



Sonoma County Water Agency

Addendum No. 1 to Request for Proposals

CF/46-0-21 RFP (Agree for Floating Solar
Photovoltaic Bulk Purchase) TW No (ID 5519)

Deadline for Submission

November 24, 2015

CONTACT:

Dale Roberts

RE: ADDENDUM No. 1 TO REQUEST FOR PROPOSALS FOR FLOATING SOLAR PHOTOVOLTAIC (PV) BULK PURCHASE

Acting for the Sonoma Clean Power Authority, the Sonoma County Water Agency (Water Agency) invites proposals on behalf of a group of wineries and municipalities (Participants) from firms interested in designing, constructing, owning, operating, monitoring, maintaining (and possibly financing) floating photovoltaic power systems (PV Systems) at various ponds throughout Sonoma and Napa Counties.

Each Participant may select a Proposer to develop projects that are to be installed on ponds located on the Participant's property. All contracts will be between Participants and one or more selected firms; firms will not be contracting with Sonoma Clean Power or the Water Agency. Participants must be given the option of buying the PV System outright or entering into a Power Purchase Agreement (PPA). The intent is to have projects completed by the end of 2016.

A Sample Solar PPA is attached as Exhibit A. The Sample Solar PPA may serve as the basis for negotiating a final PPA for each Participant. In addition to the purchase and sale of power, the PPA provides the Participant with a right to acquire the PV System after certain periods of time.

Background

The Sonoma Clean Power Authority (SCPA) is a joint powers authority that acts as the default electricity provider for all of Sonoma County except the City of Healdsburg. SCPA's purposes include reducing greenhouse gas emissions related to the use of power in Sonoma County and neighboring regions; stimulating and sustaining the local economy by developing local jobs in renewable energy; and promoting long-term electric rate stability and energy security and reliability for residents through local control of electric generation resources. The Water Agency's Energy Policy directs the Water Agency to pursue projects of regional benefit to develop more reliable sources of electricity for the region. This includes local energy projects and programs,

such as floating PV systems, that promote regional self-sufficiency and make the North Bay less dependent on outside energy sources subject to market fluctuations, natural disasters, and transmission system failures.

The Water Agency contracts with SCPA to conduct research and development activities. The Water Agency and SCPA have determined that floating PV systems provide an opportunity for residents and businesses to benefit from the production of cost-effective local renewable energy.

The Water Agency has identified Participants that are interested in purchasing (or purchasing power from) floating solar PV systems. These Participants own or manage irrigation or wastewater storage ponds (see maps and drawings included as Exhibit C). The Water Agency is issuing the RFP on behalf of the group of Participants, and will facilitate the proposal process and provide limited technical assistance to the Participants. Participants will review the proposals individually, and if a Participant decides to move forward, it will select a Proposer for its own individual project(s), and negotiate a contract with the Proposer of its choice. The Participants are: Clos du Bois, E&J Gallo, Francis Ford Coppola Winery, Kunde Family Winery, and the incorporated Town of Windsor.

The Proposer shall submit proposals for selected sites with line items and assessments for each individual project. Proposers may elect to submit a proposal for an individual Participant or a single pond, or any combination of Participants and ponds, and need not provide proposals for all ponds or for all Participants. Proposers shall submit proposals for the sites in sufficient detail to allow the Participant to compare proposals on a site-by-site basis. The Participant may move forward with all sites, selected sites, or no sites.

For each proposed site, Proposers must provide two types of pricing proposals: 1) direct purchase, with Participant ownership of PV systems; and 2) financed installation, via a Power Purchase Agreement or other financing mechanism, that would result in minimal to no cash outlay from Participant(s).

Proposers may submit proposals for any system size. But Proposers must provide details in their proposal as to how their proposed solar PV power generation will be used and under which solar PV program the system is using such as Net Energy Metering, Sonoma Clean Power's Feed In Tariff program (ProFIT), Renewable Energy Self-Generation Bill Credit Transfer Program (RES-BCT), wholesale electric power generation, etc.

Proposers would design, construct and commission the PV Systems and possibly finance, own, operate, monitor, and maintain the PV Systems. The number and type of photovoltaic panels, supporting structures, configuration, and orientation of panels and rows of panels shall be dependent upon the optimum scheme to cost effectively maximize energy generation at the sites. Proposers should evaluate the sites based on power production potential, site electricity load, site electricity rate, project cost, significance of environmental impacts, and any other parameters deemed reasonable by the Proposer.

The purpose of the PV Systems is to generate renewable electric power and related environmental attributes to be owned by or sold to the Participant.

The awarded Proposer will be responsible for securing from governing agencies and PG&E all required rights, permits, approvals, and interconnection agreements.

Minimum Qualifications

Proposer shall have a valid license to construct PV systems in the state of California and shall have experience in providing the services associated with installing and operating PV systems of this size and complexity (at least four PV system projects of at least 200 kW DC each within the past three years, which need not have included any floating solar elements). Proposer's firm shall be well established with a full-time qualified staff able to provide the required PV system planning, design, construction services, and start-up and commissioning. The Water Agency has determined that all Proposers must possess or provide subcontractor(s) possessing current California Contractor's License in at least one of the following classes throughout the duration of the Project:

- A - General Engineering Contractor
- C10 - Electrical Contractor
- C46 - Solar Contractor

If Proposer is a specialty contractor, the majority of the work must fall within the specialty classification, and all work to be performed outside of the licensed specialty must be performed by appropriately licensed subcontractors.

All subcontractors employed by Proposer must have and maintain a current license in the specialty for the work being done, and are limited to performing only work for which licensed.

Site Visits

All sites will be covered over in two days as noted in the itinerary below. Revised dates and times the week of 09 November are highlighted in yellow.

Participant	Site Visit Meeting Venue	Address	Town	Day	Date	Arrive	Depart
Town of Windsor	Water Reclamation Plant	8400 Windsor Rd	Windsor	Thursday	05-Nov	830am	930am
Kunde	Kunde Family Winery	9825 Sonoma Hwy	Kenwood	Thursday	05-Nov	1030am	1130am
Coppola	Francis Ford Coppola Winery	18700 Geyserville Ave	Geyserville	Thursday	12-Nov	9am	10am
Clos Du Bois	Lytton Station Pond	910 Lytton Station Road	Geyserville	Thursday	12-Nov	10am	11am
Gallo	Asti Winery	26150 Asti Road	Cloverdale	Thursday	12-Nov	1115am	1215pm
Gallo	Sonoma Winery Frei Brothers Road	3387 Dry Creek Road	Healdsburg	Thursday	12-Nov	1245pm	145pm
Gallo	Louis M Martini Winery	254 St Helena Way	St Helena	Thursday	12-Nov	245pm	345pm

Proposers will be escorted by Water Agency and Participant staff, however proposers need to bring their own vehicles to follow Water Agency and Participant vehicles. Site visits are not mandatory, but are recommended.

Technical Requirements

Codes and Standards

The Town of Windsor Project falls under the expanded definition of "public works" project established under California Labor Code section 1720.6, and prevailing wages must be paid to workers on the Town of Windsor Project. In addition, the Town of Windsor has its own separate Standard Professional Services Agreement and Construction Insurance Requirements with terms, insurance requirements, and liability requirements which must be agreed to and/or negotiated with the Town prior to project award. The Town's standard Professional Services Agreement and Construction Insurance Requirements are included as Exhibit F and Exhibit G to this RFP for Proposers' information.

All work and materials shall be in full accordance with the latest rules and regulations of the State Fire Marshall, Safety Orders of the Division of Industrial Safety, International Standards for Organization (ISO) codes, California Building Code, California Mechanical Code, Title 24, National Electrical Code, and other applicable laws or regulations.

Burying conduits or trenching in the pond embankments must meet requirements of the Participants and the California Department of Water Resources, Division of Safety of Dams (if applicable) and may be subject to their review and written approval. Conduit on land shall be below grade where practicable.

As a key design consideration, the Town of Windsor prohibits excavation or other invasive activities which disturb the bottom of its reclaimed water storage pond.

Proposer shall design and construct the PV Systems to codes and in such manner as to ensure complete electrical safety for persons, equipment, and property during installation and under both normal and abnormal operating conditions for the life of the project.

The quality of the equipment and services supplied by Proposer shall be consistent with the applicable codes and standards including but not limited to those listed below. The most recent approved revision shall apply.

- National Electrical Code - NFPA 70
- UBC - Uniform Building Code
- All outdoor enclosures shall be minimum NEMA 3R, or equivalent rating
- Inverters shall be certified to UL 1741 or equivalent
- ANSI/IEEE 928 Recommended Criteria for Terrestrial PV Power Systems (PV System Performance criteria)
- ANSI/ASCE 7- Building code Requirements for Minimum Design Loads in Buildings and Other Structures
- ACI 318 with Commentary (ACI 318R) - Building Code Requirements for Reinforced Concrete
- IEEE 927 Recommended Practice for Utility Interface of PV Systems
- ANSI/IEEE Std 100
- ANSI/IEEE Std 1262, IEEE Recommended Practice for Qualification of Photovoltaic (PV) Modules
- ASTM Std E 892, Standard Tables for Terrestrial Solar Spectral Irradiance at Air Mass 1.5 for 37° Tilted Surface
- ASTM Std E 1328, Standard Terminology Relating to Photovoltaic Solar Energy Conversion
- IEEE Std C37.13, IEEE Standard for Low-Voltage AC Power Circuit Breakers Used in Enclosures
- IEEE Std C37.14, IEEE Standard for Low-Voltage DC Power Circuit Breakers Used in Enclosures (ANSI)
- IEEE Std C37.20.1, IEEE Standard for Metal-Enclosed Low-Voltage Power Circuit-Breaker Switchgear
- IEEE Std C37.20.2, IEEE Standard for Metal-Clad and Station-Type Cubicle Switchgear

- IEEE Std C37.20.2b, Supplement to IEEE Standard for Metal-Clad and Station-Type Cubicle Switchgear: Current Transformers Accuracies
- IEEE Std C37.20.3, IEEE Standard for Metal-Enclosed Interrupter Switchgear
- IEEE Std C57.12.01, IEEE Standard General Requirements for Dry-Type Distribution and Power Transformers Including Those with Solid Cast and/or Resin Encapsulated Windings
- IEEE Std C57.12.51, IEEE Standard for Ventilated Dry-Type Power Transformers, 501 kVA and Larger, Three-Phase, with High-Voltage 601 V to 34 500 V; Low-Voltage 208Y/120 V to 4160 V- General Requirements
- IEEE Std C57.13, IEEE Standard Requirements for Instrument Transformers
- IEEE Std C57.13.1, IEEE Guide for Field Testing of Relaying Current Transformers (ANSI)
- IEEE Std C57.13.2, IEEE Standard Conformance Test Procedures for Instrument Transformers (ANSI)
- Certification of Proposer Supplied Equipment: All PV modules, inverters and electrical components shall be required to be listed or recognized by an appropriate and recognized United States Safety Laboratory (for example: UL, ETL, etc.).

Interconnection

For PV Systems interconnecting, the Proposer shall provide all materials and equipment necessary to interconnect the PV System(s) with PG&E's local transmission and/or distribution system in accordance with CAISO standards and PG&E's standards. Proposers are required to identify delivery point in accordance with these standards. Proposer shall fulfill all application, study, and testing procedures necessary to complete the interconnection process. Interconnection requirements to PG&E's transmission and distribution system can be found at <http://www.pge.com/b2b/newgenerator/wholesalegeneratorinterconnection/index.shtml>. PG&E has developed an interactive, Google-based map of its service territory at <http://www.pge.com/b2b/energysupply/wholesaleelectricssuppliersolicitation/PVRFO/pvmap/>. The map provides the location of selected electric transmission lines, distribution lines and associated substations within the PG&E service areas. In addition, the map also provides specific information, such as operating voltages, line capacity and substation names. Please note that the map is a tool to help Proposer, contractors, and developers identify potential project sites. The map is not a guarantee that generators can interconnect at any particular time and place. Several factors influence the ability and cost of interconnecting distributed generation systems to the electric system.

The PV System(s) shall be designed and constructed so that it may be completely isolated from PG&E during maintenance and repair.

CEQA

The awarded Proposer will be responsible for preparing all necessary California Environmental Quality Act (CEQA) documentation for specific projects. The Participants will assist the awarded Proposer in the preparation of the Initial Study/Environmental Checklist. The Town of Windsor would be the lead agency for their pond project.

Energy Production

Based on the available surface area for mounting PV panels, Proposers shall propose an optimal PV system. Proposer shall estimate the pond surface coverage ratio and confirm that the proposed PV can operate over the full range of possible pond levels. Use the National Renewable Energy Laboratory (NREL) PVWatts™ calculator or PVSyst software for comparison of energy

production. Proposer may also present its own algorithm in addition to these NREL calculators. Note that it is Proposer's responsibility to confirm the available surface area by physical inspection, and using the facility plans and any other supporting material provided with this RFP.

Proposers are responsible to obtain weather data from nearby credible sources such as the National Weather Service or National Oceanic Atmospheric Administration.

