

ALABAMASAVES IRB SUBSIDY AGREEMENT

THIS ALABAMASAVES IRB SUBSIDY AGREEMENT (“Agreement”) is made and entered into effective as of _____, 2014 by and among **AlabamaSAVES, LLC**, an Alabama limited liability company (“AS”), whose address is 2201 South Boulevard, Suite 300, Charlotte, North Carolina 28203, **ALABAMA DEPARTMENT OF ECONOMIC AND COMMUNITY AFFAIRS** (“ADECA” or “Sponsor” and collectively, with AS, the “Sponsor Parties”), whose address is 401 Adams Avenue, Suite 580, Montgomery, Alabama 36103-5690, _____ (the “Borrower”) whose address is _____, and _____ (the “Lender”), whose address is _____. Each of the Sponsor Parties, the Borrower, and the Lender are referred to herein individually as a “Party” and collectively as the “Parties.”

WITNESSETH:

WHEREAS, Sponsor has allocated State Energy Program (SEP) funds (the “SEP Funds”) awarded to it pursuant to the American Recovery and Reinvestment Act of 2009 to the AlabamaSaves clean energy financing program (the “Program”). Under the Program, Sponsor provides loans, interest rate buy down and other credit enhancements as needed to Alabama businesses for renewable and energy efficiency projects, with AS acting as the Program Administrator for the Program.

WHEREAS, the Program provides for loans to finance approved Program projects arranged and completed by approved Program contractors that will fund certain energy efficiency improvements for commercial and industrial properties within Sponsor’s geographic boundaries.

WHEREAS, the Borrower operates a _____ business in the state of Alabama and has been approved for a loan in the principal amount of \$ _____ (the “Loan”) from the Lender to _____ (the “Project”). Sponsor Parties have approved the Project and have agreed to provide the specific loan subsidies set forth herein (the “Subsidies”) in connection with the Loan pursuant to Program objectives and requirements that will reduce the Borrower’s overall interest and credit costs in completing the Project and otherwise provide credit enhancements to facilitate Lender’s origination, funding and servicing of the Loan.

WHEREAS, as a partial inducement for Borrower to participate in the Program, the Parties are entering into this Agreement to provide the Lender with supplemental funding for the Loan to effect a buydown of the interest rate of the Loan (the “Interest Rate Buydown”) for the benefit of Borrower and Lender that will be used to reduce the interest rate of the Loan as set forth herein, as more particularly described below under Section 1.2 of this Agreement.

WHEREAS, the Borrower agrees to act in accordance with the most recent U.S. Department of Energy guidance as currently applicable in the SEP Program Notice 10-008C throughout and subsequent to its participation in the Program, as applicable, and attached hereto as Exhibit A.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I
LOAN ORIGINATION

Section 1.1 **Project and Loan Subsidy Program Approval.** The Parties acknowledge that the Program Loan Review and Governance Committee (the "Committee") has reviewed the Project specifications and, in general terms, the Borrower's credit standing and, more specifically the results of the Lender's credit review, underwrite, and approval, and based on such review, the Committee has approved payment of the Subsidies as provided for herein. The Borrower agrees that proceeds from the Loan can only be used to pay for expenses and costs specifically related to the Project.

Section 1.2 **Interest Rate Buydown Payment.** Upon the initial funding of the Loan by Lender to the Borrower, AS, on behalf of Sponsor, shall immediately direct payment of the Interest Rate Buydown to the Lender, subject to the provisions of Section 1.4. The Interest Rate Buydown has been calculated in the amount of \$ _____ (_____ Dollars and 00/100) as set forth in Exhibit B. The Lender hereby agrees that it has validated the amount of the Interest Rate Buydown as shown on Exhibit B and confirms the accuracy of the amounts shown on Exhibit B.

Section 1.3 **Application Fee.** Borrower has or will pay (contemporaneously with the execution of this Agreement) an application fee of **\$1,000** in immediately available funds, which amount shall be payable by Borrower to AS and shall be non-refundable to Borrower upon deposit. All such funds shall be considered fully earned by AS immediately upon its receipt of such funds.

Section 1.4 **Origination Fee.** An Origination Fee in the amount of _____ of the Loan amount payable by the Borrower to AS (see Exhibit B) is due in full upon funding of the Loan, or initial funding of any portion thereof. The Borrower shall be solely responsible for any and all other third-party and related closing costs, including any fees or costs payable to the Lender, in respect of the Loan or otherwise. The Origination Fee will be deducted or "net-wired" from the Interest Rate Buydown payment, wired to Lender, and Borrower expressly agrees to reimburse the Lender for this deduction in full.

