

#### FORM OF NOTICE OF REQUEST FOR PROGRESS PAYMENT

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PacifiCorp 825 NE Multnomah, Suite 600 Portland, Oregon 97232-2315 Attention: Director of Contract Administration, C&T	
Ladies and Gentlemen:	
Reference is made to the Asset Purchase and Sale, as amended, as further amended, restated, supmodified from time to time (the "Agreement") between PacifiCon corporation (the "Buyer") and, LLC, a li (the "Seller" and together with the Buyer, collectively, the "Partiused herein but not otherwise defined shall have the respective magnetic means.	oplemented or otherwise rp, an Oregon mited liability company es"). Capitalized terms eanings set forth in the
1. The Seller hereby irrevocably requests pay Payment on the date (which is a Business Day) and in the aggreg below (the "Requested Progress Payment"):	_
Progress Payment Date:	
Progress Payment Number <sup>†</sup>	
Requested Progress Payment: <sup>‡</sup>	\$
2. Pursuant to Section 3.2(g) of the Agreement Authorized Officer of Seller, hereby certifies on behalf of the Sel	•
(a) As of the date of this request and as of the Payment, the Seller has achieved (i) all of the Milestones with M the Progress Payment Date and (ii) the Milestones for which the Payment is requested.	ilestone Dates prior to

Exhibit A-(1)

10797145v7

<sup>\*</sup> Must be submitted not less than 30 days prior to the date Sellers expect to be paid (*i.e.*, payment, net 30 days). See Agreement, § 3.1(a) (Procedures).

<sup>†</sup> Must correspond with Progress Payment Number identified on Appendix I of the Agreement.

<sup>&</sup>lt;sup>‡</sup> Must correspond with Progress Payment Amount identified opposite Progress Payment Number on Appendix I.

- (b) As of the date of this request and as of the date of the Requested Progress Payment, (i) the representations and warranties made by Seller in each Transaction Document to which it is a party (other than representations and warranties which expressly speak only as of a different date) are true and correct in all material respects, (ii) to Seller's knowledge, the representations and warranties made by each Project Party other than the Sellers in the Transaction Documents (other than representations and warranties which expressly speak only as of a different date) are true and correct in all material respects and (iii) Schedule 4.12 (d) to the Agreement [together with the certified addendum attached hereto as Annex 1] complies with the requirements of the Agreement.[§].
- (c) As of the date of this request and as of the date of the Requested Progress Payment (i) no circumstance, event or condition exists which either immediately or with the passage of time or the giving of notice, or both, permits Seller to withhold payment to Contractor or any Subcontractor under any Primary Construction Contract; (ii) no breach, violation or default has occurred and is continuing under (A) this Agreement (B) any Contractor Guaranty; (C) any Consent or (D) the Security Documents and (iii) to the extent not already set forth in this paragraph 2(c), no circumstance, event or condition exists which either immediately or with the passage of time or the giving of notice, or both, permits the Sellers' counterparty to terminate any Transaction Document.
- (d) As of the date of this request and as of the date of the Requested Progress Payment, no action, suit, proceeding or investigation by or before any Governmental Authority or any arbitrator is pending or to the Seller's knowledge threatened against or affecting a Project Party or the Project which would result in a Material Adverse Change [other than \_\_\_\_\_\_].\*\*
- (e) As of the date of this request and as of the date of the Requested Progress Payment, no Material Adverse Change has occurred [other than \_\_\_\_\_\_].
- (f) As of the date of this request and as of the date of the Requested Progress Payment, except with respect to the Deferred Governmental Approvals, all Necessary Governmental Approvals have been obtained and are in full force and effect.
- (g) As of the date of this request and as of the date of the Requested Progress Payment, each Additional Project Document, together with all amendments, supplements, and exhibits thereto and the ancillary documents relating thereto has been delivered to you prior to the date hereof or are attached hereto and each such Additional Project Document (i) has been duly authorized, executed and delivered by each Person

<sup>§</sup> Attach addendum to Schedule 4.12 (d) if necessary.

<sup>\*\*</sup> Insert if any action, suit, proceeding or investigation has been threatened by the Buyer. See Section 3.2(e) of the Agreement.

<sup>††</sup> Insert if any Material Adverse Change is the result of an act or omission by the Buyer. See Section 3.2(f) of the Agreement.

that is a party thereto, (ii) is in full force and effect, and (iii) has become subject to the Lien of the Security Documents.

