminated as provided herein. Nothing in this Section 3 shall prevent Grantor from exercising any right of termination under the TOA or this Easement Agreement. This Easement Agreement shall automatically terminate upon expiration or termination of the TOA for any reason. In the event of expiration or termination hereunder, Grantee shall be required to remove all Facilities and restore the Easement Area (or to cause such removal and restoration) in accordance with Section 11 below and shall have continued access to the Easement Area to complete such removal and restoration.

4. **Grantor Reservation and Limitation of Rights.**

- i. The parties acknowledge and agree that the Easement conveyed to Grantee hereunder is a non-exclusive easement, and that, subject to the provisions below in this Section 4 and elsewhere in this Easement Agreement, Grantor expressly reserves under its rights, title and interest in and to the Easement Area, including rights to access and use the same.
- ii. Grantor covenants and agrees that, during the Term (as may be extended): (a) within the TOA Property, it shall not cause nor permit to be caused any impacts or interference to the Facilities that would be reasonably be expected to have a material adverse effect on the insolation levels at the Easement Area and, by extension, production capability and output of the Facilities; (b) it shall not grant nor permit to be granted to any third party (other than Solar Provider) any rights in and to the Easement Area for any use thereof that is materially inconsistent with or would materially interfere with construction, installation, operation, use, maintenance, repair, and removal of the Facilities (the "Permitted Uses") within the Easement Area; and (c) any rights or interests granted to any third party by Grantor after the Effective Date hereof which encumbers or otherwise impacts the Easement Area or the Permitted Uses shall be made expressly subject to the rights conveyed under this Easement Agreement and the Solar Provider Easement (as hereafter defined).
- iii. Notwithstanding anything in this Section 4 or elsewhere in this Easement Agreement to the contrary, Grantee acknowledges and agrees that the Easement granted under this Easement Agreement, and the Solar Provider Easement authorized to be granted by Grantee hereunder, are and shall be subject to all rights of Grantor in and to the Easement Area (as limited by the terms and conditions of this Easement Agreement) and any and all encumbrances of record as of the Effective Date with respect to the Easement Area.

5. Construction and Repairs.

- i. Facilities constructed or installed pursuant to this Easement Agreement shall be constructed in a good and workmanlike manner and shall conform to all applicable laws and regulations. Grantee shall not construct or install any improvements, structures, fixtures, or personal property on the Easement Area except the Facilities authorized under this Easement Agreement.
- ii. No construction, installation, or major repairs shall commence without the prior written approval of the plans and specifications by Grantor, which shall not be unreasonably withheld, delayed, or conditioned. Subsequent minor repairs and routine maintenance of the Facilities shall not require Grantor's written approval; provided, however, that Grantee shall notify Grantor prior to commencing any such work and provide a description of the proposed work to allow Grantor to determine in its reasonable discretion if the proposed work qualifies as a minor repair or routine maintenance, as opposed to construction, installation, or major repairs (which would include, but are not limited to, repairs and maintenance that would impact the roof or building in the Easement Area through structural modifications or impacts or trenching, or would have potential environmental/stormwater impacts). In its performance of any work in connection with this Easement Agreement, Grantee shall minimize interference with Grantor's activities within the Easement Area.
- iii. In the case of Emergency Repairs, Grantee shall immediately commence repairs and give Grantor written notification within one (1) day of the commencement of said Emergency Repair so that the Grantor can inspect the Easement Area solely for compliance with the terms and conditions of this Easement Agreement.
- iv. In accordance with the Grantor's Coastal Development Permit Regulations (filed in the Office of the District Clerk as Document No. 19171), "Emergency Repairs" under this Easement Agreement are those necessary to maintain, repair, restore, demolish, protect, or replace property or facilities damaged, destroyed, or threatened by imminent danger from a sudden, unexpected occurrence, which demands immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. "Emergency" includes, but is not limited to, such occurrences as fire, flood, windstorm, earthquake, or other soil or geologic movements, as well as occurrences as riot, accident, or sabotage.