Section 1.5 **Consent of Lien Holder(s).** The Lender and Borrower have the sole responsibility for assuring that the Loan is originated in accordance with any and all restrictions of current or existing lien holder requirements, and the Lender and Borrower shall provide the Sponsor Parties with any documentation reasonably requested by the Sponsor Parties, in writing, in order to verify that Borrower's current or existing lien holders have consented to the transactions evidenced by this Agreement.

ARTICLE II
ADMINISTRATION

Section 2.1 **Loan Servicing.** The Lender will be the owner of and, for and on its own behalf, act as the servicer and collection agent for the Loan, and will receive all payments on the Loan until it is paid in full. Except for the obligation to make payment of the Subsidies provider for herein, AS and the Sponsor have no further responsibility to the Lender relating to the Loan or the administration thereof.

Section 2.2 **No Liability of Sponsor Parties: Indemnification.** Except as explicitly set forth herein, the Borrower and Lender agree that the Sponsor Parties shall have no liability hereunder or under the Loan for the repayment of the Loan or for the performance of any other obligation under the Loan or work related to the Project. Borrower agrees to indemnify the Sponsoring Parties for actual (but not any consequential, special or indirect) damages due to any acts or omissions or breach of this Agreement on behalf of Borrower. This Section shall survive any expiration or termination of this Agreement. The

Borrower and Lender acknowledge and agree that, pursuant to Ala. Const. Art. I, § 14, "...the State of Alabama shall never be made a defendant in any court of law or equity."

Section 2.3 **Consent to Information Sharing.** Borrower agrees to use commercially reasonable efforts to provide to AS all applicable energy performance data and such other information as specified in Exhibit A. AS will provide to Sponsor on-going energy consumption and usage analysis as set forth in Exhibit A, but only to the extent of its receipt of information from the Borrower in this regard.

Section 2.4 **Choice of Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Alabama, without regard to any conflict of laws provision.

ARTICLE III MISCELLANEOUS

Section 3.0 **Relationship of the Parties.** This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties or the intervening parties or to impose any partnership obligation or liability upon either Party or the intervening parties and neither Party nor the intervening parties shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party or the intervening parties.

Section 3.1 **Third Party Beneficiaries.** This Agreement is intended to be solely for the benefit of the Parties hereto and is not intended to confer any benefits upon, or create any rights in favor of, any Person other than the Parties hereto.

Section 3.2 **ARRA Compliance.** The Borrower covenants and agrees to use commercially reasonable efforts to comply with the provisions of Exhibit A, as applicable, and otherwise to provide such information on a timely basis as may be required for AS and/or ADECA to comply with the referenced reporting requirements described in Exhibit A.

Section 3.3 **Severability.** If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect, such illegality, invalidity or unenforceability shall not affect or impair the legality, validity or enforceability of any other provision of this Agreement.

Section 3.4 **Expenses.** Each Party shall pay its own costs and expenses in relation to the negotiation, preparation, execution and carrying into effect of this Agreement.

Section 3.5 **Entire Agreement.** This Agreement, together with the Exhibits hereto, represents the final agreement between the Parties and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements. There are no oral agreements between or among the Parties. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement.

Section 3.6 **Amendment, etc.** Neither this Agreement nor any of its provisions may be waived, modified, amended, discharged or terminated except in writing signed by the Party against which the enforcement of the waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in writing.

[The remainder of this page has been intentionally left blank. A signature page for the parties follows this page.]

The parties hereto have caused this Agreement to be executed by their duly authorized representatives.

BORROWER:

By: _____

Print: _____

Title: _____

[Signatures Continued on Following Page]

LENDER:

By: _____

Print: _____

Title: _____

[Signatures Continued on Following Page]

ADECA:

ALABAMA DEPARTMENT OF ECONOMIC AND COMMUNITY AFFAIRS

By: _____

Print: _____

Title: _____

[Signatures Continued on Following Page]

AP:

ALABAMASAVES, LLC, AN ALABAMA LIMITED LIABILITY COMPANY

By: _____

Print: _____

Title: _____

[End Signatures]