- 3. The commercial invoice of Seller properly substantiating the amounts requested to be paid in connection with the Requested Progress Payment is attached hereto as Annex 2.
  - 4. The Progress Report is attached hereto as Annex 3. ‡‡
  - (a) The Requested Progress Payment set forth in paragraph 1 of this request will be applied for the purposes specified in the Progress Report.
    - (b) The Project is proceeding in accordance with the Schedule.
  - (c) As of the date hereof, Seller has reviewed the Work to the extent performed or rendered and the Materials, Equipment or supplies that have been delivered for which the Requested Progress Payment is being requested, and the amounts which have been paid or are to be paid are proper.
  - (d) No work shown in Progress Report has been paid for from the proceeds of Progress Payment made prior to the date hereof.
- 5. The Seller hereby requests that the Requested Progress Payment be paid in the amounts and to the payees, in each case as set forth on <u>Annex 4</u>.

[THE NEXT PAGE IS THE SIGNATURE PAGE]

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<sup>‡‡</sup> Progress Reports to be prepared monthly.

Very t	ruly yours,	
By:	Name: Title:	

#### Annex 1 to Exhibit A

#### ADDENDUM TO SCHEDULE 4.12 (d) TO AGREEMENT

10797145V7 Exhibit A-(5)

#### Annex 2 to Exhibit A

#### **COMMERCIAL INVOICE**

10797145V7 Exhibit A-(6)

#### Annex 3 to Exhibit A

#### PROGRESS REPORT

10797145V7 Exhibit A-(7)

#### Annex 4 to Exhibit A

#### **PAYMENT INSTRUCTIONS**

<u>Payee</u> <u>Amount</u> <u>Wire Instructions</u>

10797145v7 Exhibit A-(8)

# Exhibit B

#### FORM OF NOTICE TO PROCEED

, 200
SELLER Street City, State Zip Code
Attention:
This Notice to Proceed is delivered pursuant to that certain Asset Purchase and Sale Agreement, dated as of, 20, (as further amended, restated, supplemented or otherwise modified from time to time, the "Agreement") by and among PacifiCorp, an Oregon corporation (the "Buyer"),, a("Seller"). Capitalized terms used herein but not otherwise defined shall have the respective meanings set forth in the Agreement.  1. Buyer hereby acknowledges that each of the conditions precedent set forth in Sections 17.1(b) of the Agreement has been satisfied or waived.
2. Pursuant to, and in accordance with, Section 17.1(a) of the Agreement, Buyer hereby issues this Notice to Proceed to Seller.
Very truly yours,
PacifiCorp, an Oregon corporation
By: Name: Title:

cc: Buyer's cc's Seller's cc's

## Exhibit C

(Credit Matrix is attached to RFP)

# Exhibit D D1 - CHANGE ORDER REQUEST FORM D2 - CHANGE ORDER NOTICE FORM D3 - CHANGE ORDER FORM

# EXHIBIT D1 CHANGE ORDER REQUEST FORM

## CHANGE ORDER REQUEST

Date: \*\*

[Seller/Contractor]:	Change Request No.: *		
[Agreement/Contract] No.:	*****		
Date of [Agreement/Contract]: *******			
Pursuant to Article 13 (Change Orders), the following chafollows:	nge is requested and modifies the [Agreement/Contract] as		
Adjustment to Scope of Work			
Adjustment to Project Schedule			
Adjustment to Pricing			
[Seller/Contractor]	PACIFICORP		
ByAuthorized Signature	ByAuthorized Signature		
Name	Name		
Title	Title		

Date

Date

# EXHIBIT D2 CHANGE ORDER NOTICE FORM

## CHANGE NOTICE

Date: \*\*

[Seller/Contractor]	Change Notice No.: *
[Agreement/Contract] No.:	*****
Date of [Agreement/Contract]: ******	
Pursuant to Article 13 (Change Orders), we are issuit as follows:	ng this form to notify you of a change to the [Agreement/Contract]
Adjustment to Scope of Work	
Adjustment to Project Schedule	
Adjustment to Pricing	
	PACIFICORP
ByAuthorized Signature	By Authorized Signature
Authorized Signature	Authorized Signature
Name	Name
Title	Title