6. **Roof Protection and Repair.** Grantee shall use best efforts to minimize impacts (or to cause impacts to be minimized) to the roof in the Easement Area in connection with the Permitted Uses, and shall perform or cause to be performed all work in such a manner as will cause the least injury to the roof and not void any existing warranty of the roof. Grantee shall be responsible and liable for, and shall promptly repair to Grantor's satisfaction, at Grantee's sole cost and expense, any damage to the roof caused by acts or omissions of Grantee or Grantee's employees, agents, contractors, or invitees, or any other person authorized by Grantee to access or use the Easement Area, including without limitation, the Solar Provider.

7. **Acceptance of Easement Area.** Grantee represents and warrants that it has independently inspected the Easement Area and made all tests, investigations and observations necessary to satisfy itself of the condition of the Easement Area. Grantee agrees it is relying solely on such independent inspection, tests, investigations and observations in making this permit and that Grantee accepts the Easement Area in its "As-Is, with all faults" condition and state of repair,

inclusive of all faults and defects, whether known or unknown. Grantee also acknowledges that the premises are in the condition called for by this Easement, and that Grantee does not hold Grantor responsible for any defects in the Easement Area. Grantee furthermore accepts and shall be responsible for any risk of harm to any person and property, including without limitation employees, agents, contractors, and invitees of Grantee, from any latent or patent defects in the Easement Area.

8. Grantee's Maintenance Obligations.

- i. Grantee agrees that the Easement Area is in a good and tenantable condition, that Grantee will take good care of the Easement Area and appurtenances, including any personal property belonging to Grantor; and that Grantee, as a part of the consideration for this Easement, will at Grantee's sole cost and expense, keep and maintain said Easement Area, including the roof and the entire roof structure, appurtenances, and all personal property in good and sanitary condition and repair during the Term of this Easement Area. Grantor shall at no time be required to make any improvements or repairs to the Easement Area, and during the Term of this Easement Agreement. Grantee shall be solely responsible for maintenance of the Easement Area during the Term hereof.
- ii. The parties agree that, during the Term, the maintenance obligations in this Section 8 as to the Easement Area shall supersede the maintenance and repair obligations as set forth in Section 15 of the TOA such that Grantee, and not Grantor, shall be solely responsible for all maintenance of the Easement Area, including the roof and roof structure. For the avoidance of doubt, it is the intent of this Section 8 that Grantee assumes full maintenance and repair responsibility for the roof, roof structure, Facilities and the Easement Area during the term of this Easement.

9. Abandonment. In the event the Easement is no longer required or if the Easement is not used for the purposes intended for a period of one hundred eighty (180) days or the Solar Provider Easement, whichever is sooner, all rights herein granted shall revert to Grantor, its successors or assigns, automatically and without the necessity of reentry or notice. The Easement shall be deemed abandoned if the Solar Provider Easement or related Power Purchase Agreement between Solar Provider and Grantee is terminated, and in that event, Grantor may terminate this Agreement with thirty (30) days written notice to Grantee. Upon termination of this Easement Agreement, Grantee shall furnish Grantor on demand a good and sufficient Quitclaim Deed of all its rights, title, and interest in the Easement Area.

10. Taxes. This easement may result in a taxable possessory interest subject to the payment of property taxes. Grantee agrees to and shall pay before delinquency all taxes and assessments of any kind assessed or levied upon Grantee for franchises, licenses, or permits for any use or activities of Grantee upon said easement area.

11. Removal of Facilities. Facilities placed in the Easement Area shall be removed by Grantee (or Grantee shall cause the Facilities to be removed) within a period of sixty (60) days following the expiration or termination of this Easement Agreement; provided that such 60-day period shall be: (i) automatically extended on a day-for-day basis for each day that (a) a Force Majeure event (including abnormal or extreme weather conditions) is occurring and which prevents or delays removal of the Facilities, or (b) Grantee or Solar Provider, as the case may be applicable, is pending receipt of any approvals, permits, or consents as may be required from any governmental authority or the Utility (as hereafter defined) to cease operations and commence removal of the Facilities; or (ii) sooner terminated by reason of completion of removing the Facilities and restoration of the Easement Area