The table below show the annual electricity consumption in the years noted at the pond sites. The table below also shows the annual electricity consumption for adjacent parcels for private entities and large electrical accounts for public entities.

Participant	Facility	Electric Schedule	Year	Annual Consumption, kWh
Kunde	Winery	A10SX	2013	743,302
Kunde	Process Ponds	AG5B	2013	64,920
Kunde	Fire Pump	AG1B	2013	21,975
Kunde	Lab	A1X	2013	3,921
Clos du Bois	Ponds	AG5B	2013	430,720
Clos du Bois	Vineyard	AGVA	2013	47,071
Clos du Bois	Vineyard	AG1B	2013	22,799
Coppola	Pond	AG5C	2013	779,800
Coppola	Vineyard	AG4B	2013	72,123
Gallo	Frei Brothers	E20P	2013	5,993,850
Gallo	Louis M Martini	A10 TOU	2014	1,410,390
Gallo	Asti	A1X	2014	19,854
Gallo	Asti Winery	E20P	2014	2,991,835
Town of Windsor	Water Reclamation Plant	E19S	2013	3,145,874
Town of Windsor	Geysers Pump Station	A10S	2014	451,396
Town of Windsor	Public Works Corp Yard	A10S	2014	241,873
Town of Windsor	Sewer Lift Station Golf Course Drive	A1X	2014	8,983
Town of Windsor	Sewer Lift Station Vintage Greens	A1X	2014	14,259
Town of Windsor	River Well Station 10	E19SV	2014	531,028
Town of Windsor	River Well Station 9	A10S	2014	222,640
Town of Windsor	River Well Station 8	A10S	2014	364,280
Town of Windsor	River Well Station 7	A10S	20014	356,320
Town of Windsor	Booster Pump Station Golf Course	A6	2014	119,006
Town of Windsor	Booster Pump Station Shone Farm	A10S	2014	34,679

Monitoring System

Proposer shall develop and provide a monitoring program that will allow Participant's staff to monitor the performance of the PV system(s) on a historical and real-time basis, for the life of the equipment.

Commissioning and Start-up Testing

During the start-up, the Participant, and/or its independent engineer/consultant, will observe and verify each system performance. Required commissioning and acceptance testing services include:

- Starting up the solar PV system(s) until it achieves the performance requirements
- Conducting performance testing over a consecutive 24 hour minimum period
- Conducting successful delivery of power within 30 days following completion of the system

Warranties

Warranties against defective design, materials, workings, and latent defects for the time period specified for each warranty shall be provided, as well as all other warranties required or implied by law. Proposer shall fully define in its proposal the offered warranty which shall meet, at a minimum, the following requirements:

- Five year complete system warranty
- Ten year inverter and power transformers warranty
- 25 year PV panel operation and degradation warranty

Operation and Maintenance

For PPA PV Systems, the Proposer shall perform all required maintenance activities, including warranty repair work and equipment replacement including, but not limited to, inverter replacement as required in order to keep the system(s) operational for the entire term of the PPA; these maintenance activities shall be included within the proposed PPA price.

For direct purchase PV Systems, the Proposer shall provide a lump sum proposal for a 5-year minimum maintenance contract. A draft maintenance agreement is included in Exhibit B.

PV System(s) Removal

For PPA PV Systems, the awarded Proposer shall bear the sole responsibility of removing the PV system(s) at the end of the service term should the Participant, in its sole discretion, opt not to acquire the PV system(s), or renew the PPA.

Submittal of Proposals

Please review the RFP and attachments before submitting a proposal. If any significant omissions or ambiguities come to the Water Agency's attention while the RFP is under review by interested firms, the Water Agency will make a uniform written response to all parties.

Proposals shall include the following:

1. A Table of Contents and page numbers.
2. A work program and timetable.
3. A statement of similar work previously performed, including at least three references with name of organization, contact person, and telephone number.

4. A statement of qualifications and a list of personnel to be assigned to the work, including a resume for each, listing education, experience, and expertise in this type of work.
5. A list of persons or firms to whom any phase of the work may be subcontracted, including a statement of their qualifications and experience.
6. Any proposed exceptions to the indemnification, insurance, or other terms of the PPA, Lease, or if a proposal is made to the Town of Windsor, the Town's Professional Services Agreement and Construction Insurance Requirements. Please make comments as specific as possible. If no exceptions are included in the proposal the standard terms will be considered acceptable and will not be renegotiated prior to execution.
7. Pricing sheets (included as Exhibit D)
8. PV Systems description
9. Description of mounting system and floating system
10. Equipment details and description layout of installation site(s)
11. Selection of key equipment
12. Specifications for equipment procurement and facility installation
13. Performance data sheets of equipment components, subsystem, and project, including PV and inverter manufacturer, model, and quantities
14. Electrical system interconnection requirement with the public power utility's (PG&E) transmission and/or distribution system
15. Controls, monitoring equipment, and instrumentation
16. Performance monitoring

Interested firms should submit one electronic copy of their proposal by 5:00 pm, Tuesday, November 24, 2015. Proposals may be sent by mail, email, or by hand-delivery to the attention of Dale Roberts, Sonoma County Water Agency, 404 Aviation Boulevard, Santa Rosa, California 95403-9019, Dale.Roberts@scwa.ca.gov. Proposals must be received by the date and time set forth above.

Selection Procedure

Proposals that do not include all of the information requested cannot be adequately evaluated. Selection will be made by each individual Participant based on responsiveness to the work requirements, professional qualifications and experience and overall performance commitment, demonstrated ability to perform the work in accordance with good practices common to the industry, time required for successful implementation, acceptance of standard contract terms, PV System and monitoring system description including typical useful life, total estimated power production, total cost per MWh and spatial requirements.

For the Town of Windsor project, the Town will also evaluate Proposals based on: a) the Proposers ability to fulfill, as much as practicable, the Town's objective to maximize solar energy production at the Site; and b) the Proposers demonstrated technical capability and financial capacity to implement and deliver the project with a high degree of certainty and reliability.

Proposers may choose to give some weighting to local firms, and the minimum prior experience may also be reduced to three projects of 100 kW or above for local firms. The utilization of local financing partners is encouraged.

Following the evaluation of written proposals, the Participants, at their sole discretion, may select Proposers to be invited to an interview. Interviews will consist of questions directed to each Proposer to clarify Proposer's proposal as necessary. The evaluation committee may use this additional information to revise the score of the proposals. Proposer shall be prepared to make a presentation to the evaluation committee.

The issuance of this RFP does not constitute a promise by the Participants, SCPA, or the Water Agency that any contract will actually be entered into by the Participants as a result of the RFP. SCPA, the Water Agency, and the Participants expressly reserve the right at any time to:

- Waive or correct any defect or informality in any response, proposal, or proposal procedure;
- Ask additional and follow up questions of any firm submitting a proposal;
- Reject any or all proposals;
- Determine that more than a single vendor is necessary to meet needs;
- Reissue a RFP;
- Modify all or any portion of the selection procedures prior to the submission deadline for proposals including: deadlines for accepting responses, the specifications or requirements for any materials, equipment or services to be provided under this RFP, or the requirements for contents or format of the proposals;
- Procure any materials, equipment or services specified in this RFP by any other means, or determine that no project will be pursued; or
- Negotiate terms with Proposer prior to entering into a power purchase or direct purchase agreement.

All proposals submitted in response to this request shall be deemed public records. In the event that a Proposer desires to claim portions of its proposal exempt from disclosure, it is incumbent upon the Proposer to clearly identify those portions with the word "confidential" printed on the lower right-hand corner of the page. The Water Agency will consider a Proposer's request for exemption from disclosure; however, the Water Agency will make a decision based upon applicable laws. Assertions by a Proposer that the entire proposal or large portions are exempt from disclosure will not be honored. All responses to this Request for Proposals shall become the property of the Water Agency and will be retained or disposed of accordingly.

The Town of Windsor is a public agency and the final terms and conditions of a Power Purchase Agreement with the Town may be subject to disclosure under the California Public Records Act.

The Water Agency, SCPA, or Participants shall not be liable for any pre-contractual expenses incurred by any Proposer. The Water Agency, SCPA, and Participants shall be held harmless and free from any and all liability, claims, or expenses whatsoever incurred by, or on behalf of, any person or organization responding to this RFP.

All data and information furnished by Water Agency, SCPA, or Participants, or referred to in this RFP, are furnished solely for the Proposer's convenience. The Water Agency, SCPA, and Participants do not guarantee that such data and information are accurate and assumes no responsibility whatsoever as to its accuracy or interpretation. Proposers shall satisfy themselves as to the accuracy or interpretation of all such information and data.

By submitting a proposal in response to this RFP, the Proposer waives all rights to seek any legal remedies regarding any aspect of this RFP, the Participant's selection of a proposer, and the Participants' rejection of any and all proposals.

The Participants also reserves the right to negotiate any price or provisions and accept any part, or all parts of any or all proposals, whichever is in the best interest of the Participants.

Contacts

Proposers must direct all questions about the meaning or intent of the RFP to Water Agency in writing. Inquiries must include the full name of the Project. Water Agency may not answer questions received less than fourteen calendar days prior to the date for proposal submission due date. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect. If you have any questions, please contact Dale Roberts at Dale.Roberts@scwa.ca.gov.

Sincerely,

James Jasperse, P. E.
Chief Engineer

Exhibits

Exhibit A – Sample Solar Power Purchase Agreement, including

<u>Exhibit A1</u>	Basic Terms and Conditions
<u>Exhibit A2</u>	System Description
<u>Exhibit A3</u>	Credit Information
<u>Exhibit A4</u>	General Terms and Conditions
<u>Exhibit A5</u>	Form of Memorandum of License
<u>Exhibit A6-1</u>	Engineering and Construction Requirements
<u>Exhibit A6-2</u>	Equipment Warranties
<u>Exhibit A7</u>	Form of Attestation
<u>Exhibit A8</u>	Milestone Schedule
<u>Exhibit A9</u>	Insurance Requirements
<u>Exhibit A10</u>	Seller and Purchaser Agreed Responsibilities

Exhibit B – Sample Maintenance Agreement, including

Attachment A to Exhibit B – Sample Construction Insurance Requirements

Exhibit C – Location Maps and Drawings **Revised 20151110**

Exhibit D –Pricing Sheet

Exhibit E – Local Business Declaration

Exhibit F – Town of Windsor's Professional Services Agreement

Exhibit G – Town of Windsor's Construction and Services Contracts Requirements

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Exhibit A

Sample Solar Power Purchase Agreement

This Solar Power Purchase Agreement (this “**Agreement**”) is dated as of [INSERT DATE] (the “**Effective Date**”), and is witnessed, acknowledged, and executed by authorized representatives of [INSERT SELLER], [SELLER DESCRIPTION] (“**Seller**”), and the [PARTICIPANT NAME], [PARTICIPANT DESCRIPTION] (“**Purchaser**” and, together with Seller, each, a “**Party**” and together, the “**Parties**”), as evidenced by their signature on this cover page.

RECITALS

- A. Purchaser wishes to meet its power requirements cost effectively, efficiently and in an environmentally-friendly manner;
- B. Purchaser has solicited proposals from persons, firms, organizations, and/or other legal entities to provide such power from renewable resources in a cooperative/joint solicitation coordinated by the Sonoma County Water Agency;
- C. Seller is in the business of designing, constructing, owning, financing and operating solar photovoltaic electric generating systems for the purpose of selling power generated by the systems to its Purchasers at the lowest practical lifetime cost of clean energy;
- D. Purchaser has selected Seller and its engineering, procurement and construction firm to design, construct, own, finance and operate a solar photovoltaic generating system to be located on its property subject to the terms, conditions, covenants and provisions set forth herein;
- E. Seller intends to construct, own, and operate renewable energy-powered generating facilities and desires to sell electricity produced by such generating facilities together with Environmental Attributes and Environmental Incentives to Purchaser pursuant to the terms, conditions, covenants and provisions set forth herein; and
- F. Purchaser desires to purchase electricity generated by Seller’s generating facility, together with all Environmental Attributes and Environmental Incentives pursuant to the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual promises contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Purchaser:		Seller:	
Name and Address		Name and Address	
Phone		Phone	
Fax		Fax	
E-mail		E-mail	
Premises Ownership	Purchaser <input type="checkbox"/> owns <input type="checkbox"/> leases the Premises, also known as [_____]	Additional Seller Information	

This Agreement sets forth the terms and conditions of the service contract for purchase and sale of (a) solar generated electric energy from the solar panel system described in **Exhibit A2** (the “**System**”) to be installed at Purchaser’s facility described in **Exhibit A2, Attachment A** (the “**Facility**”). The terms and conditions of this Agreement are provided and intended for use by public agencies affiliated or not affiliated with Purchaser, but with similar procurement and contracting regulations as those of Purchaser.

The exhibits listed below are incorporated by reference and made part of this Agreement.

