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CITY OF AUSTIN - EGRSO

ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY OF AUSTIN AND SUNPOWER CORPORATION

This "Economic Development Agreement" ("Agreement") is made and entered into by and between **SunPower Corporation**, a Delaware corporation, qualified to do business in Texas, with its principal places of business in San Jose, California and Geneva, Switzerland ("SunPower"), and the **City of Austin**, a home-rule municipal corporation situated in Hays, Travis and Williamson Counties acting by and through its duly authorized City Manager or his designee ("City"). The City is authorized by Chapter 380 of the Texas Local Government Code to create programs for the grant of public money to promote state and local economic development and to stimulate local business and commercial activity.

The City has authorized the creation of an economic development program under Chapter 380 of the Texas Local Government Code and has authorized the City Manager to make a grant of money to SunPower to (i) locate a new operations center supporting its USA-based operations in Austin and make capital investments in the Desired Development Zone; (ii) invest certain amounts in certain years of this Agreement as set forth below; (iii) create new full-time jobs; and, (iv) retain certain other jobs during certain years of this Agreement ((i) through (iv) together are the "Project").

Location of SunPower's corporate operations center in Austin will further state and local economic development and stimulate business and commercial activity in Austin. SunPower accepts the City's grant and agrees to carry out the Project, the terms of which are the subject of this Agreement.

The City and SunPower ("Parties") agree as follows:

AGREEMENT

0.01 Effective Date and Term. The "Effective Date" of this Agreement is January 1, 2011. The anticipated term for this Agreement is ten (10) calendar years. This Agreement shall become enforceable upon execution and delivery by the City and SunPower. Unless this Agreement is terminated earlier in accordance with Section 3.07, SunPower's obligations to perform under this Agreement shall be completed on December 31, 2020 and the City shall make its final payment to SunPower under this Agreement on or before October 31, 2021.

I. SunPower's Obligations

1.01 Investment in the Desired Development Zone. SunPower shall establish its Austin-based operations center (the "Operations Center") at a facility located within the City's Desired Development Zone.

(a) SunPower shall ensure that after the Effective Date of this Agreement, and before December 31, 2013, SunPower or its lessor, or landlord, or owner of the real

property at which the Operations Center is located, has invested at least seven million five hundred thousand dollars ($7,500,000) in the making of leasehold improvements to SunPower's Austin-based operations center.

(b) Before December 31, 2014, SunPower shall also invest at least two million five hundred thousand ($2,500,000) in business personal property to be used at the Operations Center.

1.02 Creation and Retention of New Full-Time Jobs. SunPower shall create at least four hundred fifty (450) "New Full-Time Jobs" by December 31, 2014. A "New Full-Time Job" is a full-time job created after the Effective Date of this Agreement that is performed at SunPower's Austin-based operations center by employees of SunPower, and created as the result of the improvements to and operation of the Operations Center.

(a) SunPower shall create and retain the New Full-Time Jobs as follows:
   (i) 115 New Full-time Jobs before December 31, 2011;
   (ii) 125 New Full-time Jobs before December 31, 2012;
   (iii) 125 New Full-time Jobs before December 31, 2013; and
   (iv) 85 New Full-time Jobs before December 31, 2014;

(b) SunPower shall maintain the required New Full-Time Jobs as of December 31st of each year throughout the term of this Agreement.

(c) The expected average annual compensation, excluding health insurance and retirement benefits, of all New Full-Time Jobs is estimated to be seventy thousand dollars ($70,000).

(d) If the number of people employed in New Full-time Jobs falls below the number of jobs required by sections 1.02(a) & (b), SunPower shall re-establish the required New Full-Time jobs within ninety (90) days after December 31st of the applicable year in which the jobs were created.

(e) If SunPower fails to comply with the preceding sections 1.02(a) through (d), the City, at its sole discretion, may terminate this Agreement in accordance with Section 3.07(b) after giving SunPower notice and an opportunity to cure said failure in accordance with Section 3.03 below.