in accordance with this Section 11 (collectively, the "Decommissioning Term"). Grantee shall remove the Facilities and restore the affected portions of the Easement Area to substantially the same condition as existing prior to placement of the Facilities. If Grantee fails to remove the Facilities within said sixty (60) days, Grantor shall have the right to have the Facilities removed and the Easement Area restored at Grantee's expense, and Grantee shall be obligated to fully and promptly reimburse Grantor for any costs and expenses incurred by Grantor in removing the Facilities and restoring the Easement Area hereunder. The obligations of this Section 11 shall survive the expiration or termination of this Agreement. "Force Majeure" means any event or circumstance that actually prevents a party from performing its obligations under this Easement Agreement, which event or circumstance (a) is not within the reasonable control, and is not the result of the negligence, of the party claiming Force Majeure, and (b) by the exercise of reasonable due diligence, such party is unable to overcome or avoid or cause to be avoided. Subject to the foregoing, "Force Majeure" may include but is not limited to the following acts or events: natural phenomena, such as storms, hurricanes, floods, lightning and earthquakes; explosions or fires arising from lightning or other causes unrelated to the acts or omissions of the party claiming Force Majeure; acts of war or public disorders, civil disturbances, riots, insurrection, sabotage, epidemic, terrorist acts, or rebellion; strikes or labor disputes; and acts, failures to act or orders of any kind of any governmental authorities acting in their regulatory or judicial capacity. "Force Majeure" does not include (x) changes in market conditions that affect the cost of supplies, or that affect demand or price for power; or (y) any labor strikes, slow-downs or stoppages, or other labor disruptions against a Party's contractors or subcontractors.

- 12. Termination.** In addition to all remedies available at law and in equity, Grantor shall have the right to terminate this Agreement for Grantee's failure to comply with any material provision of this Easement Agreement which is not cured within sixty (60) days following written notice from Grantor. In accordance with Section 3 above, this Easement Agreement shall otherwise automatically terminate upon the expiration or termination of the TOA. Upon termination, Grantee shall furnish Grantor on demand a good and sufficient Quitclaim Deed of all its rights, title, and interest in the Easement Area.
- 13. Indemnification.** Grantee shall, to the fullest extent permitted by applicable laws, defend (with counsel acceptable to Grantor), indemnify, and hold harmless Grantor and its officers, officials, employees, and agents (collectively, the "Grantor Parties") from and against any litigation, proceeding, action, liability, claim, judgment, demand, damage, cost, loss, expense (including, without limitation, all attorneys' fees), award, fine, penalty, or claim for damages (collectively, "Claims") in law or in equity, to property or persons, including wrongful death, arising directly or indirectly out of, from, or connected or related to the Easement and this Easement Agreement and the acts and omissions in connection therewith of Grantee, its employees, agents, officers, contractors, invitees, and any other person authorized by Grantee to access or use the Easement Area or Facilities, including without limitation, the Solar Provider (collectively, the "Grantee Parties"), except for Claims arising through the sole negligence or willful misconduct of Grantor. It is the intent of this Section 13 that Grantee indemnify and hold harmless the Grantor Parties for any actions of the Grantee Parties or Grantor Parties, except for those arising out of the sole negligence or willful misconduct of Grantor, including but not limited to Claims based upon Grantor Parties alleged breach of any statutory duty or obligation, or Grantee's duty under contracts with third parties. Grantee's obligations under this Section 13 shall be in addition to any indemnity and related obligations under the TOA, and shall survive the expiration or termination of this Easement Agreement.
- 14. Insurance.**

