

## Exhibit A

### ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "Agreement") is entered into as of the date of full execution (the "Effective Date"), by and between the City of Portland, Oregon, a municipal corporation, by and through Portland Parks & Recreation, (the "Buyer"), and East Portland Solar, LLC, an Oregon limited liability company (the "Seller").

#### RECITALS

- A. The Seller owns, operates and maintains a Solar Facility (as defined in Section 1.1.1 hereto).
- B. The Seller was given the right to install, operate, and maintain the solar facility on the Buyer's property and to sell the generated electricity to the Buyer pursuant to that Solar Facility License Agreement, dated October 24, 2008. That agreement also outlined a means for Buyer to purchase the solar facility.
- C. The Seller wishes to sell, transfer and convey to the Buyer substantially all of the assets used in the operation of the Solar Facility, and the Buyer desires to acquire substantially all of the assets in the operation of the Solar Facility, subject to the terms and conditions set forth in this Agreement.

#### AGREEMENT

##### 1. Purchase and Sale.

1.1 Purchase of Assets. Subject to the terms and conditions of this Agreement, at Closing, the Seller shall assign, transfer, convey, and deliver to the Buyer, and the Buyer shall acquire and receive from the Seller, all rights, title and interest of the Seller in and to the following (the "Purchased Assets"):

1.1.1 The approximately 86 kW photovoltaic system with an estimated annual energy output of 88,000 kWh and the solar thermal system with a estimated annual output of 566 therms per year at the East Portland Community Center, located at 740 SE 106<sup>th</sup> Ave. Portland, Oregon 97216.

1.1.2 Solar Facility, a general description of which, including equipment and other personal property, is provided on Schedule 1.1.1 hereto (the "Solar Facility");

1.1.3 The contracts, commitments, and agreements to which the Seller is a party described on attached Schedule 1.1.2 (the "Assumed Contracts");

1.1.4 To the extent assignable, all permits used by the Seller that relate to the Solar Facility (including all permits necessary to conduct the Solar Facility as currently conducted) and all rights, and incidents of interest therein, including, without limitation, those permits described on attached Schedule 1.1.3 (the "Purchased Permits");

1.2 Excluded Assets. Notwithstanding anything in this Agreement to the contrary, all accounts receivable and cash of the Seller accrued through the Closing Date, as well as the rights, properties, and assets described on attached Schedule 1.2, if any (together, the "Excluded Assets"), shall be retained by the Seller and shall not be included in the Purchased Assets.

1.3 Assumed Liabilities. Subject to the terms and conditions of this Agreement, at Closing, the Buyer shall assume, pay, and perform in a timely manner and in full only the following liabilities of the Seller (the "Assumed Liabilities"), and no other liabilities:

1.3.1 Assumed Contracts. All liabilities in respect of the Assumed Contracts, but only to the extent that such Liabilities thereunder are required to be performed after the Closing Date; and

1.3.2 Specifically Assumed Liabilities. Those liabilities of the Seller described on attached Schedule 1.3.2 ("Specifically Assumed Liabilities").

1.4 Purchase Price and Payment. The aggregate purchase price for the Purchased Assets shall be twenty-three thousand dollars (\$23,000) (the "Purchase Price"), plus the assumption of the Assumed Liabilities. The Buyer shall pay the Purchase Price to Seller at the Closing in cash, by wire transfer of immediately available funds.

1.5 Allocation of Purchase Price. The Seller and Buyer agree to allocate the Purchase Price among the Purchased Assets for all purposes (including tax and financial accounting) in accordance with Schedule 1.5 hereto. Buyer and Seller shall file all tax returns (including amended returns and claims for refund) and information reports in a manner consistent with such allocation.

1.6 Withholding Tax. The Buyer shall be entitled to deduct and withhold from the Purchase Price all taxes that the Buyer may be required to deduct and withhold under any provision of tax law. All such withheld amounts shall be treated as delivered to the Seller under this Agreement. Notwithstanding the above, the Parties acknowledge that the City of Portland is an Oregon municipal corporation and tax exemption entity.

1.7 As Is, Where Is. Except as expressly set forth in this Agreement to the contrary, Buyer is expressly purchasing the Purchased Assets in their existing condition "AS IS, WHERE IS, AND WITH ALL FAULTS." All records pertaining the Solar Facility, including those for construction, maintenance, inspection, or repair, have been provided to Buyer for due diligence prior to Closing.

2. Closing. Subject to the terms and conditions of this Agreement, the closing of the transaction contemplated by this Agreement (the "Closing") shall occur remotely via the exchange of documents and signatures to this Agreement together with payment of the Purchase Price by Buyer in accordance with Section 1.4 (the date of the Closing shall be the "Closing Date"). Subject to the terms and conditions of this Agreement, as of the Closing, (i) the Seller hereby fully assigns, transfers and conveys the Purchased Assets to Buyer, and (ii) Buyer hereby assumes and agrees to pay, perform and discharge all Assumed Liabilities. On the Closing Date, Seller will notify Buyer by email when receipt of the Purchase Price has occurred. Following Closing, the Parties will cooperate to provide any additional instruments of transfer, assumption, filing or documents, in form and substance reasonably satisfactory to Buyer, as may be required to give effect to this Agreement.

