

# **Exhibit M**

## **Applicant's Financial Capability**

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**West End Solar Project  
October 2022**

**Prepared for  
EE West End Solar LLC**

**Prepared by**



**Tetra Tech, Inc.**

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## Acronyms and Abbreviations

Applicant	EE West End Solar LLC
EFSC	Energy Facility Siting Council
OAR	Oregon Administrative Rules
Project	West End Solar Project

## 1.0 Introduction

EE West End Solar LLC (Applicant) proposes to construct the West End Solar Project (Project), a solar energy generation facility and related or supporting facilities in Umatilla County, Oregon. Exhibit M provides information on the Applicant's financial capability, as required to meet the submittal requirements of Oregon Administrative Rule (OAR) 345-021-0010(1)(m) paragraphs (A) through (C). This includes the Retirement and Financial Assurance exhibit for the Energy Facility Siting Council (EFSC) to make the appropriate findings under OAR 345-022-0050(2):

### ***345-022-0050 Retirement and Financial Assurance***

*To issue a site certificate, the Council must find that:*

- 1. The site, taking into account mitigation, can be restored adequately to a useful, non-hazardous condition following permanent cessation of construction or operation of the facility.*
- 2. The applicant has a reasonable likelihood of obtaining a bond or letter of credit in a form and amount satisfactory to the Council to restore the site to a useful, non-hazardous condition.*

As discussed in Exhibit X, in the event that a permanent cessation of construction or operation of the Project occurs, the site can be restored to a useful, non-hazardous condition. Exhibit M establishes that the Applicant has a reasonable likelihood of obtaining a bond or letter of credit in a form and amount satisfactory to EFSC to restore the site to a useful, non-hazardous condition, as discussed below.

## 2.0 Opinion of Legal Counsel – OAR 345-021-0010(1)(m)(A)

*OAR 345-021-0010(1)(m) Information about the applicant's financial capability, providing evidence to support a finding by the Council as required by OAR 345-022-0050(2). Nothing in this subsection shall require the disclosure of information or records protected from public disclosure by any provision of state or federal law. The applicant shall include:*

*OAR 345-021-0010(1)(m)(A) An opinion or opinions from legal counsel stating that, to counsel's best knowledge, the applicant has the legal authority to construct and operate the facility without violating its bond indenture provisions, articles of incorporation, common stock covenants, or similar agreements.*

Attachment M-1 is an opinion from the Applicant's legal counsel indicating that the Applicant has the legal authority to construct and operate the Project without violating its articles of incorporation or similar agreements.

### **3.0 Proposed Type and Amount of Financial Instrument – OAR 345-021-0010(1)(m)(B)**

*OAR 345-021-0010(1)(m)(B) The type and amount of the applicant's proposed bond or letter of credit to meet the requirements of OAR 345-022-0050;*

Prior to beginning construction on the Project, the Applicant will submit one or more bonds or letters of credit to the State of Oregon in an amount equal to the net costs of Project retirement, as detailed in Exhibit X. The bonds or letters of credit will be provided in a form approved by EFSC and will ensure that adequate funds exist for the retirement of the Project and for restoration of the Project site to a useful, non-hazardous condition. The bonds or letters of credit will be adjusted annually for inflation according to the Gross Domestic Product Implicit Price Deflator Index.

### **4.0 Evidence of Reasonable Likelihood of Obtaining Security – OAR 345-021-0010(1)(m)(C)**

*OAR 345-021-0010(1)(m)(C) Evidence that the applicant has a reasonable likelihood of obtaining the proposed bond or letter of credit in the amount proposed in paragraph (B), before beginning construction of the facility.*

The Applicant has obtained a letter from Sumitomo Mitsui Banking Corporation (Attachment M-2) demonstrating that it has a reasonable likelihood to obtain one or more bonds or letters of credit in an amount equal to or greater than the cost of Project retirement and restoration, as detailed in Exhibit X.