<u>Exhibit A1</u>	Basic Terms and Conditions
<u>Exhibit A2</u>	System Description
<u>Exhibit A3</u>	Credit Information
<u>Exhibit A4</u>	General Terms and Conditions
<u>Exhibit A5</u>	Form of Memorandum of License
<u>Exhibit A6-1</u>	Engineering and Construction Requirements
<u>Exhibit A6-2</u>	Equipment Warranties
<u>Exhibit A7</u>	Form of Attestation
<u>Exhibit A8</u>	Milestone Schedule
<u>Exhibit A9</u>	Insurance Requirements
<u>Exhibit A10</u>	Seller and Purchaser Agreed Responsibilities

Purchaser: [PARTICIPANT NAME]

Seller: [SELLER NAME]

By:

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit A1

Basic Terms and Conditions – Site: _____

1. **Term:** Twenty (20) years, beginning on the Commercial Operation Date, as defined in **Exhibit A4**, Section 3(a).
2. **Additional Terms:** Up to two (2) optional Additional Terms of five (5) years each.
3. **Environment Attributes:** Accrue to Purchaser.
4. **Environmental Incentives:** If applicable, to be directly paid over, or credited to, Purchaser as soon as received.
5. **Contract Price:**

Contract Year	\$/kWh
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
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20	

6. **Condition Satisfaction Date:** As set forth in **Exhibit A4**, Sections 6(a) and 6(b).
7. **Anticipated Commercial Operation Date:** [____], 201[].
8. **Purchaser Options to Purchase System.** None or as set forth in **Exhibit A4**, Section 16(b).

9. System Installation:

Includes:	<p><input type="checkbox"/> Design, engineering, permitting, interconnection application and completion, installation, prevailing wage construction, monitoring and communication, rebate and permit application and paperwork processing, and final commissioning of the completed System, complete and accurate As-Built design documents, copies of executed module, inverter, and system workmanship warranties, and Operations and Maintenance services Agreement, as described in <u>Exhibit A6-1</u> (Engineering and Construction Requirements), and additional items for which Seller has agreed to be responsible as set forth on <u>Exhibit A10</u>.</p> <p><input type="checkbox"/> 10-year Limited Warranty on workmanship and inverters, 25-year Warranty on PV modules.</p> <p><input type="checkbox"/> List of Approved Subcontractors</p> <p><input type="checkbox"/> Any like substantive equipment, in the sole discretion of Seller.</p> <p><input type="checkbox"/> State or Utility Rebate, if any.</p> <p><input type="checkbox"/> Proof of lien-free construction will be provided.</p> <p><input type="checkbox"/> Interactive Display for Generating Facilities. If this item is checked, the provisions of <u>Exhibit A4, Section 12(b)</u> shall apply.</p>
Excludes:	<p>Payment bonds, performance bond(s), tree removal and tree trimming, groundwork, upgrades or repair to the Facility or utility electrical infrastructure for which Purchaser has agreed to be responsible as set forth on <u>Exhibit A10</u>. To the extent of any conflict between this paragraph and <u>Exhibit A10</u>, the provisions of <u>Exhibit A10</u> shall govern.</p>

Exhibit A2
System Description

1. **System Location:**
2. **System Size (DC kW):** [_____]
3. **Expected Contract Quantity (kWh):**

Initial Year	Expected Quantity (kWh)
January	
February	
March	
April	
May	
June	
July	
August	
September	
October	
November	
December	

Contract Year	Expected Quantity (kWh)
1	
2	
3	
4	
5	
6	
7	
8	
9	
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19	
20	

4. **Expected Structure:** Floating Photovoltaic Structure

5. **Expected Module(s):**

<u>Manufacturer/Model</u>	<u>Quantity</u>

6. **Expected Inverter(s):**

<u>Manufacturer/Model</u>	<u>Quantity</u>

7. **Expected Monitoring Provider:**

<u>Manufacturer/Model</u>	<u>Quantity</u>

8. **Facility and System Layout:** See Exhibit A2, Attachment A

9. **Utility:** Pacific Gas & Electric Co. and Sonoma Clean Power, as applicable

10. **Current Utility Tariff:** **Proposed Utility Tariff:**

11. **Warranties:** (i) Warranty for the performance of the System set forth in Section 7(m); (ii) Warranty for meter accuracy set forth in Exhibit A4, Section 12(a); and (iii) Equipment warranties set forth in Exhibit A6-2, executed copies of which will be submitted at construction completion with As-Built documentation.

Exhibit A2
Attachment A:
Facility and System Layout

Aerial Photograph of the Facility	See below
Conceptual Drawing of the System	See below
Delivery Point	[describe meter location]
Access Point(s)	[written description of access point(s) needed to install and service System, also indicate below]

[Images of solar site]

**Exhibit A3
Credit Information**

Promptly following the execution of this Agreement, Purchaser shall supply Seller with the following credit information:

PURCHASER INFORMATION							
Name:					Tax ID:		
Previous & Other Names:				Website:			
Office Address:							
City, State, Zip							
Phone Number: () - -				Fax Number: () - -			
Entity Type Check One:	S-Corp	C-Corp	Partnership	Sole Prop	LLC	LLP	Other
Property Address for Solar Installation:			State:		Zip Code:	Property Owned by Applicant o YES o NO	
Property Type		Insurance Agent Name		Agents Phone: () - -	Name of Property Owner if Not Applicant		
Information Requested: Please submit the information required below via electronic format to _____@_____.							
<u>Corporate Records</u> <input type="checkbox"/>							
<u>Financial Statements</u> <input type="checkbox"/>							
<u>Real Estate Documents</u> <input type="checkbox"/>							
Seller may request you provide additional documentation to complete the credit evaluation process. Seller will notify you if additional information is required.							

The above information and any information attached is furnished to Seller and its Financing Parties in connection with the Application of credit for which you may apply.

NOTICE: The Federal Equal Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status or age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance programs; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is the Office of the Comptroller of the Currency, Customer Assistance Unit, 1301 McKinney Street, Suite 3450, Houston, Texas 77010-9050. Seller is an equal opportunity service provider.

Signature:

Title:

Date:

Exhibit A4
Solar Power Purchase Agreement
General Terms and Conditions

1. **Definitions and Interpretation.** Unless otherwise defined or required by the context in which any term appears: (a) the singular includes the plural and vice versa; (b) the words “herein,” “hereof” and “hereunder” refer to this Agreement as a whole and not to any particular section or subsection of this Agreement; (c) references to any agreement, document or instrument mean such agreement, document or instrument as amended, modified, supplemented or replaced from time to time; and (d) the words “include,” “includes” and “including” mean include, includes and including “without limitation.” The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement.
2. **Purchase and Sale of Electricity.** Purchaser shall purchase from Seller, and Seller shall sell to Purchaser, all of the electric energy generated by the System (the “**Energy**”) for each Contract Year during the Initial Term and any Additional Term (as defined in **Exhibit A1**, and collectively the “**Term**”), up to 110% of Expected Contract Quantity for each Contract Year set forth on **Exhibit A2**. Purchaser shall have the option, but not the obligation, to purchase the Energy in excess of 110% of the Expected Contract Quantity. Seller will first offer any Energy beyond the 110% cap to Purchaser and, only if Purchaser does not exercise its option to purchase all or a portion of such excess Energy, Seller shall be permitted to resell the excess Energy, provided such sale is in accordance with all applicable laws. Energy generated by the System will be delivered to Purchaser at the delivery point identified on **Exhibit A2** (the “**Delivery Point**”). Purchaser shall take title to the Energy at the Delivery Point, and risk of loss will pass from Seller to Purchaser at the Delivery Point. Purchaser may purchase electric energy for the Facility from other sources if Purchaser’s electric requirements at the Facility exceed the Energy generated by the System. Any delivery of Energy prior to the Commercial Operation Date shall be treated as limited amounts of test energy only and shall not indicate that the System has been put in commercial operation, and Purchaser shall not be under obligation to pay for such test energy. Seller shall deliver to Purchaser the Energy at the Delivery Point free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto, by any person. For the avoidance of doubt, Seller’s obligation to deliver Energy unencumbered shall not in any way affect Seller’s ability to grant a security interest in or otherwise encumber the System in accordance with the terms of this Agreement. “**Contract Year**” means the twelve month period beginning at 12:00 AM on the Commercial Operation Date or on any anniversary of the Commercial Operation Date and ending at 11:59 PM on the day immediately preceding the next anniversary of the Commercial Operation Date, provided that the first Contract Year shall begin on the Commercial Operation Date.
3. **Term and Termination.**
 - a. **Initial Term.** The initial term (“**Initial Term**”) of this Agreement shall commence on the Commercial Operation Date (as defined below) and continue for the length of time specified in **Exhibit A1**, unless earlier terminated as provided for in this Agreement. Following Purchaser’s inspections pursuant to Section 7(c)(iii) below, the “**Commercial Operation Date**” is the date Seller gives Purchaser written notice that the System is mechanically complete and capable of providing electric energy to the Delivery Point. Such notice shall be deemed effective unless Purchaser reasonably objects within five (5) business days of the date of receipt of such notice. Upon submittal of the notice, Seller will give Purchaser copies of certificates of completion or similar documentation from Seller’s contractor, including signed Building Inspection card, and the interconnection or similar agreement with the entity authorized and required under applicable law to provide electric distribution service to Purchaser at the Facility (the “**Utility**”), as set forth on **Exhibit A2**. The notice shall also include commissioning test results. This Agreement is effective as of the Effective Date and, subject to the provisions of **Section 18** below, Purchaser’s failure to enable Seller to provide the electric energy by preventing it from installing the System or otherwise not performing under this Agreement shall not excuse Purchaser’s obligations to make payments that otherwise would have been due under this Agreement.
 - b. **Additional Terms.** Prior to the end of the Initial Term or of any applicable Additional Term, as defined below, if Purchaser has not exercised its option to purchase the System, Purchaser may give Seller written notice of its desire to extend this Agreement on the terms and conditions set forth herein for the number and length of additional periods specified in **Exhibit A1** (each such additional period, an “**Additional Term**”). Such notice shall be given, if at all, not more than three hundred sixty five (365) days and not less than ninety (90) days before the last day of the Initial Term or the then current Additional Term, as applicable. If Purchaser delivers such notice, the Parties shall promptly meet and confer to discuss and agree upon the (i) Expected Contract Quantity, (ii) Contract Price for Contract Years 2-5 of the Additional Term and (iii) Termination Payment applicable for each Contract Year of such

Additional Term. The Parties agree that the Contract Price applicable during the first Contract Year of any Additional Term shall be the same as the Contract Price in effect during the last Contract Year of the Initial Term or prior Additional Term, as applicable. If Seller and Purchaser successfully agree on such terms within sixty (60) days of the date such notice is delivered by Purchaser, Purchaser and Seller shall enter into an amendment to this Agreement which shall state the mutually agreed upon Expected Output Quantity, Contract Price and Termination Payment applicable for each Contract Year of the Additional Term and confirm that all other terms of this Agreement shall continue unchanged in full force and effect. If the Parties are unable to agree on such terms during such sixty (60) day period despite the Parties good faith efforts to reach agreement, Seller shall be deemed to have rejected the offer for an Additional Term. The Additional Term shall begin immediately upon the conclusion of the Initial Term or the then current term and this Agreement shall terminate at the end of the Initial Term (if the same has not been extended) or the then current Additional Term.

c. Termination.

- i. Prior to Commencement of Construction. Purchaser may terminate this Agreement at any time upon written notice prior to Seller's delivery of full notice to proceed to contractor by Seller. Upon such termination, Purchaser shall reimburse Seller for all reasonable documented out-of-pocket costs incurred by Seller in connection with its diligence, investigations, and the design, engineering, permitting and procurement of materials for the System ("**Design Cancellation Payment**") as evidenced by the submission of engineering and design drawings in accordance with the Milestone schedule on **Exhibit A8** and other reasonable supporting documentation; provided, if such termination occurs (A) prior to the date that System engineering and design drawings are 50% complete, the Design Cancellation Payment shall not exceed Five Thousand and 00/100 Dollars (\$5,000), (B) prior to the date that System engineering and design drawings are 90% complete, the Design Cancellation Payment shall not exceed Nine Thousand and 00/100 Dollars (\$9,000), and (C) prior to the date that System engineering and design drawings are 100% complete, the Design Cancellation Payment shall not exceed Fifteen Thousand and 00/100 Dollars (\$15,000). Purchaser's payment to Seller of the Design Cancellation Payment shall be Seller's sole and exclusive remedy for such termination.
- ii. Following Commencement of Construction. Purchaser may terminate this Agreement at any time after Seller's delivery of full notice to proceed to the contractor upon thirty (30) days prior written notice to Seller. In the event of termination by Purchaser after the delivery of full notice to proceed by Seller, Purchaser shall pay to Seller the applicable Termination Payment set forth in **Exhibit A4, Attachment A**, and Seller shall, at its expense, cause the applicable System to be disconnected and removed from the Facility and remediate and restore the Facility in accordance with Seller's obligations in **Section 11**. Notwithstanding the foregoing, Purchase shall not be obligated to pay the Termination Payment in the event Purchaser terminates this Agreement due to (i) the failure of Purchaser's Conditions Precedent pursuant to **Section 6(c)**; (ii) Seller's Default pursuant to **Section 13(b)**; or (iii) a Force Majeure event pursuant to **Section 18(d)**.