1.03 Recruitment.

(a) In addition to its own efforts, SunPower shall make commercially reasonable efforts to work with non-profit organizations such as the Austin Asian American Chamber of Commerce, the Capital City African American Chamber of Commerce, the Career Expo for People with Disabilities, the Greater Austin Hispanic Chamber of Commerce, the National Society of Black Engineers, the Out and Equal Summit, the Society of Hispanic Professional Engineers, and other appropriate organizations, to expand its pool of diverse candidates in hiring

recruitment efforts for the jobs at the Operations Center. SunPower shall adhere to its fair employment policies and practices (Exhibit "A").

(b) SunPower shall make commercially reasonable efforts to employ residents of the Austin-Round Rock Metropolitan Statistical Area for its New Full-Time Jobs.

1.04 Local Business Participation.

(a) In an effort to further stimulate and positively impact the local economy, SunPower shall use commercially reasonable efforts to provide local minority-owned, women-owned and veteran-owned businesses an equal opportunity to participate as suppliers for materials and services purchased by SunPower exclusively for use at the Operations Center. Within ninety (90) days of the effective date, SunPower shall develop and submit to the City a reasonable supplier diversity policy regarding SunPower's procurement of materials and services to be used exclusively at the Operations Center, which policy may be reasonably modified from time to time by SunPower. SunPower further agrees to adhere to this policy for the procurement of materials and services at the Operations Center. With respect to any individual procurement of materials or services for which the cost is five thousand dollars ($5,000) or less, SunPower is encouraged, but not required, to adhere to the requirements of this Section 1.04.

(b) SunPower shall comply with the applicable standards and principles of Chapters 2-9A through 2-9D of the City Code regarding minority-owned and women-owned business enterprises ("M/WBE Program Ordinance") in the design and construction of all facilities, including, but not limited to, leasehold improvements.

(c) With respect to any design or construction projects including, but not limited to, construction of any leasehold improvements for the Operations Center, SunPower, its architect and its general contractor must meet the following ethnic-specific participation goals:

	Professional Services Participation Goals	Construction Participation Goals
African-American-owned Business Enterprises	1.9%	1.7%
Hispanic-owned Business Enterprises	9.0%	9.7%
Asian-American and Native American-owned Business Enterprises	4.9%	2.3%

Women-owned Business Enterprises	15.8%	13.8%

In the event that SunPower enters into a build-to-suit lease or turn-key tenant improvement lease for the Operations Center, it is SunPower's responsibility to ensure that the landlord complies with this section for all construction and design projects relating to SunPower's move-in. If SunPower, the landlord (in the event SunPower has entered into a build-to-suit lease or turn-key tenant improvement lease), the architect and the general contractor fail to meet each of these goals, SunPower must submit documentation demonstrating its own, the landlord's, the architect's and the general contractor's good faith efforts to meet the goals. Good faith efforts are those efforts described in the City's M/WBE Program Ordinance.

(d) The City's Department of Small Business and Minority Business Resources ("SMBR") will provide a list of certified M/WBE firms to SunPower or at SunPower's request, the architect or general contractor, from which SunPower shall solicit or cause the architect and general contractor to solicit participation in the design and construction of any building or improvements, including but not limited to, leasehold improvements. SMBR will assist SunPower or at SunPower's request, the architect or general contractor, to identify potential scopes of work, establish the bid packages available, schedule and host outreach meetings, and assist SunPower, the architect or general contractor in soliciting M/WBE firms to provide bids. SunPower shall apprise SMBR when SunPower requires SBMR's services, as described in this section. SunPower is not required to solicit participation during a period in which the developer is not designing and/or constructing, but rather, requires SunPower to incorporate the standards and principles of the City's M/WBE Program Ordinance including the foregoing M/WBE Participation goals into its development process as and when such process exists.

(e) If SunPower constructs the Operations Center or enters into a build-to-suit lease or turn-key tenant improvement lease for the Operations Center, during design and construction SunPower shall provide monthly reports to SMBR to track (i) the utilization on a percentage basis of M/WBE firms in the design and construction of buildings or improvements; and (ii) a summary of SunPower's efforts to implement the standards and principles of the City's M/WBE Program Ordinance. SMBR shall provide the forms to be used by SunPower in submitting such reports.

