

SECOND AMENDMENT to the ENERGY SERVICES AGREEMENT

(Myriad Gardens)

THIS SECOND AMENDMENT (“**Second Amendment**”) is dated as of August 13, 2024 (the “**Second Amendment Effective Date**”), by and between **VICINITY ENERGY OKLAHOMA CITY, LLC** (f/k/a Veolia Energy Oklahoma City, Inc.), a Delaware limited liability company, having an address of 3 Santa Fe Plaza, Oklahoma City, Oklahoma 73102 (“**Vicinity**”), and **OKLAHOMA CITY PUBLIC PROPERTY AUTHORITY**, 200 North Walker Avenue, Second Floor, Oklahoma City, Oklahoma 73102 (“**Customer**”, together with Vicinity, the “**Parties**”).

WHEREAS, Vicinity owns, operates and maintains a district energy system in the City of Oklahoma City, Oklahoma (the “**System**”); and

WHEREAS, as part of the System, Vicinity provides heating service and chilling service (the “**Service**”) to various customers;

WHEREAS, Vicinity and Customer entered into an Energy Services Agreement on January 27, 2015 (the “**Agreement**”), for Steam and Chilled Water Service to Customer’s Civic Center Musica Hall, Oklahoma City Police Department Headquarters, and Oklahoma City Municipal Courts Building for heating and cooling to those facilities (such facilities, the “**Original Facilities**”),

WHEREAS, Vicinity and Customer entered into the Amendment to the Energy Services Agreement dated as of September 11, 2018 (the “**First Amendment**”) for the continued chilling service and hot water service to the Original Facilities and to add service to the new Convention Center (the “**Convention Center**”), subject to the terms and conditions of the First Amendment, and

WHEREAS, Vicinity and Customer have agreed to enter into this Second Amendment to add service to Myriad Gardens, subject to the terms and conditions of this Second Amendment.

NOW, THEREFORE, Vicinity and Customer agree as follows:

Myriad Gardens. Vicinity agrees to supply, and Customer Agrees to accept, Customer’s total requirements of the services for chilled water at Myriad Gardens Crystal Bridge Tropical Conservatory (“**Myriad Gardens**”). The services shall be provided pursuant to the terms and conditions set forth on Exhibits F through J, attached hereto and incorporated into the Agreement.

1. **Miscellaneous.**

- A. The Agreement as amended by the First Amendment, and the Second Amendment constitutes the entire Agreement between the Parties with respect to the matters

contained herein, and each Party confirms that it is not relying on any representations or warranties of the other Party.

- B. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Agreement.
- C. This Second Amendment may be executed in counterparts each of which shall constitute an original and all of which together shall constitute one agreement.
- D. All other terms and conditions set forth in the Agreement, as amended by the First Amendment, are hereby affirmed and restated (except as may be superseded or terminated by other agreements entered into and executed by the Parties) and will remain in full force and effect during the term of the Agreement. In the event of a conflict between the terms of the Agreement, the First Amendment and the Second Amendment as pertains to the supply and purchase of service to Myriad Gardens, the terms of this Second Amendment shall control.

[Signatures to Follow]

IN WITNESS WHEREOF, the Parties hereto have caused this Second Amendment to be executed by their duly authorized representatives as of the date first above written.

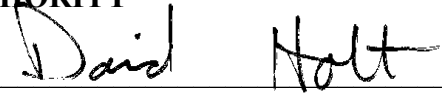
VICINITY ENERGY OKLAHOMA CITY, LLC

By: 
Name: Kevin Hagerty
Title: Chief Executive Officer

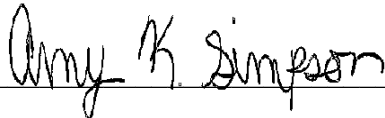
ATTEST:

By: 
Name: Lindsey Sands
Title: Associate General Counsel

**OKLAHOMA CITY PUBLIC PROPERTY
AUTHORITY**

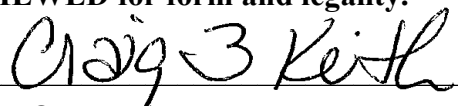
By: 
Name: David Holt
Title: Chairman

ATTEST:

By: 
Name: Amy K. Simpson
Title: Secretary/City Clerk



REVIEWED for form and legality.