4. Billing and Payment.

- a. Monthly Charges. Purchaser shall pay Seller monthly for the Energy delivered to the Delivery Point at the \$/kWh rate shown in **Exhibit A1** (the "**Contract Price**") for the current Contract Year. The first Contract Year shall start on the Commercial Operation Date, and each succeeding Contract Year shall begin on the succeeding anniversary of the Commercial Operation Date. The monthly payment for such Energy will be equal to the applicable \$/kWh rate multiplied by the number of kWh of Energy generated during the applicable month, as measured by the System Meter.
- b. Monthly Invoices. Seller shall invoice Purchaser monthly, either manually or through ACH. Such monthly invoices shall state (i) the amount of Energy produced by the System and delivered to the Delivery Point, (ii) the rates applicable to, and charges incurred by, Purchaser under this Agreement and (iii) the total amount due from Purchaser. The Contract Price includes ACH invoicing. If manual invoicing is required, a twenty five dollar (\$25) handling charge will be added to each invoice.
- c. Taxes. Seller shall either pay or reimburse Purchaser for any and all Taxes assessed on the generation, sale, delivery or consumption of electric energy produced by the System or the interconnection of the System to the Utility's electric distribution system, including property Taxes on the System; provided, however, Seller will not be required to reimburse Purchaser or otherwise pay for (i) any Taxes during periods when Seller fails to deliver

electric energy to Purchaser as a result of Purchaser's gross negligence, willful misconduct or breach of this Agreement by Purchaser or (ii) any Taxes which are imposed by any applicable law or regulation made effective after the Effective Date. Notwithstanding the foregoing, Seller shall be exempt from any tax, fee, levee or other charge now or hereafter assessed by Purchaser related to or applicable to energy use and/or sale. For purposes of this Section 4(c), "**Taxes**" means any federal, state and local ad valorem, income, property, possessory interest, occupation, generation, privilege, sales, use, consumption, excise, transaction, and other taxes, regulatory fees, surcharges or other similar charges.

- d. **Payment Terms.** All amounts due under this Agreement shall be due and payable net thirty (30) days from receipt of invoice. If payment is not received within the thirty (30) day period, the Party to whom payment is due (a "payee") shall send notice of past-due amount. After the payee sends such notice, any undisputed portion of the invoice amount not paid within the following thirty (30) day period shall accrue interest at the annual rate of the prime rate plus two percent (2%) (but not to exceed the maximum rate permitted by law).

5. **Tax Credits, Environmental Attributes and Environmental Incentives.**

- a. **Ownership of Tax Credits, Environmental Attributes and Environmental Incentives.** Seller, as owner of the energy generating equipment, is the owner of all Tax Credits and other tax attributes of ownership, and Purchaser shall cooperate with Seller in perfecting such ownership. Seller acknowledges that Purchaser has made no statements, representations or warranties regarding the eligibility of the System for the Tax Credits, and Seller is not relying on any statement, representation or warranty by Purchaser or any third party with respect to the Tax Credits in entering into this Agreement. As specified on Exhibit A1, Purchaser is the owner of all Environmental Attributes and any applicable Environmental Incentives (as agreed by the Parties). Seller shall cooperate with Purchaser in obtaining, securing and transferring all Environmental Attributes and Environmental Incentives (as agreed by the Parties) to Purchaser. Purchaser shall not be obligated to incur any out-of-pocket costs or expenses in connection with such actions unless reimbursed by Seller.
- b. **Transfer of Environmental Attributes.** Throughout the Term, Seller shall transfer to Purchaser, and Purchaser shall receive from Seller, all rights and interest in and to the Environmental Attributes and any applicable Environmental Incentives (as agreed by the Parties), whether now existing or subsequently generated or acquired (other than by direct purchase from a third party) by Seller, or that hereafter come into existence, during the Term, as a component of the Energy purchased by Purchaser from Seller hereunder. Seller agrees to transfer and make such Environmental Attributes and any applicable Environmental Incentives (as agreed by the Parties) available to Purchaser immediately to the fullest extent allowed by applicable law upon Seller's production or acquisition of such Environmental Attributes or Environmental Incentives. Seller agrees that the Contract Price, as applicable, is the full compensation for all Environmental Attributes and any applicable Environmental Incentives (except as otherwise agreed by the Parties).
- c. **No Transfer to Third Parties.** Seller shall not assign, transfer, convey, encumber, sell or otherwise dispose of any portion of the Environmental Attributes or Environmental Incentives to any person other than Purchaser.
- d. **Reporting.** Seller shall take such actions as are reasonably necessary to ensure that the Environmental Attributes are issued and tracked for purposes of satisfying the requirements of the California Renewables Portfolio Standard and transferred to Purchaser, including registration of the System in WREGIS. During the Term, Seller shall not report to any person that the Environmental Attributes granted hereunder to Purchaser belong to anyone other than Purchaser, and Purchaser may report under any program that such attributes purchased hereunder belong to it.
- e. **Attestation.** On or shortly after the final day of each Contract Year, Seller shall document the transfer of Environmental Attributes and any applicable Environmental Incentives (as agreed by the Parties) to Purchaser under this Agreement by delivering to Purchaser an attestation of Environmental Attributes and any applicable Environmental Incentives (as agreed by the Parties) transferred under this Agreement in the preceding Contract Year. The form of attestation is set forth as Exhibit A7, which Form of Attestation may be updated or changed by Purchaser with Seller's prior written approval, not to be unreasonably withheld, as necessary to ensure that Purchaser receives full and complete title to, and the ability to record with WREGIS or any successor EA Agency as its own, all of the Environmental Attributes and any applicable Environmental Incentives (as agreed by the Parties) purchased hereunder.
- f. **Documentation.** At Purchaser's option, the Parties, each at their own expense, shall execute all such documents and instruments in forms reasonably approved by the Parties in order to affect the transfer of the Environmental

Attributes specified in this Agreement and any applicable Environmental Incentives (as agreed by the Parties) to Purchaser or its designees, as Purchaser may reasonably request. Upon notification by WREGIS or any successor EA Agency that any transfers contemplated by this Agreement will not be recorded, the Parties shall promptly cooperate in taking all reasonable actions necessary so that such transfer can be recorded. Each Party shall promptly give the other Party copies of all documents it submits to WREGIS or any successor EA Agency to effectuate any transfers. From and after Seller's transfer of Environmental Attributes or any applicable Environmental Incentives (as agreed by the Parties) to Purchaser, Seller will have no obligation, risk, liability or benefit to, from or arising out of such Environmental Attributes or as a consequence of Purchaser's determination to keep, sell, or retire any such Environmental Attributes.

g. Defined Terms. As used in this Section 5 the following definitions shall apply:

"EA Agency" means any Governmental Authority that has responsibility for or jurisdiction over a program involving transferability of Environmental Attributes, including, for example, the Clean Air Markets Division of the United States Environmental Protection Agency, the California Resources, Conservation and Development Commission, the California Public Utilities Commission, and any successor agency thereto.

"Environmental Attributes" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the System, the production of electrical energy from the System and its displacement of conventional energy generation, including (a) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (b) any avoided emissions of carbon dioxide (CO2), methane (CH4), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and (c) the reporting rights related to these avoided emissions, such as Green Tag Reporting Rights and Renewable Energy Credits. Green Tag Reporting Rights are the right of a party to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party, and include Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Environmental Attributes do not include Environmental Incentives and Tax Credits. Purchaser and Seller shall file all tax returns in a manner consistent with this Section 5. Without limiting the generality of the foregoing, Environmental Attributes include carbon trading credits, Renewable Energy Credits or certificates, emissions reduction credits, emissions allowances, Green Tag Reporting Rights, tradeable renewable credits and Green-e® products.

"Environmental Incentives" means any and all credits, rebates, subsidies, payments or other incentives that relate to self-generation of electricity, the use of technology incorporated into the System, environmental benefits of using the System, or other similar programs available from the Utility, any other regulated entity or any Governmental Authority.

"Governmental Authority" means any national, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau or entity (including the Federal Energy Regulatory Commission or the California Public Utilities Commission), or any arbitrator with authority to bind a party at law.

"Tax Credits" means any and all (a) investment tax credits, (b) production tax credits and (c) similar tax credits or grants under federal, state or local law relating to the construction, ownership or production of energy from the System.

"WREGIS" means the Western Renewable Energy Generation Information System or any successor renewable energy tracking program.

6. Conditions to Obligations.

- a. Conditions to Seller's Obligations.** Seller's obligations under this Agreement, to the extent first accruing and arising from and after the applicable Condition Satisfaction Date and the expiration of the time periods set forth in Section 6(c) below, are conditioned on the completion of the following conditions (collectively "**Seller's Conditions Precedent**") to Seller's reasonable satisfaction on or before the date specified below (each a "**Condition Satisfaction Date**"):

On or before the date that is sixty (60) days following the Effective Date:

- i. Completion of physical inspections of the Facility and the property upon which the Facility is located (the “**Premises**”) including, if applicable, geotechnical work, title review, inspections of electrical systems and infrastructure, and other real estate due diligence to confirm the suitability of the Facility and the Premises for the System;
- ii. Receipt of an executed financing commitment for the construction of the System from a Financing Party (“**Financing Term Sheet**”);
- iii. Approval of (A) this Agreement and (B) the Construction Agreement for the System by Seller’s Financing Parties. “**Construction Agreement**” as used in this subsection means an agreement between Seller and any contractor or subcontractor to install the System;

On or before the date that is one hundred eighty (180) days following the Effective Date:

- iv. Receipt of all necessary zoning, land use and building permits necessary to construct and operate the System; including without limitation, receipt of Purchaser’s notice to proceed under CEQA (as defined below) pursuant to Section 6(b)(iv) below and a fully executed CEQA Cost Sharing Agreement (as defined below) if applicable;
- v. Execution of all necessary agreements with the Utility for interconnection of the System to Facility electrical system and/or the Utility’s electric distribution system; and
- vi. Prior to Seller commencing construction and installation of the System, Seller shall have received (A) proof of insurance for all insurance required to be maintained by Purchaser under this Agreement, and (B) written confirmation in recordable form acceptable to Seller and Seller’s Financing Parties from any person or entity holding a mortgage, lien or other encumbrance over the Premises or the Facility, as applicable, that such person will recognize Seller’s rights under this Agreement for as long Seller is not in default hereunder.

The Seller’s Conditions Precedent set forth in this Section 6(a) are solely for the benefit of Seller and may only be waived or deemed satisfied by Seller in Seller’s sole but reasonable discretion.

- b. Conditions to Purchaser’s Obligations.** Purchaser’s obligations under this Agreement, to the extent first accruing and arising from and after the applicable Condition Satisfaction Date and the expiration of the time periods set forth in Section 6(c) below, are conditioned on the completion of the following conditions (collectively, the “**Purchaser’s Conditions Precedent**”) to Purchaser’s reasonable satisfaction on or before the date specified below (each, a “**Condition Satisfaction Date**”):

Purchaser’s obligations under Section 4(a) of this Agreement are conditioned upon the following:

- i. The occurrence of the Commercial Operation Date on or before the Anticipated Commercial Operation Date set forth on Exhibit A1;

Purchaser’s obligations under this Agreement other than under Section 4(a) of this Agreement are conditioned upon the following occurring on or before the date that is one hundred eighty (180) days following the Effective Date:

- ii. Purchaser shall have received a copy of the Financing Term Sheet;
- iii. Purchaser shall have received proof of insurance for all insurance required to be maintained by Seller under this Agreement;
- iv. Purchaser shall be in compliance with the California Environmental Quality Act (“**CEQA**”), Pub. Res. Code § 21000 *et seq.* to Purchaser’s reasonable satisfaction. Seller shall not have any right to install the System until Purchaser has fully complied with CEQA, issued a statement to Seller attesting to the fact that Purchaser has fully complied with CEQA as it relates to the System, and issued a notice to proceed to Seller. Purchaser expects to satisfy the CEQA requirements with a Notice of Exemption for each project. If

Purchaser, in its discretion, determines that a mitigated negative declaration (“MND”) or environmental impact report (“EIR”) is required to comply with CEQA, then Purchaser shall, within thirty (30) days of such determination, provide Seller with a written statement detailing the reasons that Purchaser believes that MND or EIR is required to comply with CEQA, the estimated cost to comply with CEQA for the System, and a statement that it will or will not pay for the estimated cost to comply with CEQA for the applicable System. If Purchaser declines to pay for all of the estimated costs to comply with CEQA, Purchaser may negotiate with Seller to share such costs and any agreement reached by the Parties to share such cost shall be in writing, duly executed by the Parties (a “CEQA Cost Sharing Agreement”); and

- v. Purchaser’s reasonable approval of the Construction Agreement; provided, Purchaser may only withhold its approval of the Construction Agreement if the terms and conditions of the Construction Agreement directly conflict with the terms and conditions of this Agreement.

The conditions precedent set forth in this Section 6(b) are solely for the benefit of Purchaser and may only be waived or deemed satisfied by Purchaser in Purchaser’s sole but reasonable discretion.