1.05 Compliance with City Regulations. For the construction of leasehold improvements to SunPower's Austin-based operations center, or the construction or remodeling of any future facilities in the City's planning jurisdiction during the term of this Agreement, SunPower will comply with all City Code regulations, including water quality regulations in effect at the time any site plan application is filed, unless SunPower has negotiated an agreement with the City to comply with overall impervious cover limits and provide the currently required water quality controls. This means SunPower will not assert possible Chapter 245 rights to avoid compliance with water quality regulations for development of the Operations Center during the term of this

Agreement. If, during the term of this Agreement, the Operations Center development does not comply with water quality regulations in effect at the time any site plan application is filed for such development, after proper notice and opportunity to cure the deficiency in accordance with Section 3.03, below, the City may terminate this Agreement by giving SunPower written notice of its election to terminate.

1.06 Certificate of Compliance and Inspection.

(a) Beginning March 31, 2012 and continuing each year thereafter during the term of this Agreement, SunPower shall deliver to the City before March 31 of each year a Certificate of Compliance utilizing the form attached as Exhibit "B".

(b) In the Certificate of Compliance, SunPower shall warrant to the City that it is in full compliance with each of its obligations under this Agreement, including the number of New Full-time Jobs maintained by SunPower for the preceding year pursuant to Sections 1.02, above.

(c) The City, and/or its representative(s) including third-parties contracted by the City, has the right to inspect all relevant records of SunPower as are reasonably necessary to verify compliance with all requirements of this Agreement. Inspections shall be preceded by at least two week's notice in writing to SunPower. Notwithstanding any other provisions to this agreement, the City shall not publicly disclose or disseminate any information concerning SunPower or SunPower's operations that is excepted from required disclosure under Chapter 552 or the Texas Government Code or other law. This includes, without limitation, trade secrets obtained from SunPower, information concerning SunPower considered to be confidential by law, and commercial or financial information obtained from SunPower the public disclosure or dissemination of which would cause substantial competitive harm to SunPower.

1.07 Texas Government Code Chapter 2264. In accordance with Chapter 2264 of the Texas Government Code, SunPower agrees not to knowingly employ any person who is not lawfully admitted for permanent residence to the United States or who is not authorized under law to be employed in the United States ("Undocumented Worker").

(a) During the term of this Agreement, SunPower shall notify City of any complaint brought against SunPower alleging that SunPower has employed Undocumented Workers.

(b) If SunPower, or a branch, division or department of SunPower is convicted of a violation under 8 U.S.C. Section 1324a(f), the total amount of economic development grants it has received, together with interest at the rate of five percent (5%) from the date of each payment of an economic development grant, shall be repaid by SunPower to the City not later than the one hundred twentieth (120th) day after the date the City notifies SunPower of the violation.

(c) The City shall recover court costs and reasonable attorney's fees incurred if it prevails in an action brought pursuant hereto to recover past economic development

grants and interest. SunPower shall not be liable for a violation of Chapter 2264 by a subsidiary, affiliate, or franchisee, or by a person with whom SunPower contracts.

1.08 Failure to Meet Obligations. In the event that SunPower fails to fulfill its obligations under the performance of its obligations under this Agreement, and does not cure such failure after City sends notice of "Event of Default" to SunPower and expiration of the cure period described in Section 3.03, below, City may, at its option, terminate this Agreement in accordance with Section 3.07(b), below. Upon termination of this Agreement for SunPower's failure to cure an Event of Default, the City shall not be required to further pay, and SunPower shall not be entitled to receive any further payments under this Agreement. The foregoing sentence shall not release the City from its obligation to make payment for any prior year(s) of this Agreement during which SunPower did fulfill its obligations under the performance guidelines set forth in Sections 1.01 though 1.07, above.

II. City Obligations

2.01 Economic Development Incentive. As consideration for SunPower's performance of its obligations under this Agreement, City shall pay to SunPower an annual economic development grant calculated according to the following formula:

(a) The City's economic development grant shall not exceed one hundred four thousand eight hundred fifty dollars ($104,850) for any one year during this Agreement.

(b) The City's total obligation to SunPower under this Agreement shall not exceed nine hundred one thousand seven hundred ten dollars ($901,710).

(c) For SunPower obligations performed during calendar years 2011 through 2020, the City shall pay SunPower two hundred thirty three dollars ($233) for each New Full-Time Job created and retained as of December 31st of the applicable year and for each New Full-Time Job created during a prior year during the term of this Agreement and retained for the entire applicable year if SunPower has complied with all of its obligations under this Agreement.