By: 
Name: Craig Keith
Title: Deputy Municipal Counselor

[EXHIBITS FOLLOW]

EXHIBIT F

SERVICES, PREMISES, CONTRACT CAPACITY AND SERVICE SPECIFICATIONS

for

Myriad Gardens

For purposes of these Exhibits, **Btu** means British thermal unit. **HHV** means based on higher heating value. **MMBtu** means million Btu. **Mlb**. Means one thousand pounds of steam. **Psig** means pounds per square inch gage. **Ton** means the number of Ton-hours delivered in a given hour of time. **Ton-hour** means 12,000 Btu.

I. PREMISES:

Myriad Gardens Crystal Bridge Tropical Conservatory

301 West Reno Avenue, Oklahoma City, OK 73102

II. CONTRACT CAPACITY Chilled Water

Capacity: 400 tons

III. SERVICE SPECIFICATIONS.

Chilled water

Vicinity will provide chilled water at Customer's Point of Delivery (as identified on **Exhibit I**) at an average temperature of 42° Fahrenheit or less, and at pressures ranging from a minimum of 65 psig to a maximum of 165 psig. Customer shall return the chilled water to Vicinity at Customer's Point of Return (as identified on **Exhibit I**) at 100% of the water volume delivered to Customer and at sufficient pressure to enter Vicinity's chilled water return system, but in no event shall Customer be required to return such chilled water at a pressure exceeding the pressure then existing at the Point of Delivery. Except for operating its cooling equipment, Customer may not tap into, use or otherwise interfere with chilled water in any way which may diminish the flow or change its temperature beyond the above stated limit. Customer shall not contaminate the chilled water. (Contaminate shall be defined as the act, intentional or otherwise, of adding chemicals or other material to the chilled water). Vicinity may refuse to continue chilled water service to Customer if chilled water is contaminated between the Point of Delivery and the Point of Return. Customer shall not perform any water treatment or add chemicals or foreign substances into the water being used in its cooling system without the prior written consent of Vicinity.

EXHIBIT G
SERVICE RATES
for
MYRIAD GARDENS

I. SERVICE CHARGES. The charges for each Service consist of an Energy Charge to cover the incremental fuel, water and other variable costs incurred by Vicinity in the supply of each unit of energy plus a Capacity Charge to cover the costs of having facilities available to provide Service to meet the Contract Capacity, the amount of thermal distribution losses, and the capital recovery and system restoration relative to the Customer's requested capacity. Capacity Charges shall accrue beginning on the Operation Date and shall be paid as provided in the Agreement. For purposes of this Second Amendment, "Operation Date" shall mean the later of (i) April 1, 2025, or (ii) the date on which Vicinity is ready to deliver Service to the Premises from its System or from temporary equipment.

1. **RATES FOR HOT WATER SERVICE.** Vicinity shall provide hot water at the rates (the "**Hot Water Rates**") set forth below. The Hot Water Rates consist of (a) a Heating Energy Charge and (b) a Heating Capacity Charge.

(Intentionally left blank.)

2. **RATES FOR CHILLED WATER SERVICE.** Vicinity shall provide chilled water service at the rates (the "**Chilled Water Rates**") set forth below. The Chilled Water Rates consist of (a) a Cooling Energy Charge, and (b) Cooling Capacity Charge.

A. Cooling Energy Charge.

(1) The monthly Cooling Energy Charge shall be calculated as follows:

Quantity (ton-hours) of chilled water consumed for the billing period multiplied by the sum of the Cooling Energy Rate multiplied by the Cooling Energy Adjustment Factor and the Water Usage Rate multiplied by the Water Usage Adjustment Factor

(2) The Cooling Energy Rate (expressed in cents per Ton-Hour) shall be the sum of \$0.066 per Ton-Hour plus the Efficiency Rate.

- (3) The Efficiency Rate (expressed in cents per Ton-Hour) shall be calculated by dividing 12 by the Delta T. The Delta T is defined as the average differential temperature for the billing period between the temperature of the chilled water at the Point of Delivery and the Point of Return. Building efficiency is considered to be 100 percent when the Delta T is 12. The Efficiency Rate at a Delta T of 12 is 1 cent per Ton-Hour of chilled water.

- (4) The Cooling Energy Adjustment Factor shall be calculated as follows:

The Cooling Energy Adjustment Factor shall be the sum of the Cooling Fuel Adjustment Factor and the Cooling Consumer Price Index Factor.