- i. Grantee shall maintain "OCCURRENCE" form Commercial General Liability Insurance covering the easement area and operations in the amount of not less than Two Million Dollars (\$2,000,000) combined single limit per occurrence for bodily injury, personal injury, and property damage suffered or alleged to be suffered by any person or persons whatsoever resulting directly or indirectly from any act or activities of Grantee, of any person acting for it or under its control or direction, or any person authorized by it to use the easement area. Either the general aggregate limit shall apply separately to this location, or the general aggregate limit shall be twice the required occurrence limit.
- ii. All required insurance shall be in force the first day of the term of this easement. All insurance companies must be satisfactory to Grantor, and the cost of all required insurance shall be borne by Grantee. Certificates in a form acceptable to Grantor evidencing the existence of the necessary insurance policies, and original endorsements effecting coverage required by this Paragraph, shall be kept on file with Grantor during the entire term of this easement. Certificates for each insurance policy must be signed by a person authorized by that insurer to issue evidence of coverage on its behalf. Endorsements for each insurance policy must be signed by a person authorized by that insurer to bind coverage on its behalf. The Grantor reserves the right to require complete, certified copies of all required policies at any time.
- iii. All liability insurance policies shall name, or be endorsed to name Grantor and its officers, employees, and agents as additional insureds and protect Grantor and its officers, employees, and agents against any legal costs in defending claims. All liability policies shall provide cross-liability coverage. All insurance policies shall be endorsed to state that coverage will not be suspended, voided, canceled, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail has been furnished to Grantor. Also, all insurance policies shall be endorsed to state that Grantee's insurance is primary and not excess or contributing to any insurance issued in the name of Grantor, and all insurance companies must be satisfactory to Grantor.
- iv. Any deductibles or self-insured retentions must be declared and acceptable to Grantor. At the option of the Grantor, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Grantor and its officers, employees, and agents; or, the Grantee shall procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
- v. Grantor shall retain the right at any time to review the coverage, form, and amount of the insurance required herein. If, in the opinion of Grantor, the insurance provisions in this easement do not provide adequate protection for Grantor and/or members of the public, Grantor may require Grantee to obtain insurance sufficient in coverage, form, and amount to provide adequate protection. Grantor's requirements shall be reasonable, but shall be designed to assure protection from and against the kind and extent of risk which exist at the time a change in insurance is required.
- vi. Grantor shall notify Grantee in writing of changes in the insurance requirements and, if Grantee does not deposit certificates evidencing acceptable insurance policies with Grantor incorporating such changes within sixty (60) days of receipt of such notice, this easement shall be in default without further notice to Grantee, and Grantor shall be entitled to all legal remedies.

- vii. The procuring of such required policies of insurance shall not be construed to limit Grantee's liability hereunder, nor to fulfill the indemnification provisions and requirements of this easement. Notwithstanding said policies of insurance, Grantee shall be obligated for the full and total amount of any damage, injury, or loss caused by negligence or neglect connected with this easement, or with the use of the Easement Area.

15. Compliance with Laws.

- i. Grantee agrees that, in all activities on or in connection with the Easement Area, and in all uses thereof, it will abide by and comply with, and cause Grantee Parties to abide by and comply with, all applicable Laws at Grantee's sole cost and expense, and Landlord shall not have any obligations or responsibilities to comply with any applicable Laws as to the Easement Area or any use thereby by Grantee. In particular and without limitation, Grantee shall have the sole and exclusive obligation and responsibility, at Grantee's sole cost and expense, to comply with the requirements of: (i) the San Diego Unified Port District Code, including without limitation, Article 10 (Stormwater Management and Discharge Control), (ii) the ADA, including but not limited to regulations promulgated thereunder, (iii) applicable federal, state and local laws and regulations regarding employment and labor practices, (iv) any Coastal Development Permit ("CDP") (including any conditions of approval or mitigation measures or project changes pursuant to the environmental review under the California Environmental Quality Act ("CEQA") or any other California Coastal Commission ("CCC") regulations or local, state or Federal requirements now or hereafter affecting the Easement Area or the Improvements including the use or development thereof, and (v) any other development permits or approvals required by Grantor.
- ii. In addition, Grantee shall comply with and abide by such guidelines and requirements established by Grantor from time to time pursuant to the terms of the Lease upon written notice by Grantor to Grantee. Without limitation of the foregoing, any failure of Grantee to fully satisfy and fulfill the requirements and conditions under any CDP (including any conditions of approval or mitigation measures or project changes pursuant to the environmental review under CEQA) or any other CCC regulations or local, state or Federal requirements now or hereafter affecting the Facilities, Easement Area, or Grantee's use thereof, including the use or development thereof shall constitute a default under this Easement Agreement.