- c. **Failure of Conditions.** If any of the conditions set forth in Section 6(a) or Section 6(b) are not waived or deemed satisfied by the Party benefited by such condition on or before the applicable Conditions Satisfaction Date, the Parties will meet and confer in good faith to negotiate an extension of the applicable Conditions Satisfaction Date; with each Party agreeing that it will not unreasonably withhold its approval of a proposed extension requested by the other Party. If the Parties are unable to agree upon the extension of any Conditions Satisfaction Date within twenty (20) days following the expiration of the applicable Conditions Satisfaction Date despite their good faith efforts, then the Party benefited by the condition that has not been satisfied or waived by the applicable Conditions Satisfaction Date may terminate this Agreement upon ten (10) days written notice to the other Party without liability for costs or damages or triggering a default under this Agreement other than as set forth below. For the avoidance of doubt, if Purchaser terminates the Agreement pursuant to the terms of this Section 6(c), no Termination Payment or Design Cancellation Payment shall be payable by Purchaser hereunder. Each Party hereby covenants and agrees to use commercially reasonable and diligent efforts to cause the conditions precedent to such Party’s obligations to be satisfied prior to applicable Conditions Satisfaction Date specified.

7. **Seller’s Rights and Obligations.**

- a. **Generally.** Seller shall develop, construct, finance, own, maintain and operate the System in accordance with this Agreement, all requirements of applicable law, all permits and governmental approvals, the Current Utility Tariff and/or Proposed Utility Tariff, as applicable, and Prudent Industry Practice. “Prudent Industry Practice” means those practices, methods and equipment, as changed from time to time, that: (i) when engaged in, or employed, are commonly used in the State of California in prudent electrical engineering, construction and operations to operate electricity equipment lawfully and with safety, reliability, efficiency and expedition; or (ii) in the exercise of reasonable judgment considering the facts known, when engaged in could have been expected to achieve the desired result consistent with applicable law, safety, reliability, efficiency, and expedition. Prudent Industry Practices are not limited to an optimum practice, method, selection of equipment or act, but rather are a range of acceptable practices, methods, selections of equipment or acts.
- b. **Permits and Approvals.** Seller, with Purchaser’s reasonable cooperation, shall use commercially reasonable efforts to obtain, maintain, comply with and, as necessary, renew and modify from time to time, at its sole cost and expense:
 - i. any zoning, land use and building permits required to construct, install and operate the System; and
 - ii. any agreements and approvals from the Utility necessary in order to interconnect the System to the Facility electrical system and/or the Utility’s electric distribution system.
- c. **Engineering and Construction Requirements.** All elements of design, engineering and construction of the System are Seller’s responsibility. Seller shall design, engineer and construct the System in accordance with the engineering and construction requirements set forth on Exhibit A6-1 hereto (the “Engineering and Construction Requirements”) and timelines for milestones set forth on Exhibit A8 (the “Milestones”).
 - i. **Design Acceptance.** By the applicable Milestone date set forth on Exhibit A8, Seller shall provide Purchaser with a complete design and engineering plan, including blueprints, plans, engineering drawings,

specifications and structural reports for the System (the “**Design Plans**”) for Purchaser’s review. Within thirty (30) days of receiving such plans, Purchaser shall provide Seller with (i) a letter accepting Seller’s proposed Design Plans for the System, or (ii) a report explaining why the System cannot meet the structural support and weight standards that Purchaser provided to Seller; provided that if Seller does not receive a letter or a report within such thirty (30) day period, Purchaser shall be deemed to have accepted Seller’s proposed Design Plans. If Purchaser delivers to Seller the report described in clause (ii) above, Seller shall revise the Design Plans so that the System meets the structural support and weight standards of the Facility and resubmit the Design Plans to Purchaser for approval within thirty (30) days of receipt of such report. Such resubmission shall restart the Design Plan acceptance process pursuant to this Section 7(c)(i); provided, Purchaser shall provide Seller with a letter accepting Seller’s revised Design Plans for the System, or a report explaining why the System cannot meet the structural support and weight standards provided by Purchaser within fifteen (15) days of Seller’s resubmittal. Notwithstanding the foregoing, Seller shall not be permitted to commence construction of the System until it has received a notice to proceed from Purchaser in accordance with Section 6(b)(iii).

- ii. **Milestones**. Seller shall diligently pursue completion of all Milestones by the required dates set forth on **Exhibit A8**. The Parties agree that time is of the essence in connection with the completion of the System, and that Milestones for the development, financing and construction of the System must be achieved in a timely fashion. Upon becoming aware that Seller will, or is reasonably likely to, fail to achieve one or more Milestone(s) by the required date, for any reason including a Force Majeure Event, Seller shall so notify Purchaser in writing immediately. Such notice shall explain the cause of the delay, provide an updated date for achievement of the Milestone(s), and describe Seller’s plan for meeting such Milestone(s). Seller’s notice will also explain any impact such delay may have on any other Milestone, and the measures to be taken to mitigate such impact.
- iii. **Mechanical Completion and Substantial Completion**. Seller shall notify Purchaser when full notice to proceed is issued to the contractor. Seller shall provide Purchaser with a copy of any certificate of mechanical completion or certificate of substantial completion from the contractor promptly following receipt thereof. Upon receipt of such certificate, Purchaser shall schedule an inspection of the System for a date, mutually agreeable to Seller and Purchaser, which is within ten (10) business days following Purchaser’s receipt of the certificate of substantial completion or mechanical completion for the System. Following Purchaser’s inspection of the System, Purchaser may, within five (5) business days of the inspection, prepare and provide to Seller a list of any observed defects or deficiencies in the construction work or discrepancies between installed equipment and workmanship and this Agreement or the Construction Agreement. If Seller disputes any items on Purchaser’s list, the Parties shall promptly meet and confer in a good faith effort to resolve any such disputes. Seller shall be responsible for completion, correction, or otherwise addressing issues identified by Purchaser, and shall provide a written response to Purchaser setting forth the actions taken in response to such items or explaining why no action is necessary. If requested by Purchaser, Seller shall schedule and arrange a follow-up inspection for Purchaser and Seller after all items on Purchaser’s list are resolved. For the avoidance of doubt, such items shall be corrected without cost to Purchaser. All items identified by Purchaser, except those items specifically excepted by mutual agreement between Purchaser and Seller, shall be completed before Seller accepts the certificate of mechanical completion or certificate of substantial completion, as applicable.
- iv. **Reporting**. Seller shall provide bi-weekly (i.e. every other week) reports to Purchaser detailing the status of the design, engineering and construction of the System and Seller’s progress in achieving the Milestones. Following the completion of the construction of the System, Seller shall deliver Purchaser a copy of As-Built drawings and copies of all executed warranties relating to the System. Seller will create, maintain and provide to Purchaser minutes of meetings between the representatives of Seller and Purchaser during the design, engineering and construction phase of the System. “**As-Built**” shall mean final record drawings based on redlines from the field reflecting the System as constructed.
- v. **Force Majeure Event**. In the event that a Force Majeure event causes any delay in the achievement of a Milestone by the date set forth in **Exhibit A8**, such Milestone’s deadline shall be extended, together with any Force Majeure event extensions for other Milestones, for a period not to exceed twelve (12) months in the aggregate. The extension of the deadline for any Milestone shall extend the deadline for all subsequent Milestones, provided that in no event shall the combined extensions for Force Majeure events for any or all of the Milestones exceed twelve (12) months. In the event the combined extensions for Force Majeure

events for any or all Milestones exceeds twelve (12) months (but not prior to such time), Purchaser shall be permitted to exercise its rights pursuant to Section 18(d).

- vi. **Waiver of Right**. Purchaser may, at its discretion, grant extensions for Milestones or waivers for Seller's failure to meet any of the Milestones, but in no way shall any such extension or waiver constitute a waiver of any future failures by Seller to meet other Milestones. For the avoidance of doubt, Purchaser's consent to extensions of the Milestones pursuant to Section 7(c)(v) shall not be required.
- d. **Standard System Repair and Maintenance; Repair of Facility**. Seller shall construct and install the System at the Facility. During the Term, Seller will operate and perform all routine and emergency repairs to (including replacement of), and maintenance of, the System at its sole cost and expense, except for any repairs or maintenance resulting from the negligence, willful misconduct or breach of this Agreement by Purchaser, its employees, agents, contractors (other than Seller or Seller's contractors and subcontractors) or consultants (together with Purchaser, collectively, the "**Purchaser Parties**" and individually, a "**Purchaser Party**"). If the System is damaged or destroyed other than by the negligence or willful misconduct of any Purchaser Party, Seller shall promptly repair and restore the System to its pre-existing condition, subject to the provisions of this Section 7(d) and Section 15(a) below. The cost to repair, replace or restore any portion of the System due to the negligence or willful misconduct or breach of this Agreement by any Purchaser Party shall be paid by Purchaser. Seller and Purchaser shall use commercially reasonable efforts to coordinate scheduling of regular maintenance to minimize impacts to Facility operations and maximize System output of Energy during the months of May through October. Seller shall not be responsible for any work done by others on any part of the System unless Seller authorizes that work in advance in writing. Seller shall not be responsible for any loss, damage, cost or expense arising out of or resulting from improper environmental controls or improper operation or maintenance of the System by anyone other than Seller or Seller's contractors. If the System requires repairs for which Purchaser is responsible, Seller shall cause its contractor prepare a written estimate of the cost to make such repairs or replacements, calculated using standard market rates, and such repairs and replacements shall be made by Seller's contractor at Purchaser's sole cost and expense. If, based on the estimated cost of such replacement or repairs, Purchaser does not wish to have the System repaired or replaced, Purchaser may elect to terminate this Agreement pursuant to Section 3(c). Seller and any Financing Party may nullify such termination notice by written notice to Purchaser delivered on or before the expiration of such thirty (30) day period stating that Seller or the Financing Party has elected to pay for the cost of such replacement or repairs in excess of any insurance proceeds available from any insurance policy issued to Purchaser (which for purposes of clarification does not include Purchaser's self-insurance pool) by a third party insurance carrier (such carrier, a "**Third Party Insurance Carrier**" and such policy, a "**Third Party Insurance Policy**") which covers such loss or damage. Seller shall provide Purchaser with reasonable notice prior to accessing the Facility to make standard repairs. Seller shall promptly notify Purchaser of any matters of which it is aware pertaining to any damage to or loss of use of the System or that could reasonably be expected to adversely affect the System. Purchaser shall cooperate with Seller in good faith to cause proceeds from any Third Party Insurance Policy to be available to cover the cost of repairs to the System for which Purchaser is responsible to the extent such loss or damage is covered under the terms and conditions of such Third Party Insurance Policy.
- e. **Breakdown Notice**. Seller shall notify Purchaser as soon as practicable and in any event within twenty-four (24) hours following Seller's discovery of (i) any material malfunction in the operation of the System or (ii) an interruption in the supply of electrical energy from the System. Purchaser and Seller shall each designate personnel and establish procedures such that each Party may provide notice of such conditions requiring Seller's repair or alteration at all times, twenty-four (24) hours per day, including weekends and holidays.
- f. **Suspension**. Notwithstanding anything to the contrary herein, Seller shall, for a total of forty-eight (48) daylight hours per calendar year during the Term, be entitled to suspend delivery of electricity from the System to the Delivery Point for the purpose of maintaining and repairing the System and such suspension of service shall not constitute a breach of this Agreement; provided, that Seller shall use commercially reasonable efforts to minimize any interruption in service to Purchaser. Purchaser shall not be obligated to pay for lost energy production due to (a) Seller system maintenance or repair pursuant to Section 7(d), unless such maintenance and repair is necessitated due to damage caused by the negligence, willful misconduct or breach of this Agreement by any Purchaser Party or (b) a Purchaser Scheduled Outage pursuant to Section 8(e) unless and except to the extent a Purchaser Scheduled Outage exceeds a total of forty-eight (48) daylight hours per calendar year (other than due to a Force Majeure event); provided, that Seller must notify Purchaser of any scheduled suspension at least forty-eight (48) hours in advance of the commencement of such scheduled suspension. In the event that suspensions exceed a total of forty-eight (48) daylight hours per calendar year for a reason other than a Force Majeure event or Purchaser's breach of this Agreement, Seller shall reasonably estimate the amount of electricity that would have been delivered to Purchaser

during such excess suspensions and shall pay Purchaser an amount equal to the sum of the net present value (using a discount rate of eight percent (8%)) of the excess, if any, of the reasonably expected cost of electric energy from the Utility (after taking into consideration adjustments for time of use) over the Contract Price for the reasonably expected production of the System during such excess suspensions and the payment of such amount by Seller to Purchaser shall be Purchaser's sole and exclusive remedy for such interruption.