Date

Date

#### **EXHIBIT D3**

#### **CHANGE ORDER FORM**

#### **Change in Work Form**

Change Order No.:			Date Issued:		
Description (Attach Approp	priate Documentation)	:			
Cost of Change:					
Non-Manual La	abor Man-hours Co	ost:			
Non-Manual L	abor Expenses:				
Manual Labor	Man-hours Cost: _				
Material Cost:					
Subcontracts C	ost:				
	emobilization Cos				
	st:				
Other Cost (if a	any)				
Mark-up (Profi	t and Overhead):				
•	Change:				
Impact on Project Guarante	9				
Impact on Critical Path Sch					
Impact on Progress Paymer	nt Schedule:				
Impact on the Warranties:					
Anticipated Differences in	the Costs of O & M Fo	ollowing Substan	ntial Completion:		
Other Impacts on Contract:	·			<del></del>	
Revised Contract Amount (	(Including Change): _				
Owner Approval:		Co	ontractor Approval:		
By:	Date	B	y:	Date:	-
Distribution: Owner:		Contractor:			

#### **FORM OF**

#### CERTIFICATE OF AUTHORIZED OFFICER OF

[SELLER] (A [] Limited	
The undersigned, as a of [company ("Seller"), does hereby certify, represent	
1. The undersigned is a duly authorized familiar with the matters set forth below.	d of Seller, and as such is
2. The undersigned acknowledges that " <u>Certificate</u> ") in connection with the issuance of the and Sale Agreement, dated as of, 200 a otherwise modified from time to time, between Sel (the " <u>Agreement</u> ") and the consummation of the tra	as amended , restated, supplemented or ller and PacifiCorp, an Oregon corporation
3. Attached hereto as Exhibit "A" are t environmental reports, assessments and audits, incl	· • • • • • • • • • • • • • • • • • • •

4. Attached hereto as Exhibit "B" are true, correct and complete copies of all agreements, contracts or other instruments providing for the sale, lease, transfer or other disposition of the Site (including any options). To the extent such agreements have not been executed on or prior to the date hereof, true, correct and complete copies of all drafts of such agreements are attached hereto as Exhibit "B".

to air and emissions, prepared by or on behalf of Seller in connection with the Project.

- 5. Attached hereto as Exhibit "<u>C</u>" is Seller's Disclosure Letter, as updated and modified to reflect such information required to be set forth thereon as of the date hereof.
- 6. The copies of the Transaction Documents delivered pursuant to Section 17.1(b) of the Agreement, and as identified on, and attached hereto as, Exhibit "D", are true, correct and complete copies of such documents, and such Transaction Documents are in full force and effect and no term or condition thereof has been amended from the form thereof delivered to Buyer, or waived. Seller and the other parties to the Transaction Documents attached hereto as Exhibit "D" have performed or complied with all agreements and conditions contained in such Transaction Documents and any agreements or documents referred to therein required to be performed or complied with by each of them on or before the issuance of the Notice to Proceed. Subject to the foregoing, neither Seller nor any such other party to such Transaction Documents is in default in the performance or compliance with any of the terms or provisions thereof.
- 7. All conditions precedent to the issuance of the Notice to Proceed have been satisfied or have been waived by Buyer in writing (other than to the extent the satisfaction of a condition is dependent on the judgment of Buyer).

- 8. As of the date hereof and as of the date of the issuance of the Notice to Proceed, Seller has achieved (i) all of the Milestones with Milestone Dates prior to the date hereof.
- 9. The representations and warranties made by Seller in each Transaction Document to which it is a party (other than representations and warranties which expressly speak only as of a different date) are true and correct in all material respects and will be true and correct on and as of the date of the issuance of the Notice to Proceed, (ii) to Seller's knowledge, the representations and warranties made by each Project Party other than Seller in the Transaction Documents (other than representations and warranties which expressly speak only as of a different date) are true and correct in all material respects and will be true and correct on and as of the date of the issuance of the Notice to Proceed.
- 10. As of the date hereof and as of the date of the issuance of the Notice to Proceed, (i) no circumstance, event or condition exists which either immediately or with the passage of time or the giving of notice, or both, permits Seller to withhold payment under any Primary Construction Contract; (ii) no breach, violation or default has occurred and is continuing under (A) the Agreement (B) any Contractor Guaranty; (C) any Consent or (D) the Security Documents and (iii) to the extent not already set forth in this paragraph 10, no circumstance, event or condition exists which either immediately or with the passage of time or the giving of notice, or both, permits Seller's counterparty to terminate any Transaction Document.
- 11. As of the date hereof and as of the date of the issuance of the Notice to Proceed, no action, suit, proceeding or investigation by or before any Governmental Authority or any arbitrator is pending or to Seller's knowledge threatened against or affecting a Project Party or the Project which would result in a Material Adverse Change.
- 12. As of the date hereof and as of the date of the issuance of the Notice to Proceed, no Material Adverse Change has occurred.
- 13. As of the date hereof and as of the date of the issuance of the Notice to Proceed, except with respect to the Deferred Governmental Approvals, all Necessary Governmental Approvals have been obtained and are in full force and effect.
- 14. Schedule 17.1(b)(vii) to the Agreement lists all filings or recordings or equivalent standard made under the Uniform Commercial Code in each jurisdiction in which Seller was formed, have an office or in which assets of either Seller are located. There are no such filings or recordings with respect to any of the Collateral (except such filings and recordings with respect to Permitted Liens) in favor of any Person other than Buyer. Attached hereto as Exhibit "E" are copies of the search reports or equivalent standard received as a result of such search.
- 15. Attached hereto as Exhibit "<u>F</u>" are the insurance certifications and certificates that comply with the requirements of Section 27 of the Agreement.\*