2.02 The City's first payment shall be made on or before October 31, 2012 for SunPower's performance for the year ending December 31, 2011. The City's final payment shall be in consideration for SunPower's performance during the year ending December 31, 2020. The City shall make the payments required under this section on or before October 31 of each qualifying year. The City is not obligated to make a grant payment for any year which does not qualify (*i.e.*, the City has determined that SunPower has failed to meet the required performance measure or condition applicable to SunPower for that year) and has provided written notice to SunPower of such determination on or before October 31st of the following year and has given SunPower an opportunity to cure such failure in accordance with Section 3.03, below.

III. General Terms

3.01 Payments Subject to Future Appropriation. This Agreement shall not be construed as a commitment, issue, pledge or obligation of any specific taxes or tax revenues for payment to SunPower.

(a) All payments or expenditures made by the City under this Agreement are subject to the City's appropriation of funds for such payments or expenditures to be paid in the budget year for which they are made.

(b) The payment(s) to be made to SunPower, or other expenditure(s) under this Agreement, if paid, shall be made solely from annual appropriations of the City as may be legally set aside for the implementation of Article III, Section 52a of the Texas Constitution, Chapter 380 of the Texas Local Government Code, or any other economic development or financing program authorized by statute or home-rule powers of the City under applicable Texas law, subject to any applicable limitations or procedural requirements.

(c) In the event the City does not appropriate funds in a given fiscal year for payments due or expenditures under this Agreement, the City shall not be liable to SunPower for such payments or expenditures unless and until appropriation of the necessary funds is made; provided, however, that SunPower, in its sole discretion, shall have the right, but not the obligation, to terminate this Agreement and shall have no obligations under this Agreement for the year in which the City is unable to appropriate the necessary funds.

(d) To the extent there is a conflict between this Section 3.01 and any other language or covenant in this Agreement, this Section 3.01 shall control.

3.02 Representations and Warranties. The City represents and warrants to SunPower that the economic development program and this Agreement are within its authority, and that it is duly authorized and empowered to establish the economic development program and enter into this Agreement, unless otherwise ordered by a court of competent jurisdiction. SunPower represents and warrants to the City that it has the requisite corporate authority to enter into this Agreement.

3.03 Event of Default. If either the City or SunPower should fail in the performance of any of its obligations under this Agreement, such failure or omission to perform shall constitute an "Eve t of Default" under this Agreement. When an Event of Default occurs, the non-defaulting party shall provide the defaulting party with written notice of the alleged Event of Default (pursuant to Section 3.08, below), and allow the defaulting party a minimum period of ninety (90) calendar days after the receipt of this written notice to cure such Event of Default, prior to terminating this Agreement, instituting an action for breach of contract or pursuing any other remedy for the event of default.

3.04 Entire Agreement. This Agreement contains the entire agreement between the Parties. All prior negotiations, discussions, correspondence, and preliminary understandings between the parties and others relating to the Parties' obligations are superseded by this Agreement. This Agreement may only be modified, altered or revoked by written amendment signed by the City and SunPower.

3.05 Binding Effect. This Agreement shall be binding on and inure to the benefit of the Parties, their respective successors and assigns.

3.06 Assignment. Except as provided below, SunPower may not assign its rights or obligations under this Agreement to a third party without prior written approval of the City. The City's approval of the assignment shall not be unreasonably withheld, conditioned or delayed. Notwithstanding anything to the contrary, SunPower may assign all or part of its rights and obligations under this Agreement without the prior consent of the City to an affiliate of SunPower in which SunPower owns at least a fifty percent (50%) interest, or to a third party lender advancing funds for the acquisition, construction or operation of SunPower's operations center facility.

3.07 Termination.

(a) Termination by SunPower for convenience. In the event SunPower elects not to proceed with the Project as contemplated by this Agreement, SunPower shall notify the City in writing, and this Agreement and the obligations on the part of both Parties shall be deemed terminated and of no further force or effect.

(b) Termination for Cause. If either Party to this Agreement fails to meet its obligations under this Agreement, and the non-defaulting party provides notice of the Event of Default as set forth in Section 3.03, above, and the Event of Default is not cured within the ninety (90) calendar day cure period, this Agreement may be terminated by the non-defaulting party after expiration of the ninety (90) calendar day cure period.

