

## MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT (hereinafter "MOA") is made and entered into as of the 10<sup>th</sup> day of March, 2023, by and between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT (LFUCG)**, an urban county government of the Commonwealth of Kentucky pursuant to Chapter 67A of the Kentucky Revised Statutes, 200 East Main Street, Lexington, Kentucky 40507 (hereinafter "LFUCG") acting by and through the Division of Environmental Services, and **SOLAR ENERGY SOLUTIONS (SES)**, whose office is located at 1038 Brentwood Court, Suite B, Lexington, KY 40511 (hereinafter referred to as "Installer") with regard to the specific roles and responsibilities of the **Solarize Lexington Program**.

### WITNESSETH:

**WHEREAS**, LFUCG recognizes that becoming more energy efficient is key to Lexington-Fayette County becoming a more resilient and sustainable community; and

**WHEREAS**, LFUCG becoming more energy efficient will benefit our community by saving our citizens money, keeping money in our local economy, creating jobs, reducing emission and air pollution, improving public health and protecting the environment; and

**WHEREAS**, LFUCG recognizes the importance of programs to enhance sustainability of Lexington-Fayette County per Council Resolution 220-2012; and

**WHEREAS**, the Solarize Lexington Program is designed to promote and encourage the use of photovoltaic arrays (PV) on residential and non-residential properties; and

**WHEREAS**, the Installer will install PV on properties of property owners who sign-up through and qualify to participate in the Program;

**NOW, THEREFORE**, it is mutually agreed by and between the LFUCG and SES hereto as follows:

### I. LFUCG'S SERVICES AND RESPONSIBILITIES:

LFUCG hereby agrees to:

- A. Designate the Sustainability Program Manager Senior as primary contact for Solarize Lexington;
- B. Arrange weekly check in meetings with Installer;
- C. Pre-screen Program applicants and forward qualifying applicants' information to the Installer;
- D. Assist in communicating with Program participants;
- E. Continually recruit participants to join the Program until the sign-up deadline;

- F. Installer acknowledges and agrees that LFUCG and the Solarize Lexington Team are not parties to and have no obligations under the contracts between the Installer and the Program participants.

## **II. INSTALLER'S SERVICES AND RESPONSIBILITIES:**

Installer hereby agrees to:

- A. Installer Proposal and Installation Services:** Installer agrees to
1. Honor the terms of the accepted Program proposal, including the participant pricing. Refer to Response Form Part 2 (Proposed Pricing) for participant pricing provided in the Program proposal. Any changes to the project design (pricing, equipment, service offering, etc.) must be submitted in writing to the Solarize Lexington Team. The Solarize Lexington Team must review and approve said changes.
  2. Call and schedule site visits with each qualifying applicant within one week of receiving participant information.
  3. Prepare individualized proposals for each of the participants based on the specifications (including equipment and warranties) and prices in Installer's approved proposal. It is understood that all proposals and contracts' base price include all elements necessary to design and construct the system including, but not limited to, engineering design, permitting, interconnection requirements, and, if desired by participant, assist with Solar Renewable Energy Credits ("SREC") registration. Each individualized proposal shall include the following:
    - a. The installed system cost and cost per Watt (\$/W);
    - b. Any milestone payments required, and clear indication of when payments are due;
    - c. System size expressed in kW (DC);
    - d. Proposed tilt and azimuth of the solar array(s);
    - e. Estimated annual production of the proposed solar array(s) and the resulting percentage of annual electricity consumption the system is expected to offset;
    - f. List of any applicable adders and description of reason/purpose for adder. Breakdown of available state and federal incentives; and
    - g. Who the system owner is.
  4. Provide a preliminary proposal to Program participants within one week of contact and schedule Installer's site visit for interested participants.
  5. Email the Solarize Lexington Team copies of the first three (3) proposals issued to Program participants and agree to share any other Program proposals or information that may be requested in the future for the duration of the Program.
  6. Respond to Program participants' questions and concerns in a reasonable timeframe;
  7. Prepare individualized contracts for Program participants.
  8. Implement the Project within the deadlines outlined in Section IV of this Agreement;