Capitalized terms used herein and not otherwise defined herein are used herein with the meanings ascribed thereto in the Agreement.

<sup>\*</sup> To be attached, if required.

#### [THE NEXT PAGE IS THE SIGNATURE PAGE]

I have executed and delivered this Certificate this day of
[Seller], LLC a [] limited liability company
By: Name: Title:

#### ENVIRONMENTAL REPORTS, ASSESSMENTS, AUDITS

- 1. [Seller, please list and attach]
- 2. [others]

# AGREEMENTS, CONTRACTS OR OTHER INSTRUMENTS PROVIDING FOR THE SALE, LEASE, TRANSFER OR OTHER DISPOSITION OF THE SITE (INCLUDING ANY OPTIONS)

1. [Seller, please list and attach]

#### **SELLERS' DISCLOSURE LETTER**

#### **TRANSACTION DOCUMENTS**

- 1. Asset Purchase and Sale Agreement and Waiver
- 2. EPC Contract\*
- 3. Construction Coordination Agreement\*
- 4. Assignment and Security Agreement
- 5. Deposit Account Control Agreement
- 6. UCC-1 Financing Statements
- 7. Guaranty\*
- 8. [*others*]

#### **RECORD SEARCHES**

## **INSURANCE CERTIFICATES**\*

 $\sp{\ast}$  To be attached, if required pursuant to the Agreement.

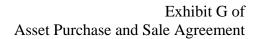
#### PacifiCorp Letter Of Credit Language

The following are the terms and conditions required by PacifiCorp when establishing a Letter Of Credit

- PacifiCorp must approve the issuing bank.
- Applicant (Supplier) name appearing in the Letter Of Credit and Agreement must be EXACTLY the same.
- If issuing bank is located outside USA it must be confirmed by US bank approved by PacifiCorp
- It is to be an irrevocable standby Letter Of Credit in favor of PacifiCorp.
- Drafts are payable at sight.
- The expiry date must be no earlier than 12 months from issuance.
- Partial drawings are permitted.
- The LOC is available by PacifiCorp's draft (s) at sight when accompanied by a copy of an invoice and one of the two following statements and signed by a representative of PacifiCorp, reading as follows:

1.	We hereby certify that Applicant has violated the terms of the Purchase
	Agreement dated
2.	Applicant has not renewed or provided a satisfactory security deposit to
	Beneficiary within 10 days of expiration of the Letter Of Credit no. XXXXX,
	dated XXXX

- Invoice (s) in excess of the amount of this Letter Of Credit are acceptable; however payment is not to exceed the aggregate amount of this letter of credit.
- In all events the issuing bank will fund the draw of the beneficiary within 24 hours of presentment.
- The LOC will provide for the beneficiary to deliver the required documents to fund the draw by either mail or courier with the address of the issuing bank stated as the point of delivery.