- (5) The Cooling Fuel Adjustment Factor shall be calculated monthly as follows:

$$\text{Cooling Fuel Adjustment Factor} = 0.35 \times F/F_0$$

- (6) The Cooling Consumer Price Index Factor shall be calculated as follows:

$$\text{Cooling Consumer Price Index Factor} = 0.65 \times \text{CPI}/\text{CPI}_0$$

- (7) The Water Usage Rate (expressed in cents per Ton-Hour) shall be \$0.01 per Ton-Hour

- (8) The Water Usage Adjustment Factor shall be calculated monthly as follows:

$$\text{Water Usage Adjustment Factor} = W/W_0$$

- (9) By way of example, for 150,000 ton-hours, Efficiency Rate of \$0.01, $F_0 = \$1.80$, $F = \$3.00$, $W = \$4.050$, $W_0 = \$2.510$, $\text{CPI}_0 = 215.50$ and $\text{CPI} = 293.591$,

the Cooling Energy Adjustment Factor will be:

$$(0.35 \times 3.00/1.80) + (0.65 \times 293.591/215.50) = 1.4691$$

the Water Usage Adjustment Factor will be:

$$(4.50/2.510) = 1.614$$

Cooling Energy Charge =

$$150,000 \times [(\$0.066 + \$0.01) \times 1.4691 + (\$0.01 \times 1.614)] = \\ \$19,167.83,$$

plus applicable taxes and fees as described in Section 4, Subsection B, Taxes.

- (10) The Cooling Energy Charge shall be computed and billed monthly based on the ton-hours of chiller water consumed as measured by Vicinity's meters.

B. Cooling Capacity Charge.

- (1) The monthly Cooling Capacity Charge shall be the Cooling Contract Capacity multiplied by the Cooling Capacity Rate multiplied by the Cooling Capacity Adjustment Factor.
- (2) The Cooling Capacity Rate is \$204.15 per ton per year.
- (3) The Cooling Capacity Adjustment Factor shall be calculated as follows:

$$0.40 + (0.60 \times \text{CPI}/\text{CPI}_0)$$

NOTE: As evidenced by the formula above, forty (40) percent of the Cooling Capacity Charge shall not be subject to adjustment for the Initial Term of the Agreement. Sixty (60) percent of the Cooling Capacity Charge shall be adjusted by the Consumer Price Index.

- (4) By way of example ---

For CPI_0 of 215.50 and CPI of 293.591 the Cooling Capacity Adjustment Factor will be:

$$0.40 + (0.60 \times 293.591/215.50) = 1.2176$$

For a capacity of 400 tons, the monthly Cooling Capacity Charge will be:

$$(400 \text{ tons} \times \$204.15 / \text{ton}) / 12 \times 1.2176 = \$8,285.85 \text{ for the month,}$$

plus applicable taxes and fees as described in Section 4, Subsection B, Taxes.

CPI means the Consumers Price Index for All Urban Consumers (CPI-U), U. S. City Average, Dallas-Ft. Worth Area, of the Bureau of Labor Statistics, U. S. Dept. of Labor (or any comparable successor index) for the most recent period for which such index has been published. If the referenced index is discontinued, the National CPI (or any comparable successor index) shall be utilized. If publication of CPI is discontinued, the parties will use a revised or replacement index that is similar to the discontinued CPI. **CPI₀** will be defined as 215.50. **CPI** will be adjusted January 1 annually.

Fuel means all fuels used by Vicinity to operate the system, and may include gas, coal, oil, purchased steam or electricity and others. **F** means Vicinity's weighted average cost of Fuel (including special handling, storage and disposal costs, if any) per MMBtu (HHV) consumed during the month prior to the billing period. **F₀** means the base cost of Fuel of \$1.80 per MMBtu (HHV). **W** means Vicinity's weighted average cost of water (including water, sewer, and associated fees, if any) per thousand gallons (mgal)) used during the month prior to the billing period. **W₀** means the base cost of water of \$2.510 per mgal.

Monthly Usage means the actual quantity of Service consumed for the month in MMBtu or Ton-Hours.

II. OTHER CHARGES. The **Meter Charge** for each additional steam, or chilled water meter installed at Customer's request shall be \$50.00 per month. **Lost Water Charge** for chilled water shall be \$12.00 per thousand gallons and \$20.00 per MMBTU for hot water.