3.08 Notice. Any notice and/or statement required or permitted to be delivered shall be deemed delivered by actual delivery, by facsimile with receipt of confirmation, or by depositing the same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses:

SunPower:

Director of Global Real Estate and Site Services
SunPower Corporation
3939 North First Street
San Jose, CA 95134
Phone: (408) 240-5500
Fax: (408) 240-5400
Re: Economic Development Agreement

with copies to:

General Counsel
SunPower Corporation
1414 Harbour Way South
Richmond, CA 94804
Phone: (510) 540-0550
Fax: (510) 540-0552
Re: Economic Development Agreement

and to

Brown McCarroll, LLP
Attn. Chris Hughes, Esq.
111 Congress Avenue, Suite 1400
Austin, Texas 78701
Phone: (512) 472-5456
Fax: (512) 479-1101

City of Austin:

Marc A. Ott
City Manager
301 West 2nd Street
Austin, Texas 78701
(P.O. Box 1088, Austin, Texas 78767)
Phone: (512) 974-2200
Fax :(512) 974-2833

with copies to:

L. Kevin Johns
Director, Economic Growth and Redevelopment Services Office
301 West 2nd Street
Austin, Texas 78704
Phone: (512) 974-7802
Fax: (512) 974-7825

Cathie Childs, Assistant City Attorney
301 West 2nd Street, 4th Floor
Austin, Texas 78701
Phone: (512) 974-2268
Fax: (512) 974-2894

Either party may designate a different address at any time upon written notice to the other party.

3.09 Interpretation. Each of the Parties has been represented by counsel of their choosing in the negotiation and preparation of this Agreement. Regardless of which party prepared the initial draft of this Agreement, this Agreement shall be interpreted as being drafted by both Parties in conjunction with the other, neither more strongly for, nor against any party.

3.10 Applicable Law and Venue. This Agreement is made, and shall be construed and interpreted, under the laws of the State of Texas. Venue for any dispute arising under this Agreement shall lie in the state courts of Travis County, Texas.

3.11 Severability. In the event any provision(s) of this Agreement is deemed illegal, invalid or unenforceable under present or future law(s) by a court of competent jurisdiction, it is the intention of the Parties that the remainder of this Agreement shall not be affected. It is also the intention of the Parties that in lieu of each clause and provision that is found to be illegal, invalid or unenforceable, a provision will be substituted by written amendment to this Agreement which is legal, valid or enforceable and similar in terms to the provision deemed to be illegal, invalid or unenforceable.

3.12 Paragraph Headings. The paragraph headings contained in this Agreement are for convenience only and will in no way enlarge or limit the scope or meaning of the various and several paragraphs.

3.13 No Third Party Beneficiaries. This Agreement is not intended to confer any rights, privileges or causes of action upon any third party.

3.14 No Joint Venture. It is acknowledged and agreed by the Parties that the terms of this Agreement are not intended to and shall not be deemed to create any partnership or joint venture among the parties.

(a) The City, its past, current and future officers, elected officials, employees and agents do not assume any responsibilities or liabilities to any third party in connection with the Operations Center or the design, construction or operation of any portion thereof.

(b) The City will not be responsible for reporting or paying taxes or any other similar levies for SunPower that may be required by the United States Internal Revenue Service or other State or Federal agencies.

3.15 Public and Confidential Information. Information provided by or on behalf of SunPower under or pursuant to this Agreement that SunPower considers as proprietary shall be maintained as confidential to the extent allowed by law. If proprietary financial or trade secret information is requested under the Texas Public Information Act, the City shall follow the standards set out in the Act and under the Texas Attorney General's procedures for such requests, and SunPower shall be responsible for defending the confidentiality of such information. Other records and information provided to the City and its representatives to verify compliance with this Agreement shall be available for public inspection.

3.16 Counterparts. This Agreement may be executed in several identical counterparts by the Parties on separate counterparts, and each counterpart, when so executed and delivered, shall

constitute an original instrument, and all such separate counterparts combined shall constitute one (1) original agreement.

EXECUTED by the authorized representatives of the Parties on the dates indicated below.