**Planning Consents** 

To be completed upon site selection

Exhibit H of	f
Asset Purchase and Sale Agreement	t

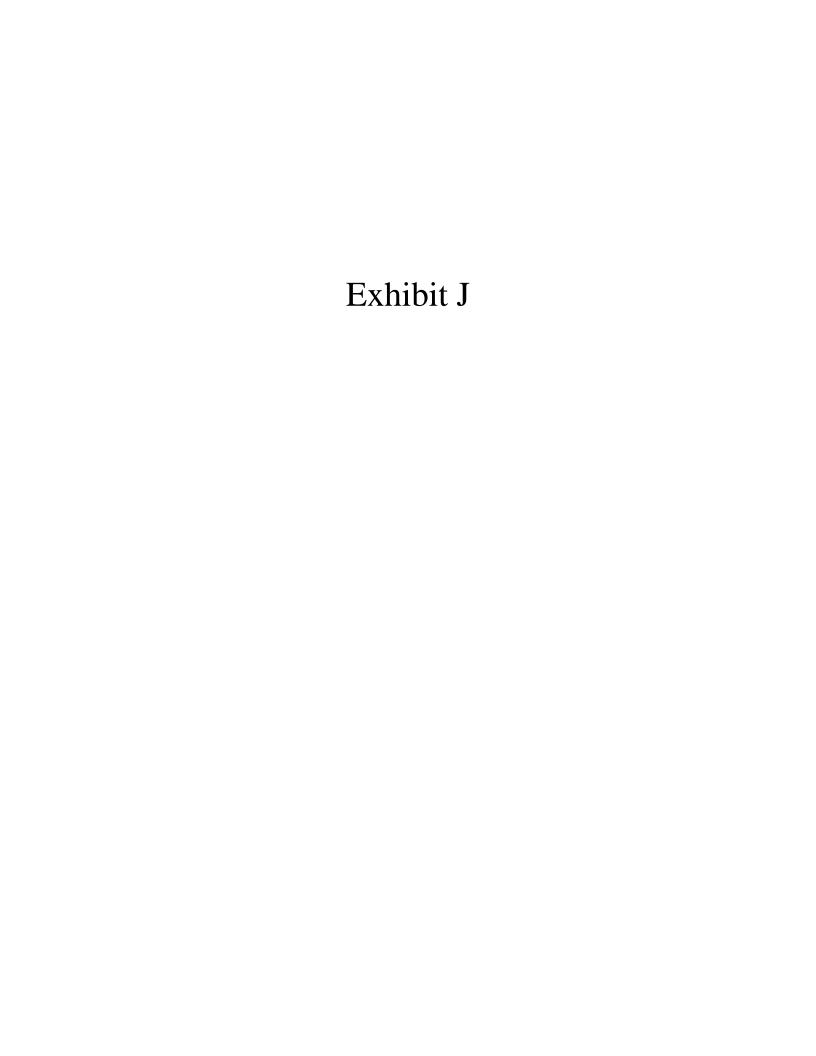
**Insurance Certificates** 

To be completed upon site selection



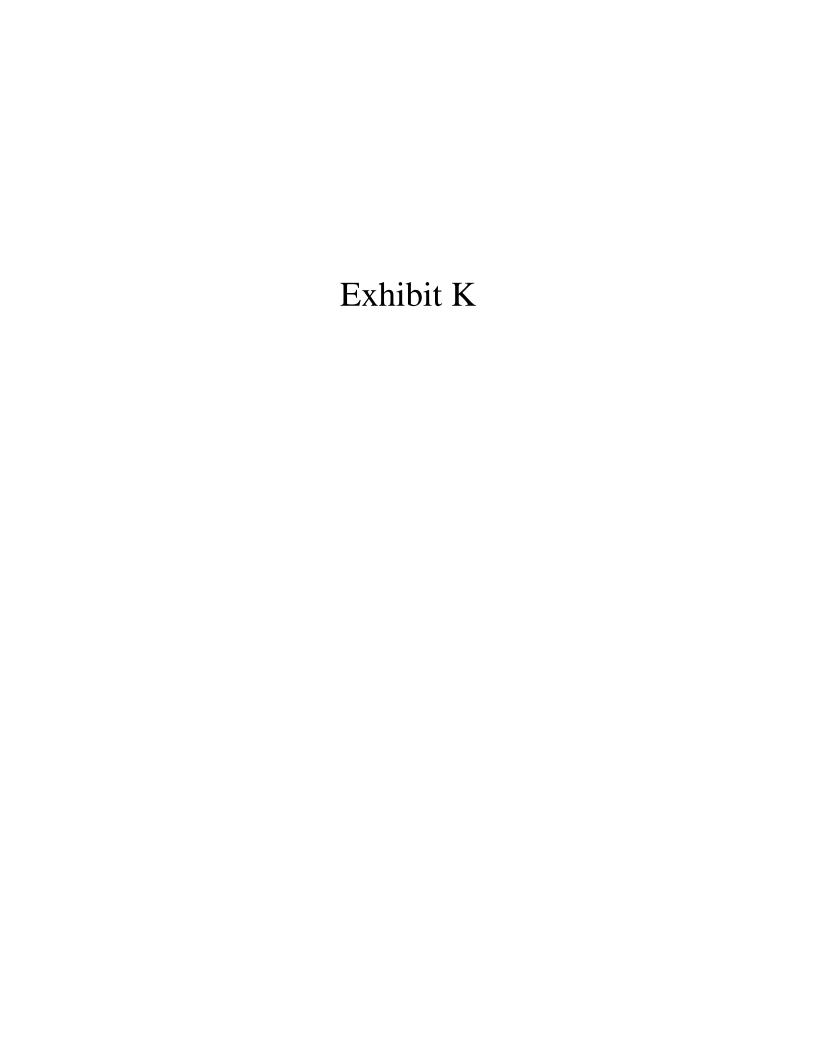
Contract No	
-------------	--

	Purchase and Sale Agreement, Contract No ("Agreement"), by and between
PacifiCorp ("Buyer") and [Seller], ("Seller").	
Seller hereby certifies, represents, and materialmen has made full payment of all costs their behalf for work, labor, services, materipremises and/or used by them in connection with the date of this progress payment.	als and equipment supplied to the foregoing
Seller further certifies, represents and costs, charges and expenses incurred by it or or and equipment supplied to the foregoing problem's work related to the Contract up to the description.	emises and/or used by it in connection with
In consideration of \$ as payment, Seller hereby unconditionally remispremises and property from all claims, liens and in connection with the performance of Primary to the date of this progress payment.	d obligations of every nature arising out of or
The foregoing shall not relieve Contract performed relating to the Contract, which by to the work, including, without limitation, warra	
Executed this day of,	
Selle	er:
By:	
Title	<b>:</b>