- 16. Compliance with Prevailing Wage Laws.** Grantee acknowledges and agrees that: (i) it is the sole and exclusive responsibility of the Grantee, and not Grantor, to ensure that all persons and/or entities who provide any labor, services and/or equipment in connection with any construction or work of improvement on any land or water areas occupied by Grantee, shall comply with the requirements of California's prevailing wages laws (the "PWL"); and (ii) it is the sole and exclusive responsibility of Grantee, and not Grantor, to determine whether such construction or work of improvement is subject to the PWL by obtaining a determination by means that do not involve Grantor. If such construction or work of improvement is determined to be subject to the PWL, Grantee shall comply with all applicable provisions of the PWL and shall ensure that all persons and/or entities who provide any labor, services, equipment and/or materials in connection with such construction or work of improvement shall likewise comply with all applicable provisions of the PWL.

17. Hazardous Materials.

- i. Grantee shall comply with all laws regarding hazardous substances, materials or wastes, or petroleum products or fraction thereof (herein collectively referred to as “Contaminants”) applicable to use of the Easement Area. Grantee shall be liable and responsible for any Contaminants arising out of its use of the Easement Area. Such liability and responsibility shall include, but not be limited to, (i) removal from the Easement Area any such Contaminants; (ii) removal from any area outside the Easement Area, including but not limited to surface and groundwater, any such Contaminants generated as part of the operations on the Easement Area; (iii) damages to persons, property and the Easement Area; (iv) all claims resulting from those damages; (v) fines imposed by any governmental agency, and (vi) any other liability as provided by law. Grantee shall defend, indemnify and hold harmless Grantor, its officials, officers, agents, contractors, and employees from any and all such responsibilities, damages, claims, fines, liabilities, including without limitation any costs, expenses and attorney’s fees therefor. Grantor shall have a direct right of action against Grantee even if no third party has asserted a claim. Furthermore, Grantor shall have the right to assign said indemnity. This indemnity obligation shall be in addition to other indemnity and related obligations under this Easement Agreement and the TOA, and shall survive the expiration or termination of this Easement Agreement.
 - ii. If Grantee has in the past or continues to use, dispose, generate, or store Contaminants on the Easement Area, Grantor, or its designated representatives, at Grantor’s sole discretion, may at any time during the Term, enter upon the Easement Area and make any inspections, tests or measurements Grantor deems necessary in order to determine if a release of Contaminants has occurred. Grantor shall give Grantee a minimum of twenty-four (24) hours’ notice in writing prior to conducting any inspections or tests, unless, in Grantor’s sole judgment, circumstances require otherwise, and such tests shall be conducted in a manner so as to attempt to minimize any inconvenience and disruption to Grantee’s operations. If such tests indicate a release of Contaminants, then Grantor, at Grantor’s sole discretion, may require Grantee, at Grantee’s sole expense, and at any time during the Term, to have tests for such Contaminants conducted by a qualified party or parties on the Easement Area. If Grantor has reason to believe that any Contaminants that originated from a release on the Easement Area have contaminated any area outside the Easement Area, including but not limited to surface and groundwater, then Grantor, at Grantor’s sole discretion, may require Grantee, at Grantee’s sole expense, and at any time during the Term, to have tests for such Contaminants conducted by a qualified party or parties on said area outside the Easement Area.
 - iii. The tests conducted by Grantee’s qualified party shall include, but not be limited to, applicable comprehensive soil, emission, or groundwater sampling test or other procedures to determine any actual or possible contamination. Grantee shall expeditiously, but no longer than thirty (30) days after Grantor’s request for such tests, furnish to Grantor the results of said tests, sampling plans, and analysis thereof identifying any Contaminants which exceed then applicable levels permitted by federal, state, or local laws. Grantee shall report such contamination to the Grantor within seventy-two (72) hours and shall diligently proceed to identify the extent of contamination, how it will be remediated, when it will be remediated, by whom, and the cost of such remediation.
- 18. Notices.** Any notice or communications required by or otherwise given under by this Easement Agreement or applicable laws to be given or served upon Grantee may be given or served by certified or registered letter addressed to Grantee at 1309 Bay Marina Drive, National City, California 91950, and deposited in the United States mail, or may be served personally upon said Grantee or any

person hereafter authorized by it in writing to receive such notice; and that any notice or communications required by or otherwise given under this Easement Agreement or applicable laws to be served upon Grantor may be given or served by certified or registered letter addressed to Executive Director of Grantor at the Administrative Offices of the San Diego Unified Port District, Post Office Box 120488, San Diego, California 92112-0488, and deposited in the United States mail, or may be served personally upon said Executive Director or his duly authorized representative; and that any notice or notices given or served as provided herein shall be effectual and binding for all purposes upon the parties so served.

