

# **Exhibit M**

## **Applicant's Financial Capability**

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**Yellow Rosebush Energy Center  
August 2024**

**Prepared for  
Yellow Rosebush Energy Center, LLC**

**Prepared by**



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**Acronyms and Abbreviations**

Applicant	Yellow Rosebush Energy Center, LLC
Facility	Yellow Rosebush Energy Center
OAR	Oregon Administrative Rules

## 1.0 Introduction

Yellow Rosebush Energy Center, LLC (Applicant) seeks to develop the Yellow Rosebush Energy Center (Facility), a solar energy generation facility, battery energy storage system, and related or supporting facilities in Wasco and Sherman counties, Oregon. This Exhibit M was prepared to meet the submittal requirements in Oregon Administrative Rules (OAR) 345-021-0010(1)(m).

## 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 requires the disclosure of information or records protected from public disclosure by any provision of state or federal law. The applicant must 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;*

The legal counsel opinion stating that the Applicant has the legal authority to construct and operate the Facility conforming to the requirements of OAR 345-021-0010(1)(m)(A) is included as Attachment M-1.

## 3.0 Proposed Bond or Letter of Credit – 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; and*

Before Facility construction begins, the Applicant will submit to the Oregon Department of Energy a bond or letter of credit in a form and amount approved by the Energy Facility Siting Council. The Applicant will assure that adequate funds are available to restore the site to a useful, nonhazardous condition following permanent cessation of Facility construction or operation. The estimated cost to restore the site to a useful, non-hazardous condition per the requirements of OAR 345-022-0050(2) is approximately \$45.3 million (Q2 2024 dollars; see Exhibit X, Attachment X-1). Exhibit X, Section 5.0, describes a phased approach by which the bond or letter of credit will be implemented commensurate to the risk that the Facility may require for decommissioning at various stages of construction and operation. The bond or letter of credit will be adjusted for inflation according to the Gross Domestic Product Implicit Price Deflator Index.

## 4.0 Evidence of Reasonable Likelihood of Obtaining Bond or Letter of Credit

*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 Citibank, N.A. (see Attachment M-2) demonstrating that it has a reasonable likelihood to obtain a letter of credit in an amount equal to or greater than the cost of Facility site restoration (Exhibit X).

## 5.0 Submittal Requirements and Approval Standards

### 5.1 Submittal Requirements

**Table M-1. Submittal Requirements Matrix**

Requirement	Location
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 requires the disclosure of information or records protected from public disclosure by any provision of state or federal law. The applicant must include:	-
(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;	Section 2.0; Attachment M-1
(B) The type and amount of the applicant's proposed bond or letter of credit to meet the requirements of OAR 345-022-0050; and	Section 3.0
(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.	Section 4.0; Attachment M-2

## 5.2 Approval Standards

**Table M-2. Approval Standards**

Requirement	Location
<b>OAR 345-022-0050 Retirement and Financial Assurances</b>	
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.	Exhibit X
(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.	Section 4.0; Attachment M-2

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

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# ROUSE FRETS WHITE GOSS GENTILE RHODES, P.C.

June 28, 2024

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

Re: Yellow Rosebush Energy Center, LLC, Wasco County, Oregon

Ladies and Gentlemen:

We are acting as special legal counsel to Yellow Rosebush Energy Center, LLC, a Delaware limited liability company ("YR"), and in that connection we have examined only copies of the following:

- (i) Certificate of Formation of YR dated July 13, 2022 ("Certificate");
- (ii) Limited Liability Company Agreement of YR date as of July 13, 2022 ("Operating Agreement" and with the Certificate, the "Organizational Documents").

The opinions and statements expressed herein are subject to the following qualifications, assumptions and limitations:

(a) Our opinions and statements expressed herein are restricted to matters governed by the laws of the State of Missouri and the limited liability company law of the State of Delaware. To the extent that the laws of any other jurisdiction apply, we express no opinion.

(b) Limitations based on statutes or upon public policy limiting a person's right to waive the benefits of statutory provisions or common law rights.

(c) We have assumed and relied upon the accuracy of all factual information set forth in the Organizational Documents. In reviewing the Organizational Documents, we have assumed the genuineness of all signatures and initials thereon, enforceability thereof, the genuineness of all notaries contained thereon, conformance of all copies with the original thereof and originals to all copies thereof, and the accuracy of all statements, representations and warranties contained therein. We have further assumed that all certificates, documents and instruments dated prior to the date hereof remain accurate and correct on the date hereof and have not been amended, revoked, or modified.