Exhibit A

In addition to the requirements and obligation of Borrower otherwise set forth in this Agreement, Borrower agrees to comply with all of the following provisions, to the extent applicable, throughout the term of the Loan (defined terms used but not defined in this Exhibit A shall have the respective meaning given such terms in the Agreement):

1. **Reporting Requirements** - Borrower shall submit or cause to be submitted to AS, the following:
 - a. Copies of all utility bills and related performance data for the facility for which improvements are made to under loan proceeds subsidized by the Program.
 - b. Final construction approval by borrower that all work has been completed satisfactorily in accordance with agreed upon scope of work paid for through loan proceeds subsidized by the Program.
 - c. Davis Bacon compliance reports as specified by the Program on a weekly basis, as applies to laborers and mechanics being paid through the loan proceeds.
 - d. Monthly servicing/loan reports from lender demonstrating status of loan and indicating any reasons for potential default.

2. **Davis Bacon Provisions** – The acquisition and installation of the energy efficiency and/or renewable energy measures funded through Program subsidized loan proceeds are subject to the prevailing wage, contract clause and reporting requirements under the federal Davis-Bacon Act as more particularly set forth as follows:
 - a. Borrower understands that the wages to be paid laborers and mechanics employed in the construction of the Project are required to be not less than the wages prevailing in the locality in which the work shall be performed for corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor pursuant to the Davis-Bacon Act and as published in the applicable prevailing wage determination. Borrower hereby states that it has read the determination by the Secretary of Labor and is fully familiar with the same.
 - b. With the final construction approval, certifications in form satisfactory to the Program that all laborers and mechanics employed in the construction of the Project have been paid not less than the said prevailing wage rates. The applicable prevailing wage determination shall be construed to include every amendment to or modification of the determination that may be published prior to the beginning of construction.
 - c. Borrower agrees that should any Interest Rate Buydown subsidy be denied by the Program by reason of (i) the nonpayment of the said prevailing wage rates, or (ii) violation of any of the applicable labor standards provisions of the Regulations of the Secretary of Labor, the Program may withhold from Borrower all Interest Rate Buydown subsidy amounts payable to Borrower hereunder until Borrower establishes to the satisfaction of the Program that all laborers and mechanics or other persons employed in the construction of the Project have been paid said prevailing wage rates and that such violation of said Labor Standards provisions no longer exists.
 - d. Borrower shall insert any required labor standards provisions in any contract made for the construction of the Project, or any part thereof, and shall require the Contractor to insert similar provisions in each subcontract relating to the construction of the Project.

3. **Other Program Subsidy Provisions** – Borrower acknowledges that the Loan is being subsidized through the State Energy Program (the "Program") of the American Recovery and Reinvestment Act of 2009 (the "ARRA"), and Borrower agrees to comply with all requirements and procedures which either the Lender or the U.S. Department of Energy (the "DOE") may from time to time prescribe for the administration of financial assistance under the Program, including, without limitation, the provisions set forth in 10 C.F.R. 420 et seq., 10 C.F.R. 600 et seq., as well as those provisions and requirements, as applicable, set forth in Exhibit A, the terms of which are incorporated herein by reference and made a part of this Agreement.
4. **Resolution of Conflicting Conditions** - Any apparent inconsistency between Federal statutes and regulations and the terms and conditions contained in this Agreement must be referred to the Lender's Energy Division Program Manager for guidance.
5. **Federal, State and Municipal Requirements** - Borrower must obtain any required permits and comply with applicable federal, state, and municipal laws, codes, and regulations for work performed using proceeds from this Loan.
6. **Segregation of Costs** – Borrower must segregate the obligations and expenditures related to the proceeds of this Loan, and Borrower should revise its financial and accounting systems as necessary to segregate, track, and maintain the Loan proceeds apart and separate from other revenue streams which the Borrower may have. No part of the proceeds from this Loan shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowed under the terms of this Loan.
7. **Equal Employment Opportunity** – Borrower at all times shall comply with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
8. **Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c)** – Borrower shall at all times comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) (the "CAKA"), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The CAKA provides that Borrower shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the DOE.
9. **Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333)** – Borrower shall cause all contracts awarded to recipients in excess of \$2000 (for construction contracts) and in excess of \$2,500 (for other contracts that involve the employment of mechanics or laborers) to include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) (the "Act"), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous.