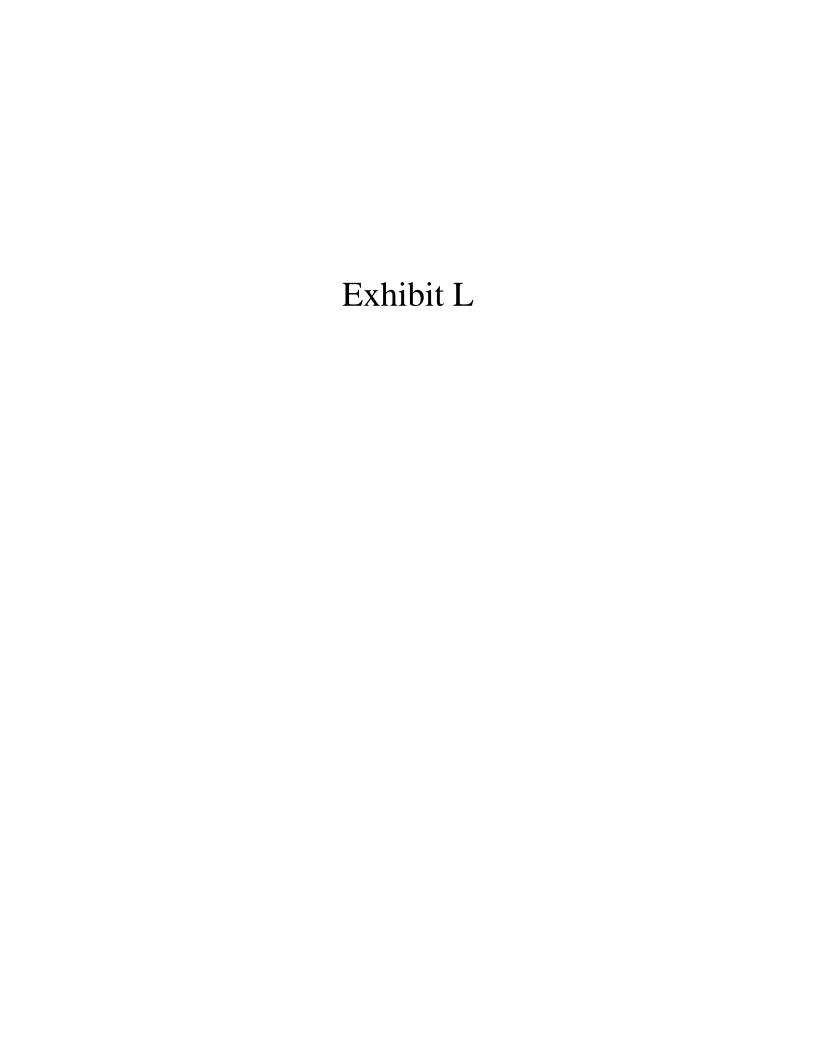


Contract No.
--------------

With reference to that certain EPC	Contract, Contract No
dated,, as amen	
and [Contractor], ("Primary Contractor").	
The Primary Contractor hereby certife subcontractors and materialmen has made further for the form of their behalf for wo supplied to the foregoing premises and/or used work related to the Contract up to the date of the	rk, labor, services, materials and equipment I by them in connection with the Contractor's
Primary Contractor further certifies, a payment of all costs, charges and expenses in services, materials and equipment supplied to connection with the Contractor's work related payment.	the foregoing premises and/or used by it ir
In consideration of \$ as payment, the Primary Contractor hereby undischarges [] premises and property nature arising out of or in connection where work relating to the Contract up to the date of the contract up to the contract up to the date of the contract up to th	perty from all claims, liens and obligations of with the performance of Primary Contractor's
The foregoing shall not relieve Contract performed relating to the Contract, which by to the work, including, without limitation, warr	• •
Executed this day of	,•
Prin	mary Contractor:
By:	
Titl	e:



With reference to that certain EPC Contract, Contract No.
dated,, by and between [PacifiCorp/Seller] and [Contractor ("Primary Contractor") and related to which the undersigned party, [Subcontractor of the contractor
("Subcontractor"), has performed certain work for Primary Contractor.
Subcontractor hereby certifies, represents, and warrants that it has received fupayment of all costs, charges and expenses incurred by it or on its behalf for work, laboraterials, materials and equipment supplied to the foregoing project and/or used in connection with its work related to the Contract up to the date of this progress payment.
Subcontractor further certifies represents, and warrants that, each of is subcontractors and materialmen has made full payment of all costs, charges and expense incurred by them or on their behalf for work, labor, services, materials and equipment supplied to the foregoing premises and/or used by them in connection with the Subcontractor's work related to the Contract up to the date of this progress payment.
Subcontractor further certifies, represents and warrants that it has made full payment of all costs, charges and expenses incurred by it or on its behalf for work, labor, service materials and equipment supplied to the foregoing premises and/or used by it in connection with the Subcontractor's work related to the Contract up to the date of this progress payment.
In consideration of \$ as payment for all work relating to this progres payment, the Subcontractor hereby unconditionally remises, releases and forever discharge []'s premises and property from all claims, liens and obligations of every natural arising out of or in connection with the performance of Subcontractor's work relating to the Contract up to the date of this progress payment.
The foregoing shall not relieve Subcontractor of its other obligations arising from it work performed relating to the Contract, which by their nature survive completion of the portion of the work, including, without limitation, warranties, guarantees and indemnities.
Executed this day of
Subcontractor:
By:
Title•



With reference to that certain EPC Contract, Contract No.
dated
Supplier hereby certifies, represents, and warrants that it has received full payment of all costs, charges and expenses incurred by it or on its behalf for work, labor, services materials and equipment supplied to the foregoing project and/or used in connection with its work related to the Contract up to the date of this progress payment.
The Supplier further certifies represents, and warrants that, each of its subcontractors and materialmen has made full payment of all costs, charges and expenses incurred by them or on their behalf for work, labor, services, materials and equipment supplied to the foregoing premises and/or used by them in connection with the Supplier's work related to the Contract up to the date of this progress payment.
Supplier further certifies, represents and warrants that it has made full payment of al costs, charges and expenses incurred by it or on its behalf for work, labor, services, materials and equipment supplied to the foregoing premises and/or used by it in connection with the Supplier's work related to the Contract up to the date of this progress payment.
In consideration of \$ as payment for all work relating to this progress payment, the Supplier hereby unconditionally remises, releases and forever discharges [
The foregoing shall not relieve Supplier of its other obligations arising from its work performed relating to the Contract, which by their nature survive completion of this portion of the work, including, without limitation, warranties, guarantees and indemnities.
Executed this,
<b>Supplier:</b>
By:
Title