SUNPOWER CORPORATION,
a Delaware corporation

By: _____
Doug Richards
Executive Vice President
Human Resources and Corporate Services

Date: 12-16-10, 2010

CITY OF AUSTIN,
a home-rule municipal corporation

By: _____
Marc A. Ott
City Manager

Date: 2-14-11, ~~2010~~

EXHIBITS:

Exhibit "A":	Fair Employment Policies and Practices
Exhibit "B":	Certificate of Compliance Form

EXHIBIT "A"
Fair Employment Policies and Practices

Equal Employment Opportunity

It is SunPower's policy to provide equal employment opportunity to all applicants and employees. SunPower disapproves of, and will not tolerate, unlawful discrimination against any applicant or employee because of race, color, national origin or ancestry, gender (including pregnancy, childbirth, or related medical conditions), gender identity, age, religion, disability, family care status, veteran status, marital status, sexual orientation, or any other basis protected by local, state or federal laws.

SunPower will make reasonable accommodations for disabled employees as required by law. SunPower also provides reasonable accommodations for employees who are disabled by pregnancy, childbirth, or related medical conditions. Any employee who believes he or she may need a reasonable accommodation should contact Human Resources to discuss possible solutions.

SunPower prohibits sexual harassment and the harassment of any individual on any of the other bases listed above. For information about the types of conduct that constitute impermissible harassment and, the Company's internal procedures for addressing complaints of harassment, please refer to the Prohibition of Sexual and Other Unlawful Harassment located at 21 of this handbook.

SunPower's policies prohibiting discrimination, including harassment, apply to all areas of employment including recruitment, hiring, training, promotion, compensation, benefits, transfer, and social and recreational programs. It is the responsibility of every manager and employee to conscientiously follow these policies. Any employee having any questions regarding these policies should discuss them with Human Resources.

Employees with questions or concerns about any type of discrimination in the workplace are encouraged to bring these issues to the attention of Human Resources. Employees can raise

legitimate concerns and make good faith reports without fear of retaliation or reprisal. Anyone found to be engaging in any type of unlawful discrimination or retaliation will be subject to disciplinary action, up to and including immediate discharge.

EXHIBIT "B"
Certificate of Compliance

(Attached)

Exhibit B

Certificate of Compliance

Company Name: SUNPOWER CORPORATION.

Reporting Year: January 1 through December 31, _____ YEAR # ____ (up to 10)

1.0 Investment

1.1 The agreement states that after the effective date of this agreement and before December 31, 2014, SUNPOWER shall invest at least $7,500,000 in the making of leasehold improvements to the sales and operations office located in Austin (Section 1.01(a)).

a. $_____ has been invested in leasehold improvements to the operations center located in Austin for the reporting year ending December 31, 20____.

1.2 The agreement states that the after the effective date of the agreement and before December 31, 2014, SUNPOWER shall invest at least $2,500,000 in "Business Personal Property" that is to be installed and used at the operations center located in Austin before December 31, 2014 (Section 1.01).

a. $_____ has been invested in "Business Personal Property" installed at the operations center located in Austin for the reporting year ending December 31, 20____.

2.0 Employment

2.1 The agreement requires the creation and retention 450 New Full-time Jobs by December 31, 2014 (Section 1.02). The job creation and retention schedule is as follows (Section 1.02(a)):

(i) 115 New Full-time Jobs before December 31, 2011;
(ii) 125 New Full-time Jobs before December 31, 2012;
(iii) 125 New Full-time Jobs before December 31, 2013;
(iv) 85 New Full-time Jobs before December 31, 2014;

a. Number of New Full-time Jobs created and retained as of December 31, 20____.

Total jobs created and retained:_____

2.2 As of December 31, 20____ did the number of New Full-time Jobs and created and retained fall below the numbers required under Section 1.02(a) of the agreement?

☐ Yes ☐ No

If the company answered "Yes" to question 2.2, did the company re-establish the required numbers of New Full-time Jobs created and retained within 90 days after December 31, 20____?

☐ Yes ☐ No

2.3 Did the average annual wages, not including health insurance and retirement benefits, of the New Full-Time Jobs created and retained meet the following table (Section 1.02(d))?