- g. Use of Contractors and Subcontractors.** Seller shall be permitted to use contractors and subcontractors to perform its obligations under this Agreement, provided however, that such contractors and subcontractors shall be duly licensed and shall provide any work in accordance with applicable industry standards. Notwithstanding the foregoing, Seller shall continue to be responsible for the quality of the work performed by its contractors and subcontractors and shall require all contracts with all contractors and subcontractors to contain a provision requiring compliance by such contractor or subcontractor with this Agreement and naming Purchaser as a third party beneficiary (though Purchaser assumes no responsibility whatsoever concerning compensation or any other responsibility or liability to contractors or subcontractors). A list of pre-approved contractors and subcontractors to be used for construction of the System shall be scheduled on **Exhibit A4, Attachment B**. All contractors and subcontractors to be used for the construction of the System, other than those that may be scheduled on **Exhibit A4, Attachment B**, shall be subject to Purchaser's prior written consent, not to be unreasonably withheld.
- h. Liens and Payment of Contractors and Suppliers.** Seller shall not directly or indirectly cause, create, include, assume or allow to exist any mortgage, pledge, lien, charge, security interest, encumbrance or other claim of any nature on or with respect to the Facility, the Premises or any interest therein; provided, Seller shall be entitled to finance the System and assign its interest under this Agreement and the License granted hereunder pursuant to **Section 19** below. Seller shall pay when due all valid charges from all contractors, subcontractors and suppliers supplying goods or services to Seller under this Agreement and shall keep the Facility free and clear of any liens related to such charges, except for those liens which Seller is permitted by law to place on the Facility following non-payment by Purchaser of amounts due under this Agreement. Seller shall promptly notify Purchaser in writing of the existence of any lien and promptly cause the same (other than Seller's liens for non-payment by Purchaser) to be discharged and released of record without cost to Purchaser. Seller shall indemnify Purchaser for all claims, losses, damages, liabilities and expenses resulting from any such liens filed against the Facility or the Premises; **provided, however,** that Seller shall have the right to contest any such lien, so long as it provides a statutory bond or other reasonable assurances of payment that either remove such lien from title to the Facility and the Premises or that assure that any adverse judgment with respect to such lien will be paid without affecting title to the Facility and the Premises.
- i. OSHA Compliance.** Seller shall ensure that all Occupational Safety and Health Act ("OSHA") requirements and other similar applicable safety laws or codes are adhered to in its performance under this Agreement.
- j. Security.** Seller shall be responsible for using commercially reasonable efforts to maintain the physical security of the System against known risks and risks that should have been known by Seller. Seller will not conduct activities on, in or about the System that have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the Facility or the Premises.
- k. Records.** Seller shall maintain any and all documents and records which demonstrate performance under this Agreement, and all ledgers, books of account, invoices, vouchers, cancelled checks, and other documents evidencing or relating to charges for services, or expenditures and disbursements charged to Purchaser for a minimum period of five (5) years, or for any longer period required by law, from the date of final payment to Seller pursuant to this Agreement. Any documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit at any time during regular business hours, upon five (5) days prior written request by a designated representative of Purchaser. Seller shall not charge Purchaser for Purchaser's inspection of records; provided, Purchaser shall pay any copying or other reproduction costs and for the cost of any audit made at Purchaser's election. Seller shall provide copies of such documents to Purchaser for inspection at Seller's office or at such place as Seller maintains such records at a time that is mutually acceptable to Purchaser and Seller. Where Purchaser has reason to believe that any of Seller's documents relating to this Agreement may be lost or discarded due to dissolution, disbandment or termination of Seller's business, Purchaser may, by written request by any of the above-named officers, require that custody of Seller's documents be given to Purchaser. Seller shall comply with Purchaser's reasonable written request.
- l. Contractor's Warranties; Cooperation.** Subject to the Financing Party's rights pursuant to **Section 19** below, if Seller fails to replace or repair the System as required pursuant to **Section 7(d)** above, and such failure continues for

more than thirty (30) days following Purchaser's written notice to Seller, Purchaser shall have the right, at Seller's cost and expense, to enforce the terms and conditions of any warranty issued to Seller in connection with the System and Seller shall take all reasonable action necessary to enable Purchaser to enforce the terms and conditions of such warranties. Seller shall cause Purchaser to be named as an express third party beneficiary to any warranty provision pertaining to the System contained in any contract between Seller and its general contractor and supplier. Seller shall use commercially reasonable efforts to cause Purchaser to be named as an express third party beneficiary to any warranty provision pertaining to the System contained in any contract with any other subcontractor or material supplier. Seller shall, and shall cause its contractors and subcontractors to, work with Purchaser's existing contractors and manufacturers to ensure original warranties, if applicable, stay in effect while the System is installed and operating. The Parties acknowledge that cooperation by Purchaser's existing contractors will be required to maintain original warranties. Should existing contractors be unwilling to maintain original warranties, Seller will inform Purchaser of such fact in writing, and Purchaser will advise Seller on how to proceed.

- m. **Energy Delivery.** Beginning on the Commercial Operation Date, the System shall produce not less than ninety percent (90%) of the applicable Expected Contract Quantity for any given Contract Year as adjusted for Abnormal Weather Conditions, measured on a rolling, three (3) year cumulative basis, unless, and then only to the extent that, the failure to satisfy the Expected Contract Quantity for a given Contract Year is due to (a) Facility failure, damage or downtime attributable to third parties (other than Seller's contractors and subcontractors); (b) general utility outages or any failure of an applicable electric grid; (c) a Force Majeure Event; or (d) Purchaser's failure to satisfy its obligations hereunder. "**Abnormal Weather Conditions**" shall mean weather conditions which were abnormal for the period of time and could not have been reasonably anticipated, as substantiated with documentation including U. S. Weather Bureau Climatological Reports for the months involved plus a report indicating the average precipitation, temperature, etc., for the past ten (10) years from the nearest reporting station, which such ten-year average will be the basis for determining the number of adverse weather days that could have been reasonably and normally anticipated by Seller. Subject to the terms and conditions of this Agreement, beginning within sixty (60) days of the third anniversary of the Commercial Operation Date and for every Contract Year thereafter, if the delivered Energy of such System for the three (3) year period prior to such anniversary does not equal or exceed ninety percent (90%) of the Expected Contract Quantity for such three (3) year period, Seller will credit Purchaser on its net invoice, an amount equal to the product of (i) the positive difference, if any, of the average price per kWh for the current Utility rate schedule (after taking into consideration adjustments for time of use) during such three (3) year period minus the Contract Price hereunder, multiplied by (ii) the difference between the Energy for such three (3) year period and ninety percent (90%) of the Expected Contract Quantity for such three (3) year period, less any credit previously given covering the same period. This performance guarantee shall remain in place for twenty (20) years from the Commercial Operation Date.
- i. **Limitations.** Pursuant to this Section 7(m), the Parties recognize and agree that (a) payment or credit of amounts by Seller to Purchaser is an appropriate remedy, (b) that the amount credited or paid in any year shall not exceed an amount equal to Twenty Five Dollars (\$25.00) per DC kW of System size (the "**Production Guaranty Cap**"), (c) any such payment or credit does not constitute a forfeiture or penalty of any kind, but rather constitutes anticipated costs of Purchaser under the terms of this Agreement, and (d) that such amounts shall be Purchaser's sole and exclusive remedy for any performance guarantee claim arising out of this Agreement. At the commencement of the first anniversary of the Commercial Operation Date and at the commencement of each Contract Year thereafter, the Production Guaranty Cap shall be increased by an amount equal to three percent (3%) of the Production Guaranty Cap in effect for the prior Contract Year.

8. Purchaser's Rights and Obligations.

- a. **License to the Premises; Facility Access Rights.** Subject to Section 8(a)(i) below, during the License Term, Purchaser grants to Seller and to Seller's agents, employees, contractors and assignees an irrevocable non-exclusive license running with the Premises (the "**License**") for access to, on, over, under and across the Premises for the purposes of (i) installing, constructing, operating, owning, maintaining, accessing, removing and replacing the System and conducting inspections and studies related thereto; (ii) performing all of Seller's obligations and enforcing all of Seller's rights set forth in this Agreement; and (iii) installing, using and maintaining electric lines and equipment, including inverters and meters necessary to interconnect the System to Purchaser's electric system at the Facility, to the Utility's electric distribution system, if any, or for any other purpose that may from time to time be useful or necessary in connection with the construction, installation, operation, maintenance or repair of the System.
- i. **Construction License.** During the Construction License Term, Purchaser grants Seller and Seller's contractors and subcontractors a non-exclusive license to use an area of the Premises to be designated by the Purchaser and reasonably acceptable to Seller exclusively as a laydown and construction staging area and for temporary storage (the "**Construction License**"). Notwithstanding Purchaser's grant of the License, all of Seller's construction-related activities must be confined to the area granted in the Construction License. Purchaser shall have no liability whatsoever in connection with property or equipment located in the area of the Construction License, excluding damage caused by the gross negligence or intentional misconduct of any Purchaser Party, and Seller shall indemnify Purchaser for any and all claims arising from the maintenance of such property or equipment; provided, Seller shall not be obligated to indemnify Purchaser for any loss, liability or claims arising out of the gross negligence or intentional misconduct of any Purchaser Party.
- ii. **License Terms.** The term of the License shall continue until the date that is one hundred and eighty (180) days following the date of expiration or termination of this Agreement (the "**License Term**"). The term of the Construction License shall continue until the date that is the final completion date pursuant to the terms of the Construction Agreement (the "**Construction License Term**"). During the License Term and the Construction License Term, Purchaser shall ensure that Seller's rights under the License and the Construction License, as applicable, and Seller's access to the Premises and the Facility are preserved and protected. Purchaser shall not interfere with nor shall permit any third parties to interfere with such rights or access.
- iii. **Parking Interference.** Notwithstanding Seller's rights under the License and the Construction License, Seller shall not be permitted to occupy any portion of the Premises in a manner that would cause one or more parking spaces to be unavailable for use without the prior written consent of Purchaser, which shall not be unreasonably withheld.
- iv. **Notice of Entry.** Seller shall notify Purchaser prior to entering the Facility except in situations where there is imminent risk of damage to persons or property.
- v. **Memorandum.** Seller may, at its sole cost and expense, record such memorandum of License in the form of Exhibit A5 or other form agreed by the Parties with the appropriate land registry or recorder's office.
- b. **OSHA Compliance.** Purchaser shall ensure that all OSHA requirements and other similar applicable safety laws or codes are adhered to in its performance under this Agreement.
- c. **Maintenance of Facility; System.** Purchaser shall, at its sole cost and expense, maintain the Facility in good condition and repair; except for any repairs or maintenance resulting from the negligence, willful misconduct or breach of this Agreement by Seller, its employees, agents, contractors or consultants (together with Seller, collectively, the "**Seller Parties**" and individually, a "**Seller Party**"). If the Facility is damaged or destroyed by casualty of any kind or any other occurrence other than the negligence or willful misconduct of any Seller Party, such that the operation of the System and/or Purchaser's ability to accept the electric energy produced by the System are impaired or prevented, Purchaser shall promptly repair and restore the Facility to its pre-existing condition, subject to the provisions of Section 15(b). The cost to repair or replace any portion of the Facility due to the negligence or willful misconduct or breach of this Agreement by any Seller Party shall be paid by Seller. Purchaser shall not be responsible for any work done by others on any part of the Facility unless Purchaser authorizes that work in advance. Purchaser will use commercially reasonable efforts to ensure that the Facility remains

interconnected to the local utility grid at all times and will not intentionally permit cessation of electric service to the Facility from the local utility, except during operational testing of back-up systems, not to exceed an aggregate of three (3) days in any Contract Year. Purchaser is fully responsible for the maintenance and repair of the Facility's electrical system and of all of Purchaser's equipment that utilizes the System's outputs, except to the extent required as a result of damage caused by the negligence, intentional misconduct or breach of this Agreement by any Seller Party. Purchaser shall promptly notify Seller of any matters of which it is aware pertaining to any damage to or loss of use of the System or that could reasonably be expected to adversely affect the System. Nothing in this Section shall remove Seller's obligation to maintain all locations of physical attachment between Systems and their applicable Facilities. Seller shall be responsible to pay for the cost of any replacement or repair to the Facility required due to any damage to the Facility caused by the negligence, willful misconduct or breach of this Agreement by any Seller Party.