3. Representations and Warranties of Seller. Except as set forth or otherwise disclosed in this Agreement, or as set forth in the disclosure schedule delivered by the Seller to the Buyer concurrently with this Agreement, the Seller represents and warrants to the Buyer that each of the statements contained in this Section 3 are true and correct as of the date of this Agreement and as of the Closing Date.

3.1 Organization and Authority of Seller: Enforceability. The Seller is a limited liability company duly organized and validly existing under the laws of the State of Oregon, and has the requisite power and authority to carry on the business of owning and operating the Solar Facility as it is now being conducted. Seller has full right, capacity, power to enter into this Agreement and the documents to be delivered hereunder, to carry out its obligations hereunder and to consummate the transactions contemplated hereby. The execution, delivery and performance by Seller of this Agreement and the documents to be delivered hereunder and the consummation of the transactions contemplated hereby have been duly authorized by all requisite corporate action on the part of Seller. This Agreement and the documents to be delivered hereunder have been duly executed and delivered by Seller, and (assuming due authorization, execution and delivery by Buyer) this Agreement and the documents to be delivered hereunder constitute legal, valid and binding obligations of Seller, enforceable against Seller in accordance with their respective terms

3.2 Title to Assets. The Seller owns and has good title to the Purchased Assets, free and clear of any mortgage, pledge, lien, charge, security interest, claim or other encumbrance.

4. Representations and Warranties of Buyer. Except as set forth or otherwise disclosed in this Agreement, the Buyer represents and warrants to the Seller that each of the statements contained in this Section 4 is true and correct as of the date of this Agreement and as of the Closing Date:

4.1 Organization and Authority of Buyer: Enforceability. The Buyer is a municipal corporation duly organized and validly existing under the laws of the state of Oregon. Buyer has full power and authority to enter into this Agreement and the documents to be delivered hereunder, to carry out its obligations hereunder and to consummate the transactions contemplated hereby. The execution, delivery and performance by Buyer of this Agreement and the documents to be delivered hereunder and the consummation of the transactions contemplated hereby have been duly authorized by all requisite action on the part of Buyer. This Agreement and the documents to be delivered hereunder have been duly executed and delivered by Buyer, and (assuming due authorization, execution and delivery by Seller) this Agreement and the documents to be delivered hereunder constitute legal, valid and binding obligations of Buyer enforceable against Buyer in accordance with their respective terms.

5. Indemnification.

5.1 Survival. All representations and warranties contained herein shall survive the Closing and shall remain in full force and effect until the date that is one (1) year from the Closing Date.

5.2 Indemnification by Seller. Seller shall defend, indemnify and hold harmless Buyer and its affiliates from and against all claims, judgments, damages, liabilities, settlements, losses, costs and expenses, including attorneys' fees and disbursements, arising from or relating to:

5.2.1 Any inaccuracy in or breach of any of the representations or warranties of Seller contained in this Agreement or any document to be delivered hereunder; or

5.2.2 Any breach or non-fulfillment of any covenant, agreement or obligation to be performed by Seller pursuant to this Agreement or any document to be delivered hereunder.

5.3 Indemnification by Buyer. Subject to the Oregon Constitution and the Oregon Tort Claims Act, each to the extent applicable, Buyer shall defend, indemnify and hold harmless Seller, its affiliates and their respective stockholders, directors, officers and employees from and against all claims, judgments, damages, liabilities, settlements, losses, costs and expenses, including attorneys' fees and disbursements, arising from or relating to:

5.3.1 Any inaccuracy in or breach of any of the representations or warranties of Buyer contained in this Agreement; or

5.3.2 Any breach or non-fulfillment of any covenant, agreement or obligation to be performed by Buyer pursuant to this Agreement or any document to be delivered hereunder; or.

6. General Provisions.

6.1 Notices. All notices and demands shall be given in writing either by personal service or by e-mail or by registered or certified mail, postage prepaid, and return receipt requested or by Federal Express or other national courier service. Notice will be considered given (a) when delivered by hand with written confirmation of receipt; (b) on the date sent by e-mail; (c) two (2) days after mailed or (d) when delivered if provided by Federal Express or other national courier service. Notices must be addressed as set forth below:

Seller: East Portland Solar, LLC  
Attn: Evan Ramsey  
Bonneville Environmental Foundation  
1500 SW First Avenue  
Portland, Oregon 97204  
Email: eramsey@b-e-f.org

The Buyer: Portland Parks & Recreation  
Attn: Property Manager  
1120 SW 5<sup>th</sup> Avenue #1302  
Portland, OR 97204  
Email: Parks.PropertyGroup@portlandoregon.gov

or to such other address as such party shall have designated by notice so given to each other party.

6.2 Governing Law: Jurisdiction. This Agreement and all disputes under this Agreement will be governed by and construed and enforced in accordance with the internal laws of the State of Oregon without regard to principles of conflict of laws. The exclusive jurisdiction for any action arising under this Agreement shall be the state or federal courts located in Multnomah County, Oregon.