Year	Average Annual Wage
2011	$ 70,000
2012	$ 70,000
2013	$ 70,000
2014	$ 70,000
2015	$ 70,000
2016	$ 70,000
2017	$ 70,000
2018	$ 70,000
2019	$ 70,000
2020	$ 70,000

☐ Yes ☐ No

3.0 Recruitment

3.1 The agreement states that SUNPOWER shall make best efforts to work with non-profit organizations such as the Austin Asian American Chamber of Commerce, the Capital City African American Chamber of Commerce, the Career Expo for People with Disabilities, the Greater Austin Hispanic Chamber of Commerce, the National Society of Black Engineers, the Out and Equal Summit, and the Society of Hispanic Professional Engineers, and other appropriate organizations, to expand its pool of diverse candidates in recruiting efforts for jobs at the sales and operations office located in Austin (Section 1.03(a)). Attach correspondence and/or documentation showing compliance with Section 1.03(a).

3.2 The agreement states that SUNPOWER shall adhere to its fair employment policies and practices (Section 1.03(a)). Attach correspondence and/or documentation showing compliance with Section 1.03(a).

3.3 The agreement states that SUNPOWER shall make best efforts to employ residents of the Austin Metropolitan Statistical Area for its New Full-time Jobs (Section 1.03(b)). Attach correspondence and/or documentation showing compliance with Section 1.03(b).

4.0 Local Business Participation

4.1 The agreement states that SUNPOWER shall use commercially reasonable efforts to provide local small businesses and minority-, women- and veteran-owned businesses, an equal opportunity to participate as suppliers for materials and services purchased by SUNPOWER exclusively for use at the company's operations center located in Austin and that SUNPOWER shall adhere to the terms of a supplier diversity policy (Section 1.04(a)). Attach correspondence and/or documentation showing compliance with Section 1.04(a).

4.2 The agreement states that SUNPOWER shall comply with the applicable standards and principles of the City's M/WBE Program Ordinance in the design and construction of the company's operations center located in Austin, including, but not limited to, leasehold improvements (Section 1.04 (b)). Attach correspondence and/or documentation showing compliance with Section 1.04 (b).

4.3 The agreement states that with respect to any design or construction projects at the company's Austin based operations center including, but not limited to, leasehold improvements, SUNPOWER, it's architect and general contractor must meet the following ethnic-specific participation goals Section 1.04 (c)):

	Professional Services Participation Goals	Construction Participation Goals
African-American-owned Business Enterprises	1.9%	1.7%
Hispanic-owned Business Enterprises	9.0%	9.7%
Asian-American and Native American-owned Business Enterprises	4.9%	2.3%
Women-owned Business Enterprises	15.8%	13.8%

Attach correspondence and/or documentation showing compliance with Section 1.04 (c). If SUNPOWER, the architect and the general contractor fail to meet each of these goals, SUNPOWER must submit documentation demonstrating its own, the architect's and general contractor's good faith efforts to meet the goals. The good faith efforts are those efforts as described in the City's M/WBE Program Ordinance.

5.0 Incentive Payment Request

5.1 The agreement requires an economic development incentive payment not to exceed $104,850 for any one year and a total payment not to exceed $901,710 (Sections 2.01(a) and (b)). The City's first payment shall be made on or before October 31, 2012 for the company's performance during the year ending December 31, 2011. The City's final payment shall be in consideration for the company's performance during the year ending December 31, 2020. The City shall make payments required under this section before October 31 of each year this agreement is in effect.

For SUNPOWERS's performance during calendar years 2011 through 2020, the economic development incentive shall be $233 per New Full-Time Job created and retained, not to exceed $104,850 for any one year during this Agreement (Section 2.01 (a)) and not to exceed $901,710 during the term of the agreement (Section 2.01 (b)).

5.2 Total Request for year 20____ based on _____ New Full-Time Jobs created and retained: $ _____

I, the authorized representative for SUNPOWER, hereby certify that the above information is correct and accurate pursuant to the terms of the agreement. I further certify that SUNPOWER complied fully with the Chapter 380 Economic Development agreement during the reporting year, including Section 1.05 regarding Compliance with City Regulations and Section 1.07 regarding Texas Government Code Chapter 2264.

Signature:

_____

Printed Name:

_____

Title (Chief Financial Officer or equivalent):

_____

Date: _____