- d. **No Alteration of Facility.** If Purchaser wishes to make any alterations or repairs to the Facility that could adversely affect the operation and maintenance of the System, Purchaser shall give prior written notice to Seller, setting forth the work to be undertaken (except for emergency repairs, for which notice may be given by telephone), and give Seller the opportunity to advise Purchaser in making such alterations or repairs in a manner that avoids damage to the System and interference with System operations. To the extent that temporary disconnection or removal of the System or interference with the operation of the System is necessary to perform such alterations or repairs, (i) any such disconnection, removal or other alteration of the System shall be completed by Seller's contractors or contractors approved in advance in writing by Seller, in accordance with a procedure and schedule approved in advance in writing by Seller and Purchaser at Purchaser's sole cost and expense, (ii) to the extent the outage results in Purchaser exceeding its permitted Scheduled Outages pursuant to Section 8(e) below, Seller shall reasonably estimate the amount of electricity that would have been delivered to Purchaser during such excess Scheduled Outages and shall invoice Purchaser for such amount in accordance with Section 4, and (iii) such work and any replacement of the System after completion of Purchaser's alterations and repairs, shall be done by Seller or its contractors at Purchaser's cost. All of Purchaser's alterations and repairs will be done in a good and workmanlike manner and in compliance with all applicable laws, codes and permits. Purchaser shall be responsible to pay for the cost of any replacement or repair to the System required due to any damage to the System caused by the negligence, willful misconduct or breach of this Agreement any Purchaser Party. In performing its obligations under this Section 8(d), Seller shall use commercially reasonable efforts to incur costs reimbursable by Purchaser at standard market rates; provided, that Seller's reimbursable costs incurred in connection with the removal and replacement of the System shall not exceed an amount equal to Four Hundred and Twenty Dollars (\$420) per kW, as adjusted for inflation on the first day of each Contract Year by the Consumer Price Index for All Urban Consumers (CPI-U) for the San Francisco area published by the Bureau of Labor Statistics. For purposes of clarification, Purchaser shall be responsible for all improvements, upgrades or repairs to the Facility, and Seller shall have no obligation to perform or pay for any improvements, upgrades or repairs to the Facility, except for any repairs resulting from the negligence, willful misconduct or breach of this Agreement by a Seller Party.
- e. **Outages.** Purchaser shall be permitted to be off line for a total of forty-eight (48) daylight hours (each, a "Scheduled Outage") per calendar year during the Term, during which days Purchaser shall not be obligated to accept or pay for electricity from the System; provided, however, that Purchaser must notify Seller in writing of each such Scheduled Outage at least forty-eight (48) hours in advance of the commencement of a Scheduled Outage. In the event that Scheduled Outages exceed a total of forty-eight (48) daylight hours per calendar year or there are unscheduled outages caused or initiated by any Purchaser Party or necessitated due to damage to the Facility or the System for which Purchaser is responsible pursuant to this Agreement, in each case for a reason other than a Force Majeure event, Seller shall reasonably estimate the amount of electricity that would have been delivered to Purchaser during such excess Scheduled Outages or unscheduled outages and shall invoice Purchaser for such amount in accordance with Section 4.
- f. **Liens.** Purchaser shall not directly or indirectly cause, create, incur, assume or allow to exist any mortgage, pledge, lien, charge, security interest, encumbrance or other claim of any nature on or with respect to the System or any interest therein. Purchaser shall promptly notify Seller in writing of the existence of any such mortgage, pledge, lien, charge, security interest, encumbrance or other claim, and shall promptly cause the same to be discharged and released of record without expense to Seller or any Financing Party. Notwithstanding anything else herein to the contrary, pursuant to Section 19(a), Seller may grant a lien on the System and may assign, mortgage, pledge or otherwise collaterally assign its interests in this Agreement and the System to any Financing Party, but no Financing Party lien may be placed on the Facility or the Premises of Purchaser.

- g. **Security.** Purchaser shall be responsible for using commercially reasonable efforts to maintain the physical security of the Facility against known risks and risks that should have been known by Purchaser. Purchaser will not conduct activities on, in or about the Premises or the Facility that have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the System, with the exception of activities that are regularly conducted as part of the Facility's normal operations.
- h. **Insolation.** Purchaser understands that unobstructed access to sunlight ("**Insolation**") is essential to Seller's performance of its obligations and a material term of this Agreement. Purchaser shall not in any way intentionally cause and, where reasonably possible, shall not in any way permit any material interference with the System's Insolation. If Purchaser becomes aware of any activity or condition that could materially diminish the Insolation of the System, Purchaser shall promptly notify Seller and shall reasonably cooperate with Seller in attempting to preserve the System's existing Insolation levels. Encroachment upon Insolation due to acknowledged pre-existing conditions, or due to privately-owned development or growth outside Purchaser's control, are not subject to Purchaser's obligations pursuant to this Section 8(h). Upon Seller's written request, Purchaser will reasonably cooperate with Seller, at no expense to Purchaser, to secure a solar easement from a third party for the Premises to prevent other buildings, structures or flora from overshadowing or otherwise blocking access of the sunlight to the System.
- i. **Data Line.** Purchaser shall provide Seller access to a high speed internet data line during the Term to enable Seller to record the electric energy generated by the System. Seller is responsible for providing all means of connection to the identified high speed internet data line, including boring, conduit, and wire, as applicable. If Purchaser fails to provide access to such high speed internet data line, Seller may install and operate a cellular modem communications device to acquire the necessary production data at Purchaser's expense.
- j. **Breakdown Notice.** Purchaser shall make reasonable attempts to notify Seller within twenty-four (24) hours following the discovery by it of (i) any material malfunction in the operation of the System; or (ii) any occurrences that could reasonably be expected to materially and adversely affect the System. Purchaser shall notify Seller as soon as possible upon the discovery of an emergency condition respecting the System. Purchaser and Seller shall each designate personnel and establish procedures such that each Party may provide notice of such conditions requiring Seller's repair or alteration at all times, twenty-four (24) hours per day, including weekends and holidays.

9. **Change in Law.**

"**Change in Law**" means (i) the enactment, adoption, promulgation, modification or repeal after the Effective Date of any applicable law or regulation; (ii) the imposition of any material conditions on the issuance or renewal of any applicable permit after the Effective Date of this Agreement (notwithstanding the general requirements contained in any applicable Permit at the time of application or issue to comply with future laws, ordinances, codes, rules, regulations or similar legislation), or (iii) a change in any utility rate schedule or tariff approved by any Governmental Authority which in the case of any of (i), (ii) or (iii), establishes requirements affecting owning, supplying, constructing, installing, operating or maintaining the System, or other performance of the Parties' obligations hereunder and which has a material adverse effect on the cost to Seller of performing such obligations; provided, that a change in federal, state, county or any other tax law after the Effective Date of this Agreement shall not be a Change in Law pursuant to this Agreement.

If any Change in Law occurs that has a material adverse effect on the cost to Seller of performing its obligations under this Agreement, then the Parties shall, within thirty (30) days following receipt from Seller of notice of such Change in Law, meet and attempt in good faith to negotiate amendments to this Agreement as are reasonably necessary to preserve the economic value of this Agreement to both Parties. If the Parties are unable to agree upon such amendments within such thirty (30) day period, then Seller shall have the right to terminate this Agreement and neither Party shall have further liability to the other Party except with respect to payment of amounts accrued prior to termination. For the avoidance of doubt, if Seller terminates the Agreement pursuant to the terms of this Section 9, no Termination Payment shall be payable by Purchaser hereunder.

10. **Relocation of System.**

- a. **System Relocation.** If Purchaser ceases to conduct operations at the Facility, or resolves to make an alternate use of some or all of the areas where the Facility is located, or otherwise vacates the Facility prior to the expiration of the Term, Purchaser shall have the option to provide Seller with a mutually agreeable substitute premises located within the same Utility district as the terminated System or in a location with similar Utility rates and Insolation. Purchaser shall provide written notice at least ninety (90) days but not more than one hundred eighty (180) days prior to the

date that it wants to make this substitution. In connection with such substitution, Purchaser shall execute an amended agreement (a “**Relocation Amendment**”) that shall have all of the same terms as this Agreement except for the (i) License and Construction License, which will be amended to grant rights in the real property where the System relocated to; and (ii) Term, which will be equal to the remainder of the Term of this Agreement. Such Relocation Amendment shall be deemed to be a continuation of this Agreement without termination. Purchaser shall also provide any new consents, estoppels, or acknowledgments reasonably required by Financing Parties and in form and substance reasonably acceptable to Purchaser in connection with the substitute premises.

- b. **Costs of Relocation.** Purchaser shall pay all costs associated with relocation of the System, including all costs and expenses incurred by or on behalf of Seller in connection with removal of the System from the Facility, the repair and restoration of the Facility as pursuant to Section 11 below, all costs of engineering, design, permitting, procurement of new System components, installation and testing of the System at the substitute facility, all costs to comply with CEQA, all applicable permit and interconnection fees and expenses at the substitute facility, the costs of new title search and other out-of-pocket expenses connected to preserving and refileing the security interests of Seller’s Financing Parties in the System and any costs incurred by Seller to modify financing documents or obtain any Financing Party’s consent to such relocation; provided, that (i) Purchaser and Seller shall cooperate in good faith to determine such costs and expenses prior to commencing with the System relocation and (ii) such actual costs and expenses paid by Purchaser shall be reasonable, documented and submitted to Purchaser promptly after the completion of the relocation. In addition, Seller shall reasonably estimate and invoice Purchaser for the amount of electricity that would have been delivered to Purchaser during the relocation of the System and Purchaser shall pay such invoiced amounts to Seller pursuant to Section 4(d) above.
- c. **Adjustment for Insolation; Termination.** Seller shall remove the System from the vacated Facility at Purchaser’s sole cost, within 45 days following the full execution of the Relocation Amendment by the Parties and Purchaser’s written direction to Seller to remove the System from the Facility. Seller shall restore the Facility to the condition required pursuant to Section 11 below at Purchaser sole cost and expense. If the substitute facility has inferior Insolation as compared to the original Facility, Seller shall have the right to include an adjustment to Exhibit A1 in the Relocation Amendment, to be agreed to prior to commencing with the System relocation, such that Purchaser’s payments to Seller are the same as if the System were located at the original Facility. If Purchaser is unable to provide such substitute facility and to relocate the System as provided, the Agreement will be deemed to be terminated by Purchaser pursuant to Section 3(c)(ii) and Purchaser shall promptly pay the applicable Termination Payment specified on Exhibit A4.

11. **Removal of System at Expiration.**

- a. **Removal Obligations.** Upon the expiration or earlier termination of this Agreement (provided Purchaser does not exercise its purchase option), Seller shall, at its expense, remove all of its tangible property comprising the System from the Facility on a mutually convenient date, but in no event later than one hundred eighty (180) days after the expiration of the Term. The Facility shall be returned to a condition at least as good as its original condition and in compliance with then-applicable building codes; provided, that Purchaser will be responsible for any cost of restoring the Facility to then-applicable building codes in excess of the estimated cost to restore the Facility to its original condition, ordinary wear and tear, alterations made by Purchaser and unrepaired damage caused by Purchaser or third parties excluded. Seller’s obligations under this Section 11 shall include the removal of System mounting pads or other support structures installed by Seller. In no case shall Seller’s removal of the System affect the integrity of Purchaser’s pond lining, which shall be as intact as it was prior to removal of the System and shall be flashed and/or patched to existing pond specifications and Purchaser’s then-existing pond warranties. Seller shall leave the Facility in neat and clean order. If Seller fails to remove or commence substantial efforts to remove the System by such agreed upon date, Purchaser shall have the right, at its option, to remove the System to a public warehouse and restore the Facility to its original condition (other than ordinary wear and tear) at Seller’s cost. Purchaser shall provide sufficient space for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during System removal.
- b. **Decommissioning Fund.** No later than three hundred sixty five (365) days prior to the commencement of the sixth (6th) Contract Year, Seller shall provide Purchaser a written estimate of the cost to remove the System and restore the Facility as required pursuant to Section 11(a). The Parties shall meet and confer within thirty (30) days after such written estimate is received by Purchaser to resolve any concerns regarding such estimated cost. Seller shall provide one of the following forms of security for the cost to remove the System and restore the Facility to the required condition beginning on the first day of the sixth (6th) month of the sixth (6th) Contract Year: (i) a

performance bond covering such cost, (ii) an investment or deposit account established with a financial institution reasonably satisfactory to Purchaser, or (iii) a guaranty or letter of credit issued by a financial institution reasonably satisfactory to Purchaser. If Seller elects to provide security in the form of an investment or deposit account pursuant to clause (ii) above, (a) Seller shall fund such account in 27 equal installments, with each installment to be paid once every sixth (6th) months, and (b) concurrently with the opening of such investment or deposit account, the Parties shall enter into an agreement setting forth the terms and conditions by which withdrawals of the funds on deposit in such account can be made, which terms and condition shall be consistent with the terms hereof. Such security shall secure the costs to remove the System and restore the Facility to the condition required pursuant to Section 11(a) and Seller shall not be permitted to use such security for any other purpose. For avoidance of doubt, any funds remaining after the removal of the System and restoration of the Facility are the sole property of Seller. Seller, in its sole discretion, shall determine which form of security to post, and may replace one form of security for another form of security in an equal amount from time to time. In the event of a Seller Bankruptcy Event or Seller fails to remove the System within one hundred eighty (180) days of the expiration of the term or earlier termination of this Agreement, Purchaser shall have the right to use the applicable security and funds for the sole purpose of removal of the System and restoration of the Facility to the required condition and any remaining funds shall remain the property of the Seller or the Seller's Financing Parties, as applicable.