6.3 Waiver of Jury Trial. Each party acknowledges and agrees that any controversy which may arise under this Agreement is likely to involve complicated and difficult issues and, therefore, each such party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to this Agreement or the transactions contemplated hereby.

6.4 Severability. If any one or more of the provisions contained in this Agreement shall be invalid, illegal, or unenforceable in any respect for any reason, the validity, legality, and enforceability of any such provision in every other respect and of the remaining provisions of this Agreement shall not be in any way impaired.

6.5 Amendment. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties hereto.

6.6 Waiver. Any waiver of the requirements of this Agreement will be valid only if set forth in an instrument in writing signed on behalf of such party. Any such waiver will be effective only in the particular instance in which it is given.

6.7 Assignment and Binding Effect. No party will assign this Agreement, in whole or in part, whether by operation of law or otherwise, without the prior written consent of the other parties hereto, and any such assignment contrary to the terms hereof shall be null and void and of no force and effect. Subject to any provisions hereof restricting assignment, this Agreement will be binding upon and will inure to the benefit of the parties hereto and their respective successors, heirs, executors, administrators, legal representatives, and assigns.

6.8 Entire Agreement. This Agreement (including the exhibits and schedules hereto and the documents and instruments referred to herein), constitutes the entire agreement and supersedes all other prior agreements and understandings, both written and oral, among the parties, or any of them, with respect to the subject matter.

6.9 Counterparts and Electronic Signatures. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one instrument. Each counterpart may consist of a number of copies, each signed by less than all, but together signed by all, the parties hereto. Any counterpart may be executed and delivered by means of a telecopy or other facsimile transmission. The parties agree that they may conduct this transaction, including any amendments, by electronic means, including electronic signatures.

6.10 Advice of Counsel; Neutral Construction. Each party acknowledges that such party is free to seek independent professional guidance or counsel with respect to this Agreement, and have sought such guidance or counsel or, at their discretion, declined to do so. Accordingly, this Agreement shall be given neutral construction regardless of the party who drafted it.

6.11 Cumulative Remedies. All rights and remedies provided in this Agreement, including all rights and remedies set forth in Section 5 above, are cumulative and not exclusive, and the exercise by either party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any other agreement between the parties or otherwise.

6.12 Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to or shall confer on any person other than the parties hereto and their respective

successors or assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and effective as of the Effective Date.

**THE BUYER:**

**CITY OF PORTLAND**

By: \_\_\_\_\_  
Adena Long, Director Portland Parks &  
Recreation

Date: \_\_\_\_\_

Approved as to Form:

By: \_\_\_\_\_  
Name:  
Title: City Attorney

Date: \_\_\_\_\_

**THE SELLER:**

**EAST PORTLAND SOLAR, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_

## **SCHEDULE 1.1.1**

### **THE SOLAR FACILITY**

General description of the Solar Facility:

All East Portland Solar, LLC. equipment at the project site and comprising the East Portland Solar, LLC Photovoltaic and Solar Thermal Project up to the point of interconnection with East Portland Community Center system, including 460 solar pv panels, 6 solar thermal collectors, inverters, racking, foundations, hardware, wiring, conduit, floats, flow meters, storage tanks, disconnects, panelboards, switchgear, metering, data acquisition service equipment and data cabling, educational display kiosk, and other appurtenant site-located equipment that is the property of East Portland Solar, LLC.

## **SCHEDULE 1.1.2**

### **ASSUMED CONTRACTS**

1. Solar Facility License Agreement between Commercial Solar Ventures, LLC and City of Portland, dated as of October 24, 2008. Commercial Solar Ventures, LLC assigned its interest to this agreement to East Portland Solar, LLC pursuant to that certain Assignment, Assumption and Acknowledgement of Solar Facility Site License Agreement between East Portland Solar, LLC and Commercial Solar Ventures, LLC, dated as of May 11, 2009.
2. Photovoltaic Project Agreement between Energy Trust of Oregon, Commercial Solar Ventures and the City of Portland Parks Department effective as of October 31, 2008. Commercial Solar Ventures, LLC assigned its interest to this agreement to East Portland Solar, LLC pursuant to that certain Assignment, Assumption and Acknowledgement of Photovoltaic Project Agreement between East Portland Solar, LLC, Commercial Solar Ventures, LLC, Energy Trust of Oregon, Inc. and the City of Portland, dated as of May 11, 2009.



**SCHEDULE 1.1.3**  
**PURCHASED PERMITS**

None.

**SCHEDULE 1.2**  
**EXCLUDED ASSETS**

None

**SCHEDULE 1.3.2**  
**SPECIFICALLY ASSUMED LIABILITIES**

None.

**SCHEDULE 1.5**

**PURCHASE PRICE ALLOCATION**

\$23,000 is to be paid upon execution of this agreement, in exchange for ownership of both solar photovoltaic and solar thermal systems at the East Portland Community Center.