- 19. Grantee & Solar Provider Encumbrances.** Grantor acknowledges and agrees that Grantee shall have the right to grant to Solar Provider a sub-easement on, in, through, and over the Easement Area for the Permitted Uses (the "Solar Provider Easement"), provided that the terms and conditions thereof shall not be inconsistent with, and shall be subject to, this Easement Agreement and the TOA, and shall be subject to the prior written approval of Grantor, such approval not to be unreasonably withheld, conditioned or delayed. In connection therewith, and contingent upon Grantor's approval of the Solar Provider Easement and the form of notice of the Solar Provider Easement to be recorded, Grantor agrees and acknowledges that Grantee or the Solar Provider may record a notice of the Solar Provider Easement in the real property records of San Diego County, which notice shall include the signature of Grantor documenting Grantor's consent, and the recording fees of which are to be paid by Grantee or the Solar Provider.

Grantor acknowledges and agrees further that the Solar Provider shall have the right to encumber, mortgage, pledge, or collaterally assign its interest in the Solar Provider Easement, and the Facilities located on the Easement Area by mortgage, lease, deed of trust, security agreement, fixture filing, financing statements, or similar instrument or instruments (collectively, the "Security Agreements") in favor of any person(s) any or commercial financing institution(s) providing all or a portion of the financing or re-financing for the Facilities (each, a "Financing Party"). Notwithstanding the foregoing, no Security Agreement in favor of any Financing Party shall encumber or otherwise impact Grantor's ownership interest in and to the Easement Area or any other property of Grantor, and shall be limited only to Solar Provider's interest in the Solar Provider Easement or in the Facilities, and any Security Agreement which purports to encumber or otherwise impact Grantor's ownership interest in the Easement Area or any other property shall be automatically null and void. Except as set forth in this Section 19, Grantee shall have no right to transfer, assign, convey, or encumber this Easement Agreement or any of its interests hereunder.

- 20. Environmental Attributes.** With respect to the Facilities authorized hereunder, Grantee must retain all Environmental Attributes. Grantee may not sell, barter, or trade any of the Environmental Attributes. Grantee agrees to provide to Grantor an annual accounting in the month of January of each year of the quantity of energy produced by the Facilities and the quantity of energy used by Grantee. As used in this Section 20, the parties agree the following definitions shall apply:

"Environmental Attributes" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the System, the production of electrical energy from the System or the System's displacement of conventional energy generation, including, without limitation (a) any avoided emissions to the air, soil or water of pollutants such as sulfur oxides, nitrogen oxides, carbon monoxide and other pollutants; (b) any avoided emissions of carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride or other greenhouse gases that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the climate by

trapping heat in the atmosphere; and (c) the reporting rights related to such avoided emissions, including, without limitation, Renewable Energy Certificates, Green Tag Reporting Rights and renewable energy credits. Environmental Attributes do not include Environmental Incentives, net metering credits provided by the Utility, or Tax Credits. Without limiting the generality of the foregoing, Environmental Attributes include carbon trading credits, renewable energy credits or certificates, emissions reduction credits, emissions allowances, green tags, tradable renewable credits, Green-e® products, and any future credits, benefits, emissions reductions, offsets and allowances that may be proposed, enacted, determined or recognized after the Effective Date.

“Environmental Incentives” means any and all credits, rebates, subsidies, payments or other incentives that relate to self-generation of electricity, the use of technology incorporated into the Facilities, environmental benefits of using the Facilities, or other similar programs available from the Utility, any other regulated entity, the manufacturer of any part of the Facilities or any governmental authority.

“Green Tag Reporting Rights” means the rights of an entity to report the ownership of accumulated “Green Tags” in compliance with applicable laws, and to a federal or state agency or any other party, and include, without limitation, Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program.

“Renewable Energy Certificate” means a tradeable, contractual instrument that represents the full suite of attributes of 1 Megawatt-hour of renewable energy generation on the electricity grid.