### **5.0 Conclusion**

The evidence provided in this exhibit demonstrates that the Applicant has a reasonable likelihood of obtaining bonds or letters of credit in an amount sufficient to restore the site to a useful, non-hazardous condition as detailed in OAR 345-022-0050(2).

# **Attachment M-1. Opinion of Legal Counsel**

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**EE West End Solar LLC**  
9255 Towne Centre Drive, Suite 840  
San Diego, CA 92121

TEL: 858-638-7115  
FAX: 858-638-7125

August 9, 2021

Oregon Department of Energy  
550 Capitol St. NE, 1st Floor  
Salem, Oregon 97301

**Re: Application of EE West End Solar LLC for a Site Certificate**

To Whom This May Concern:

I am an attorney for Eurus Energy America Corporation, a Delaware corporation, and its wholly owned subsidiary and affiliate, EE West End Solar LLC (the "Applicant"). I have examined originals or certified copies of the books and records of Applicant and such other documents, limited liability company records, certificates of public officials, and instruments regarding the Applicant as I have deemed necessary and appropriate for the purposes of this opinion letter.

In rendering the opinion expressed below, I have assumed (i) the authenticity of all the documents submitted to me as originals and (ii) the conformity to original documents of all documents submitted to me as copies. As to factual matters, I have relied to the extent deemed proper upon statements and certifications of officers and managers of the Applicant.

Based on the foregoing, to the best of my knowledge, I am of the opinion that, subject to the Applicant's meeting of all applicable federal, state and local laws (including all rules and regulations promulgated thereunder), the Applicant has the legal authority to construct and operate the up to fifty (50) MW nameplate capacity West End Solar Project solar generation facility and associated facilities, proposed to be located in Umatilla County, Oregon (the "Project") without violating its articles of organization, covenants, or similar agreements.

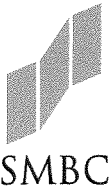
The foregoing opinion is limited strictly to whether the Applicant has the authority under its operating agreements to construct, own, and operate the Project. I express no opinion in this letter regarding any federal, state, or local laws that may apply to the Project's construction and operation.

Sincerely,

Anthony W. Cresap  
Senior Legal Counsel

# **Attachment M-2. Letter from Financial Institution**

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SUMITOMO MITSUI  
BANKING CORPORATION

Los Angeles Branch  
601 South Figueroa Street  
Suite 1800  
Los Angeles, CA 90017  
Tel: (213) 452-7800  
Fax: (213) 623-6832

October 24, 2022

Oregon Department of Energy  
550 Capitol Street NE  
Salem, Oregon 97301

Attention: Todd R. Cornett, Assistant Director for Siting

Dear Mr. Cornett:

Eurus Energy America Corporation (the "EEAC") is a valued client of Sumitomo Mitsui Banking Corporation, New York Branch (the "Bank").

It is our understanding that EE West End Solar LLC, a subsidiary of Eurus Solar Holdings LLC, itself a subsidiary of EEAC, is the Applicant for a permit from the State of Oregon for a solar energy generation facility, and may be asked to provide a letter of credit for the permit. It is further our understanding that the potential amount of the letter of credit could be up to five million eight hundred thousand dollars (\$5,800,000.00).

The Bank has an ongoing relationship with EEAC and there is a reasonable likelihood that we will provide a letter of credit for this project should it be required. This commitment is subject to our regular review and acceptance of the terms and conditions of the final contract and required letter of credit and approval by the Bank.

Furthermore, any arrangement for the final letter of credit is a matter between EEAC and the Bank and we assume no liability to third parties or to you if, for any reason, we do not execute said letter of credit.

If you have any questions, please do not hesitate to call at (213) 321-1073.

Sincerely,

A handwritten signature in black ink, appearing to read "Tadahiro", written over a horizontal line.

Name: Tadahiro Tsukada  
Title: Executive Director