(d) We have assumed the due limited liability company existence of YR.

Based upon an examination of the foregoing documents, we are of the opinion that:

1. Based solely on our review of the Organizational Documents, YR has the legal authority to construct and operate a solar energy facility without violating the Certificate or the Operating Agreement.

This letter is furnished to you at your request and is intended solely for your information and for your use in connection with the issuance of permit(s) to YR. This letter is not to be quoted in whole or in part or otherwise referred to, furnished, used, reproduced, distributed or disclosed, nor is it to be filed with any other governmental agency or any other person, without the prior written consent of this law firm. The information set forth herein is as of the date of this letter, and we undertake no obligation or responsibility to update or supplement this opinion in response to or to make you aware of subsequent changes in the status of YR, the law, the Organizational Documents, or future events or information affecting YR occurring after the date hereof. We have conducted no investigation or review of the business of YR. The foregoing opinion should not be construed as relating to any matter other than the specific matters discussed herein.

Very truly yours,

A handwritten signature in cursive script that reads "Rouse Frets White Goss Gentile Rhodes, P.C." The signature is written in black ink and is positioned below the typed name.

Rouse Frets White Goss Gentile Rhodes, P.C.

## **Attachment M-2. Evidence of Reasonable Likelihood of Obtaining a Letter of Credit**

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August 29, 2024

Attention: Oregon Department of Energy  
Kathleen Sloan  
Senior Siting Analyst

Re: U.S. \$ 46,000,000 Letter of Credit

LETTER OF INTEREST

Dear Kathleen:

Shell USA, Inc, (“Shell”) has advised Citibank, N.A. (“Citi”) that Yellow Rosebush Energy Center, LLC (the “**Company**”) intends to submit an application for site certificate for a proposed solar energy generation facility (the “**Purpose**”) to the Oregon Department of Energy (the “**Beneficiary**” or “you”). In connection with the Company’s application and upon your issuance of a site certificate for the energy facility to the Company, Shell may request Citi to issue, on behalf of the Company in your favor, a letter of credit (the “**Credit**”) during 2027 with a tenor of approximately 40 year(s), in an amount equal to the amount required to restore the energy facility site to a useful, non-hazardous condition (the “**Decommissioning Cost**”), which Decommissioning Cost is currently projected to be approximately U.S. \$46,000,000.

Citi is pleased to share with you that based upon information provided to Citi to date and our preliminary review of various materials relating to the Purpose, Citi is highly interested in making the Credit available to the Company in connection with the Purpose, upon Company’s submission of a formal application to us. Notwithstanding the foregoing, this letter is not intended to be, and shall not constitute, a commitment or undertaking by Citi to issue or arrange to issue any Credit.

By accepting delivery of this letter, the you hereby acknowledge that Citi may provide financing, equity capital, financial advisory and/or other services to parties whose interests may conflict with the Beneficiary’s interests and agrees that this letter is for your confidential use only and that neither its existence nor its terms may be disclosed by it to any person other than your affiliates, officers, directors, employees, accountants, attorneys and other advisors, agents and representatives (“**Representatives**”), and then only on a confidential and “need to know” basis; provided, however, that the Beneficiary may (i) disclose this letter to the Company on a confidential and “need to know” basis; and (ii) make such other public disclosures of the existence and terms of this letter to the extent required by applicable law, in the opinion of your counsel. Notwithstanding any other provision in this letter, Citi hereby confirms that the Beneficiary and its Representatives shall not be limited from disclosing the U.S. tax treatment or U.S. tax structure of the transactions contemplated hereby.

Citi shall not have any liability (whether in contract, tort or otherwise) to the Beneficiary, the Company or any other person, including, without limitation, any of the Beneficiary’s or the Company’s respective security holders or creditors, for or in connection with the delivery of this letter. In addition, Citi shall not be liable on any theory of liability for any special, indirect, consequential or punitive damages (including, without limitation, any loss of profits, business or anticipated savings).

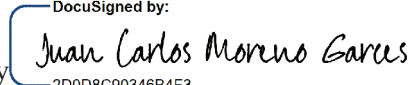
This letter will be governed by and construed in accordance with the law of the State of New York.

[The next page is the signature page.]



Very truly yours,

CITIBANK, N.A.

DocuSigned by:  
*Juan Carlos Moreno Garces*  
By   
2D0D8C90346B4F3...  
Name: Juan Carlos moreno garces  
Title: Director