“Tax Credits” means any and all (a) investment tax credits, (b) production tax credits and (c) similar tax credits, grants or other tax benefits under applicable laws relating to the construction, ownership or production of energy from the Facilities.

“Utility” means San Diego Gas & Electric Company, or any successor entity.

21. **Signature.** It is an express condition of this Easement Agreement that it shall not be complete nor effective until signed by all parties.
22. **Time of Essence.** Time is of the essence with respect to this Easement Agreement and the performance by the Parties of their respective obligations hereunder.
23. **Partial Invalidity.** If any term, provision or condition contained in this Easement Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Easement Agreement, or the application of such term, provision or condition to persons or circumstances other than those with respect to which it is invalid or unenforceable, shall not be affected thereby, and each and every other term, provision and condition of this Lease shall be valid and enforceable to the fullest extent possible permitted by law.
24. **Entire Agreement; Amendments.** This Easement Agreement constitutes the full and complete understanding and agreement between the Parties as to the subject matter contained herein, and any and all prior or contemporaneous understandings, agreements, discussions and negotiations pertaining hereto, whether written or oral, shall hereby be deemed merged and integrated into this

Easement Agreement. This Easement Agreement may not be modified except by a written instrument duly signed by or on behalf of the Parties hereto.

- 25. Grantee's Authority.** Each individual executing this Easement Agreement on behalf of Grantee hereby represents and warrants that Grantee is a duly formed and existing entity qualified to do business in the state of California and full right and authority to execute and deliver this Easement Agreement and that each person signing on behalf of Grantee is authorized to do so.
- 26. Attorneys' Fees.** Should any suit or action be commenced to enforce, protect, or establish any right or remedy of any of the terms and conditions hereof, including without limitation a summary action commenced by Grantor under the laws of the state of California relating to the unlawful detention of property, the prevailing party shall be entitled to have and recover from the losing party reasonable attorneys' fees and costs of suit, including, without limitation, any and all costs incurred in enforcing, perfecting and executing such judgment.
- 27. Governing Law.** Venue for any legal proceeding shall be in San Diego County, California. This Easement Agreement shall be construed and enforced in accordance with the laws of the State of California, without regard to its conflict or choice of law provisions that would permit the application of laws of any other jurisdiction.
- 28. Counterparts.** This Easement Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same agreement.

(SIGNATURE PAGE FOLLOWS)

(SIGNATURE PAGE TO EASEMENT AGREEMENT)

IN WITNESS WHEREOF, Grantor and Grantee have duly executed and delivered this Easement Agreement as of the Effective Date.

APPROVED AS TO FORM AND LEGALITY **SAN DIEGO UNIFIED PORT DISTRICT**
GENERAL COUNSEL

By: _____
Assistant/Deputy

By: _____
Adam Meyer
Director, Real Estate

**PASHA AUTOMOTIVE SERVICES, a
California corporation**

By: _____
Signature

PRINT NAME: _____

PRINT TITLE: _____

Attachments:
Parcel Map
Legal Description

(FOR USE BY _____)

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

On _____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

OPTIONAL

Though the information below is not required by law, it may prove valuable to person relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____

Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name _____

- Individual
- Corporate Officer -- Title(s): _____
- Partner -- Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

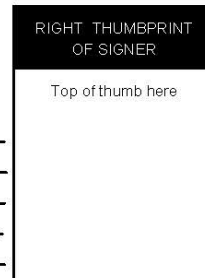
Signer is Representing: _____



Signer's Name _____

- Individual
- Corporate Officer -- Title(s): _____
- Partner -- Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer is Representing: _____



(FOR USE BY _____)

STATE OF CALIFORNIA)
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- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer is Representing: _____



Signer's Name _____

- Individual
- Corporate Officer -- Title(s): _____
- Partner -- Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer is Representing: _____

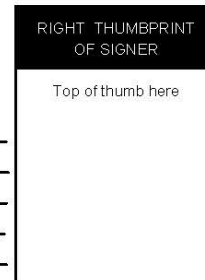


Exhibit A-1

The Easement Area

(Plat – TO BE

ATTACHED PRIOR

TO EXECUTION)

Exhibit A-2

The Easement Area

(Legal Description – TO BE
ATTACHED PRIOR TO
EXECUTION)