9. Obtain and maintain insurance coverage in amounts equal to or higher than what is required per the Program's requirements.
10. Complete all permits, registrations, interconnection agreements, and SREC registrations (if desired by participant) for each Program participant and assist the Program participant with acquiring the approved and final documentation for all inspections and interconnection;
11. Installer hereby consents to the disclosure, by each Program participant, to the Solarize Lexington Team of any and all contracts and/or communications between such Program participant and the Installer; and Solarize Lexington Team may communicate with the Installer about the status, progress, and/or implementation at each Program participant site. The Solarize Lexington Team may choose to conduct a third-party quality control assessment on one or more completed and interconnected installations chosen at random. Inspections would include a visual assessment of components and workmanship and be performed by an experienced inspection contractor selected independently by the Solarize Lexington Team. Any inspection costs would be at LFUCG's expense. The Solarize Lexington Team can provide assessment criteria to Installer upon request.

**B. Information Sharing and Reporting:** Installer agrees to

1. Designate a primary contact;
2. Participate in weekly check-in meetings organized by the Solarize Lexington Team;
3. Provide the Solarize Lexington Team with weekly summary reports of participant sign-ups and progress information including, but not limited to participant name, address, installation schedule, system size, contract amount, estimated annual production in kilowatt hours (kWh), and photographs of completed installations in advance of the weekly check-in calls.
4. Submit a full report to the Solarize Lexington Team at the close of the Program that clearly details the status and outcomes of the leads generated through the Program.

**C. Marketing and Outreach:** Installer agrees to assist the Solarize Lexington Team to drive community adoption of PV projects. Installer agrees to:

1. Work directly with the Solarize Lexington Team in the execution of outreach and marketing efforts used to increase attendance at educational workshops and participation in the Program;
2. Request approval from the Solarize Lexington Team for all marketing materials developed to promote the Solarize Lexington Program in advance of distribution. This includes, but is not limited to, flyers, blog posts, website content, social media posts, door hangers, press releases, the use of the Solarize Lexington's logo, or any other communications related to the Program;
3. Notify the Solarize Lexington Team in advance and collaborate on any press releases, events, or news conference concerning the Program. All media

produced by the Installer in promotion of the Program is subject to the Solarize Lexington Team approval.

- D. Participant Sign-up and Tracking:** Both Parties agree that all leads generated by campaign related outreach will be stored in a location accessible by both the Solarize Lexington Team and the Installer.

### **III. DURATION OF AGREEMENT:**

- A. This Agreement shall cover work performed from March 8, 2023, through March 8, 2024.
- B. This Agreement may be terminated by submitting thirty (30) days' written notice to the non-terminating party of such intent to terminate. Should either Party terminate this Agreement, Installer's access to the Solarize Lexington Program participant sign-up information and leads shall be immediately revoked.

### **IV. GOVERNING LAW:**

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. In the event of any proceedings regarding this Agreement, the Parties agree that the venue shall be the state courts of Kentucky or the U.S. District Court for the Eastern District of Kentucky, Lexington Division. All Parties expressly consent to personal jurisdiction and venue in such Court for the limited and sole purpose of proceedings relating to this Agreement or any rights or obligations arising thereunder. Service of process may be accomplished by following the procedures prescribed by law.

### **V. ENTIRE AGREEMENT:**

This Agreement constitutes the entire agreement and understanding of the Parties with respect to the subject matter set forth herein and this Agreement supersedes any and all prior and contemporaneous oral or written agreements or understandings between the Parties relative thereto. No representation, promise, inducement, or statement of intention has been made by the Parties that are not embodied in this Agreement.

### **VI. MISCELLANEOUS PROVISIONS:**

1. Installer shall familiarize itself with and shall at all times comply with all federal, state, and local laws, ordinances, and regulations that in any manner affect the services of this agreement.
2. Installer agrees to indemnify, defend, and hold harmless LFUCG for all claims and liabilities of whatever nature directly or indirectly arising out of, caused by, or

attributable to the performance of this MOA by Installer, its employees, agents, representatives, and volunteers.

3. This MOA shall not create a contractual relationship with or right of action in favor of any third party against either LFUCG or Installer.
4. If any term or provision of this MOA shall be found illegal or unenforceable by a court of competent jurisdiction, such term or provision shall be deemed stricken and this MOA shall remain in full force.
5. The failure of either Party to enforce any right reserved to it in this MOA shall not be a waiver of any such right to which the party is entitled, and a waiver by either Party of any breach of any provision of this MOA shall not constitute a continuing waiver or waiver of any subsequent breach by either Party of either the same or another provision of this MOA.