10. **Rights to Inventions Made Under a Contract or Agreement** – Borrower shall not use proceeds of this Loan for any experimental, developmental, or research work which might trigger obligations under 10 CFR part 600.325, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements".
11. **National Environmental Policy Act** – Borrower is restricted from taking any action using proceeds from this Loan that would have an adverse effect on the environment or limit the choice of reasonable alternatives prior to DOE providing a final NEPA determination regarding such action.
12. **Clean Air Act (42 U.S.C. 7401 et seq.), and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended** – Borrower shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Borrower shall report any violations to the DOE and the Regional Office of the Environmental Protection Agency (EPA).
13. **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)** - Borrower shall file a certification that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Borrower shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.
14. **Lobbying Restrictions** - Borrower agrees that none of the proceeds of this Loan shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in certain federal statutes and regulations.
15. **Debarment and Suspension (E.O.s 12549 and 12689)** – Borrower is not on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Upon Lender's request from time to time, Borrower shall provide a certification regarding its exclusion status and that of its principal employees.
16. **Section 508 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1368) and Section 1424(e) of the Safe Drinking Water Act, (42 U.S.C. 300h-3(e))** - Borrower agrees to comply with all applicable standards, orders or regulations issued pursuant to Section 508 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1368) and Section 1424(e) of the Safe Drinking Water Act, (42 U.S.C. 300h-3(e)). Borrower shall report and violations to the DOE and the Regional Office of the Environmental Protection Agency (EPA).
17. **Compliance with all Federal statutes relating to nondiscrimination.** Borrower agrees to comply with all Federal statutes relating to nondiscrimination, including, but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of sex; (b) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 795), which prohibits discrimination on the basis of handicaps; (c) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), which prohibits discrimination on the basis of age; (d) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (e) the Comprehensive Alcohol Abuse and

Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (f) Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (g) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (h) any other nondiscrimination provisions in the specific statute(s) made; and, (i) the requirements of any other nondiscrimination statute(s) which may apply.

18. **Borrower shall comply with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646)** which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
19. **Borrower shall comply with the provision of the Hatch Act (5 U.S.C. 1501 – 1508 and 7324 – 7328)** which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
20. **Borrower shall comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234)** which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
21. **Borrower shall comply with all environmental standards, including, without limitation, the following:** (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EP 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplain in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
22. **Borrower shall comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.)** related to protecting components or potential components of the national wild and scenic rivers system.
23. **Borrower shall comply with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.)** – Borrower shall comply with the requirements of Section 106 of the National Historic Preservation Act (“NHPA”), consistent with DOE’s 2009 letter of delegation of authority regarding the NHPA.
24. **Borrower shall comply with P.L. 93-348** regarding the protection of human subjects involved in research, development, and related activities using any proceeds from this Loan.
25. **Borrower shall comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.)** pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities using any proceeds from this Loan.

26. **Borrower shall comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.)** which prohibits the use of lead based paint in construction or rehabilitation of residential structures.
27. Borrower shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the State energy plan issued in accordance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).
28. Borrower shall assist the Lender in complying with the State Energy Program as described in the Code of Federal Regulations, Title 10, Parts 420 and guidance issued by the DOE and subsequent guidance issued by the DOE; and the Financial Assistance Rules described in Title 10, Part 600.
29. **Compliance with the Buy American Act (41 U.S.C. 10a-10c).** Borrower shall comply with sections 2 through 4 of the Act of March 3, 1933, popularly known as the “Buy American Act” (the “BAA”). The Borrower should review the provisions of the Act to ensure that expenditures made using proceeds from the Loan are in accordance with the BAA, which requires that, to the greatest extent practicable, all equipment and products purchased using proceeds of the Loan should be American-made.
30. **Compliance with Section 1605 of the ARRA.** Borrower shall not use any of the proceeds from the Loan for the construction, alteration, maintenance, or repair of a “public building” or “public work” as such terms are defined in Section 1605 of the ARRA.
31. **Preservation of open and competition and government neutrality towards contractors’ labor relations on federally funded construction projects**
 - a. Unless in conflict with State or local laws, Borrower must ensure that bid specifications, project agreements, or other controlling documents in construction contracts awarded pursuant to this agreement, or pursuant to a subaward to this agreement, do not:
 1. Require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations, on the same or other related construction project(s); or
 2. Otherwise discriminate against bidders, offerors, contractors, or subcontractors for becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one or more labor organizations, on the same or other related construction project(s).
 - b. The term “construction contract” as used in this provision means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.
 - c. Nothing in this provision prohibits bidders, offerors, contractors, or subcontractors from voluntarily entering into agreements with labor organizations.
32. **Borrower shall comply with the provisions included in Title XV and Title XVI of the ARRA.**
33. **False Claims Act** – Borrower shall promptly refer to the DOE or other appropriate Inspector General any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity or similar misconduct involving those funds.
34. **Decontamination and/or Decommissioning (D&D) Costs** – Notwithstanding any other provisions of this Agreement, neither the Lender nor the federal or state government shall be responsible for or have any obligation to the Borrower for (i) Decontamination and/or Decommissioning (D&D) of any of the Borrower’s facilities, or (ii) any costs which may be