EXHIBIT H

PLANS AND DRAWINGS

Myriad Gardens

Customer and Vicinity agree to work in good faith to mutually determine the final piping path for connecting Vicinity's System to within 5 feet of the exterior wall of the Myriad Gardens.

Vicinity will provide any final plans and drawings of the connection no later than the first anniversary after completing connection of its System to Myriad Gardens.

EXHIBIT I

POINT OF DELIVERY/POINT OF RETURN

Myriad Gardens

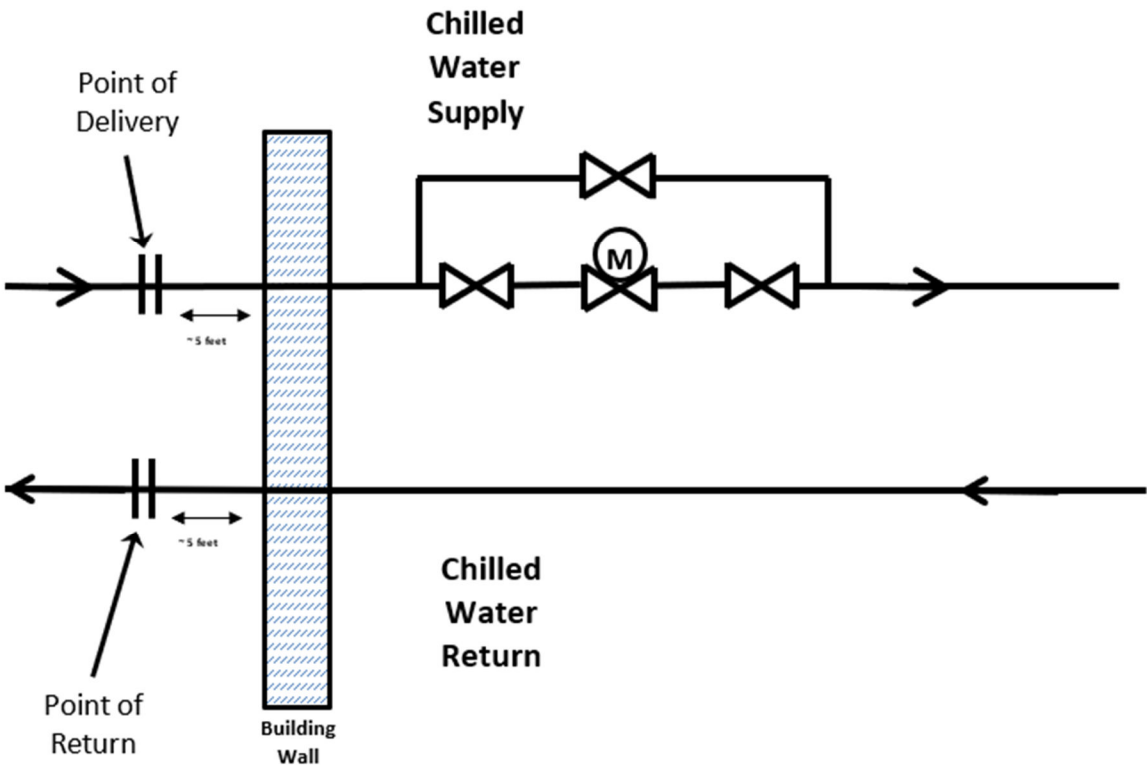


EXHIBIT J

ADDITIONAL ITEMS

1. Vicinity will, and shall cause its contractors, to use good faith efforts to (1) minimize impact to Myriad Gardens during Vicinity's performance of the connection scope of work, and (2) restore the piping path impacted from Vicinity's installation of pipe. Neither Vicinity nor its contractors will have liability for or obligation to replace impacted flora.
2. Vicinity and Customer agree that, as of the Effective Date, Vicinity out-of-pocket costs to connect Customer to its System for provision of the Services ("**Connection Costs**") are estimated to not exceed Four Hundred Fifty Thousand Dollars (\$450,000). If, after the Effective Date, Vicinity has reasonable belief that the Connection Costs are expected to exceed \$450,000.00, Vicinity will notify Customer in writing and provide documentation to support the additional Connection Costs. Upon mutual agreement of the additional Connection Costs, Customer shall reimburse Vicinity for all expenses greater than \$450,000 within 30 days of receipt of documentation supporting such expenses.