incurred by the Borrower in connection with the D&D of any of its facilities due to the performance of any work using proceeds of this Loan, whether said work was performed prior to or subsequent to the effective date of this Agreement.

35. **Intellectual Property Provisions and Contact Information** – Borrower shall comply with the intellectual property requirements at 10 CFR 600.136(a) and (c). A list of all intellectual property provisions may be found at http://www.gc.doe.gov/financial_assistance_awards.htm.
36. **Statement of Stewardship** – The Lender’s Energy Division (the “Energy Division”) shall exercise normal stewardship in overseeing the project activities performed using proceeds from this Loan. Stewardship activities include, but are not limited to, conducting site visits; reviewing performance and financial reports; providing technical assistance and/or temporary intervention in unusual circumstances to correct deficiencies which develop during the project; assuring compliance with terms and conditions; and reviewing technical performance after project completion to ensure that the award objectives have been accomplished.
37. **Site Visits** - The Energy Division's authorized representatives have the right to make site visits at reasonable times to review project accomplishments and management control systems and to provide technical assistance, if required. Borrower must provide, and must require its contractors and subcontractors to provide, reasonable access to facilities, office space, resources, and assistance for the safety and convenience of the government representatives in the performance of their duties. All site visits and evaluations shall be performed in a manner that does not unduly interfere with or delay the work.
38. **Reporting and Registration under ARRA Section 1512** – Borrower shall comply with all reporting requirements imposed under Section 1512 of the ARRA, and its failure to comply with these reporting requirements shall be considered material noncompliance with the terms of the Loan, which may result in withholding of future payments, suspension, or termination of the Loan, and withholding of future proceeds which would otherwise be made available to the Borrower under the terms of the Loan. The Borrower’s willful failure to perform, a history of failure to perform, or unsatisfactory performance of this and/or other financial assistance awards, may also result in a debarment action to preclude future awards by Federal agencies.
39. **Publications** – Borrower is encouraged to publish or otherwise make publicly available the results of the work conducted using proceeds from the Loan. An acknowledgment of Federal support and a disclaimer must appear in the publication of any material, whether copyrighted or not, based on or developed under this project. Such publication may contain technical data and other data, including trade secrets and/or privileged or confidential information, which the Borrower does not want disclosed to the public or used by the federal government for any purpose other than the application. To protect such data, the Borrower should specifically identify each page including each line or paragraph thereof containing the data to be protected and mark the cover sheet of the application.
40. **Recovery Act Transactions** – To maximize the transparency and accountability of funds authorized under the ARRA and in accordance with 2 CFR 215.21 “Uniform Administrative Requirements for Grants and Agreements” and OMB Circular A-102 Common Rules provisions, Borrower shall maintain records that identify adequately the source and application of ARRA funds.

41. **Access to Records** - With respect to proceeds made available under the Loan, Borrower acknowledges that any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1988 (5 U.S.C. App.) or of the Comptroller General is authorized – (1) to examine any records of the Borrower; and (2) to interview any officer or employee of the Borrower regarding such transactions.
42. **Prohibition on Use of Funds** – Borrower shall not use any of the proceeds from this Loan for the construction of any casino or other gambling establishment, aquarium, zoo, golf course, swimming pool or structure housing a swimming pool.
43. **Protecting Whistleblowers** – Borrower shall not cause any of its employees to be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee’s duties, to the Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives information that the employee believes is evidence of:
 - a. gross mismanagement of such proceeds;
 - b. a gross waste of such proceeds;
 - c. a substantial and specific danger to public health or safety related to the implementation or use of such proceeds;
 - d. an abuse of authority related to the implementation or use of such proceeds; or
 - e. as violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to such proceeds.

Exhibit B
Interest Rate Buydown Payment to _____