12. Measurement.

- a. **Meters.** The transfer of Energy from Seller to Purchaser shall be measured by a meter (a “**Meter**”) at the Delivery Point, which shall be selected, provided, installed, owned, maintained, programmed, tested and operated, at Seller's sole cost and expense, by Seller or its designee. Meters and all metering activities shall comply with all applicable requirements of the [Current/Proposed Utility Tariffs] set forth on Exhibit A2 and the interconnection agreement between Pacific Gas & Electric Company and Purchaser. A monitoring system with real time monitoring of the quantities and quality of Energy generated by the System shall also be installed for the System. Seller shall exercise reasonable care in the maintenance and operation of the Meters and the monitoring system and shall test and verify the accuracy of each Meter at least once every two (2) years. Seller shall inform Purchaser in advance of the time and date of these tests, and shall permit Purchaser to be present at such tests and to receive the results of such tests. Metering must have an equivalent accuracy of plus or minus two percent (2%) or better and monitoring results from Seller's Performance Monitoring and Reporting Service (“**PMRS**”) that is viewable by Purchaser at all times through an online portal. Eligible meters and PMRS providers must be listed as approved on the Go Solar California website. If testing of the metering equipment indicates that such equipment is in error by more than two percent (2%), then Seller shall promptly repair or replace such equipment. Seller shall make a corresponding adjustment to the records of the amount of electricity delivered by the Facility based on such test results for (i) the actual period of time when such error caused inaccurate Meter readings, if that period can be determined to the mutual satisfaction of the Parties, or (ii) if such period cannot be so determined, then a period equal to one-half of the period from the later of the date of the most recent test confirming accurate metering or the date the Meter was placed into service, but not to exceed twelve (12) months. After the Commercial Operation Date, Seller shall install, own and maintain, at its sole cost and expense, communications equipment and services necessary to allow remote reading of the Meters (including pursuant to the requirements of any interconnection agreement). Seller shall at its sole cost and expense, install any updates or upgrades to the Meters, and all associated measuring equipment necessary to permit an accurate determination of the quantities of Energy delivered under this Agreement, in addition to accurate weather information.
- b. **Interactive Display for Generating Facilities.** At a single location of Purchaser's choice, Seller will install a single monitor for viewing by the general public consisting of a 36” flat panel screen with a computer and keyboard sufficient to view the data acquisition system (“**DAS**”) monitoring of the System (the “**Interactive Display**”). The Interactive Display shall be housed in a cabinet, or on a wall, and the design, aesthetics, and cost of the Interactive Display shall be mutually agreed upon by Purchaser and Seller. Purchaser shall allow Seller to use a 120v electrical outlet and data outlet located at the mutually agreed upon location which will be within a reasonable distance of an existing 120v electrical outlet or circuit. The total installed cost to Seller of such Interactive Display shall not exceed Two Thousand and 00/100 US Dollars (\$2,000). Following installation of the Interactive Display by Seller, Purchaser shall be responsible for all costs to repair, maintain and operate the hardware comprising the Interactive Display.

13. Default, Remedies and Damages.

a. **Default.** Any Party that fails to perform its responsibilities as listed below or experiences any of the circumstances listed below shall be deemed a “**Defaulting Party**” and each event of default shall be a “**Default Event**”:

- i. failure of a Party to pay any amount due and payable under this Agreement, other than an amount that is subject to a good faith dispute, within thirty (30) days following receipt of written notice from the other Party (the “**Non-Defaulting Party**”) of such failure to pay (“**Payment Default**”);
- ii. failure of a Party to substantially perform any other material obligation under this Agreement within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure; provided, that such thirty (30) day cure period shall be extended (but not beyond ninety (90) days) if and to the extent reasonably necessary to cure the Default Event, if (A) the Defaulting Party initiates such cure with the thirty (30) day period and continues such cure to completion and (B) there is no material adverse effect on the Non-Defaulting Party resulting from the failure to cure the Default Event;
- iii. if any representation or warranty of a Party proves at any time to have been incorrect in any material respect when made and is material to the transactions contemplated hereby, if the effect of such incorrectness is not cured within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure;
- iv. Purchaser loses its rights to occupy and enjoy the Premises;
- v. a Party, becomes insolvent or is a party to a bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or any general assignment for the benefit of creditors or other similar arrangement or any event occurs or proceedings are taken in any jurisdiction with respect to the Party which has a similar effect; or
- vi. Following the Commercial Operation Date, Seller fails to deliver at least 50% of its Expected Contract Quantity for such Contract Year, for two (2) consecutive years.

b. **Remedies.**

- i. **Remedies for Payment Default.** If a Payment Default occurs, the Non-Defaulting Party may suspend performance of its obligations under this Agreement. Further, the Non-Defaulting Party may pursue any remedy under this Agreement, at law or in equity, including an action for damages and may terminate this Agreement, upon five (5) days prior written notice to the Defaulting Party following the Payment Default.
- ii. **Remedies for Other Defaults.** On the occurrence of a Default Event other than a Payment Default, the Non-Defaulting Party may pursue any remedy under this Agreement, at law or in equity, including an action for damages and may terminate this Agreement or suspend performance of its obligations under this Agreement, upon five (5) days prior written notice to the Defaulting Party following the occurrence of the Default Event. Nothing herein shall limit either Party’s right to collect damages upon the occurrence of a breach or a default by the other Party that does not become a Default Event.
- iii. **Damages Upon Termination by Default.** Upon a termination of this Agreement by the Non-Defaulting Party as a result of a Default Event by the Defaulting Party, the Defaulting Party shall pay a Termination Payment to the Non-Defaulting Party determined as follows (the “**Termination Payment**”):
 - A. **Purchaser.** If Purchaser is the Defaulting Party and Seller terminates this Agreement, the Termination Payment to Seller shall be equal to, for any given Contract Year, the amount set forth on **Exhibit A4, Attachment A** attached hereto, which annual amounts are calculated as (x) the sum of (1) reasonable compensation, on a net after tax basis assuming a tax rate of thirty five percent (35%), for (a) the loss or recapture of the investment tax credit equal to thirty percent (30%) of the System value, and (b) other financing and associated costs, (2) the net present value (using a discount rate of eight percent (8%)) of the projected payments over the Term post-termination, had the Term remained effective for the full Initial Term, (3) removal costs as provided in **Section 13(b)(iii)(C)** and (4) any and all other amounts previously accrued under this Agreement

and then owed by Purchaser to Seller, less (y) any amount equal to the proceeds received by Seller in the sale of the System equipment and components which Seller shall use commercially reasonable efforts to consummate. The Parties agree that actual damages to Seller in the event this Agreement terminates prior to the expiration of the Term as the result of a Default Event by Purchaser would be difficult to ascertain, and the applicable Termination Payment is a reasonable approximation of the damages suffered by Seller as a result of early termination of this Agreement. The Termination Payment shall not be less than zero.

- B. Seller. If Seller is the Defaulting Party and Purchaser terminates this Agreement, the Termination Payment to Purchaser shall be equal to the sum of (1) the net present value (using a discount rate of eight percent (8%)) of the excess, if any, of the reasonably expected cost of electric energy from the Utility (after taking into consideration adjustments for time of use) over the Contract Price for the reasonably expected production of the System for the remainder of the Initial Term or the then current Additional Term, as applicable, (2) all costs reasonably incurred by Purchaser in re-converting its electric supply to service from the Utility, (3) any removal costs incurred by Purchaser, and (4) any and all other amounts previously accrued under this Agreement and then owed by Seller to Purchaser. The Termination Payment shall not be less than zero.
 - C. Obligations Following Termination. If a Non-Defaulting Party terminates this Agreement pursuant to this Section 13(b), then following such termination, Seller shall comply with its obligations set forth in Section 11 at the sole cost and expense of the Defaulting Party. The Non-Defaulting Party shall take all commercially reasonable efforts to mitigate its damages as the result of a Default Event.
- iv. Purchaser's Right to Operate. If a Seller Default Event occurs under Section 13(a), subject to the rights of the Financing Parties pursuant to Section 19 below, then Purchaser or its designee may, but shall not be obligated to, step-in and assume operational control from Seller of the System. Purchaser, its employees, contractors and designees shall have the unrestricted right to enter the System to the extent necessary to operate the System. Notwithstanding the foregoing, Seller shall not be excused from any obligation or remedy available to Purchaser as a result of the Purchaser's operation of, or election not to operate, the System. Purchaser shall pay Seller the applicable Contract Price for Energy provided hereunder, less any costs incurred by Purchaser to operate the System. Upon Purchaser's satisfaction that Seller has the ability to operate the System in accordance with this Agreement, Seller shall resume operational control.

14. Representations and Warranties.

- a. General Representations and Warranties. Each Party represents and warrants to the other the following:
 - i. Due Organization, Etc. Such Party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; the execution, delivery and performance by such Party of this Agreement have been duly authorized by all necessary corporate, partnership or limited liability company action, as applicable, and do not and shall not violate any law or organizational document of such Party; and this Agreement is valid obligation of such Party, enforceable against such Party in accordance with its terms (except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws now or hereafter in effect relating to creditors' rights generally).
 - ii. Governmental Approvals. Such Party has obtained all licenses, authorizations, consents and approvals required by any Governmental Authority or other third party and necessary for such Party to own its assets, carry on its business and to execute and deliver this Agreement; and such Party is in compliance with all laws that relate to this Agreement in all material respects.
- b. Purchaser's Representations and Warranties. Purchaser represents and warrants to Seller the following:
 - i. License. Purchaser has the full right, power and authority to grant the License contained in Section 8(a) and to enter into and perform all of Purchaser's obligations under this Agreement and any interconnection agreement entered into with the Utility. Such grant of the License and performance hereunder and under

such interconnection agreement does not violate any law, ordinance, rule or other governmental restriction applicable to Purchaser or the Facility and is not inconsistent with and will not result in a breach or default under any agreement by which Purchaser is bound or that affects the Facility. If Purchaser does not own the Premises or Facility, Purchaser has obtained all required consents from the owner of the Premises and/or Facility to grant the License and enter into and perform its obligations under this Agreement.

- ii. **Other Agreements.** Neither the execution and delivery of this Agreement by Purchaser nor the performance by Purchaser of any of its obligations under this Agreement conflicts with or will result in a breach or default under any agreement or obligation to which Purchaser is a party or by which Purchaser or the Facility is bound.
- iii. **Accuracy of Information.** All information provided by Purchaser to Seller, as it pertains to the Facility's physical configuration, Purchaser's planned use of the Facility, and Purchaser's estimated electricity requirements, is accurate in all material respects to the extent of knowledge of the individual supplying the information.
- iv. **Purchaser Status.** Purchaser is not a public utility or a public utility holding company and is not subject to regulation as a public utility or a public utility holding company.

c. **Seller's Representations and Warranties.** Seller represents and warrants to Purchaser the following:

- i. **Other Agreements.** Neither the execution and delivery of this Agreement by Seller nor the performance by Seller of any of its obligations under this Agreement conflicts with or will result in a breach or default under any agreement or obligation to which Seller is a party or by which Seller or the System is bound.
- ii. **No Litigation.** There are no actions, suits, proceedings or investigations pending or, to the knowledge of Seller, threatened in writing against Seller, at law or in equity before any Governmental Authority, which individually or in the aggregate are reasonably likely to have a material adverse effect on the business, properties or assets or the condition, financial or otherwise, of Seller, or to result in any impairment of Seller's ability to perform its obligations under this Agreement.
- iii. **Environmental Attributes.** Prior to conveyance to Purchaser, Seller holds and will hold until conveyed to Purchaser, the rights to all Environmental Attributes, which it has committed to convey to Purchaser hereunder.
- iv. **Intellectual Property.** All of the intellectual property used by Seller in the conduct of its business or otherwise in its possession is either validly licensed or owned solely by Seller and Seller has the exclusive right to use and possess such intellectual property for the life thereof.
- v. **Solvency.** From and after the Conditions Satisfaction Date, Seller shall have obtained financing commitments or otherwise have available to it financial resources sufficient to permit Seller to timely perform its obligations hereunder in accordance with the terms of this Agreement.

15. **System and Facility Casualty and Insurance.**

a. **System and Facility Casualty at End of Term.**

- i. **System.** Notwithstanding Seller's obligations in Section 7(d), if more than fifty percent (50%) of the System is destroyed during the last five (5) years of the Initial Term or during any Additional Term, Seller shall not be required to restore the System, but may instead terminate this Agreement and pay Purchaser an amount equal to the net present value (using a discount rate of eight percent (8%)) of the excess, if any, of the reasonably expected cost of electric energy from the Utility (after taking into consideration adjustments for time of use) over the Contract Price for the reasonably expected production of the System for the remainder of the Initial Term or the then current Additional Term, as applicable, unless Purchaser agrees (A) to pay for the cost of such restoration of the System or (B) to purchase the System "AS-IS" at the Fair Market Value of the System.

- ii. **Facility.** Notwithstanding Purchaser's obligations in Section 8(c), if more than 50% of the Facility is destroyed during the last five years of the Initial Term or during any Additional Term, Purchaser may elect either (A) to restore the Facility or (B) to pay the Termination Payment and all other costs previously accrued but unpaid under this Agreement and thereupon terminate this Agreement.
 - iii. **Responsibility for Cost to Repair and Restore.** Nothing in this Section 15(a) shall alter the obligation of either Party to pay for the cost to repair and restore any damage caused by such Party as provided in this Agreement.
- b. **Insurance Coverage.** At all times during the Term, Seller and Purchaser shall maintain the following insurance:
- i. **Seller's Insurance.** Seller shall obtain and maintain the policies of insurance in amounts and with coverage as set forth on Exhibit A9.
 - ii. **Purchaser's Insurance.** Purchaser shall maintain property insurance in an amount equal to the full replacement cost of the Facility and commercial general liability insurance with coverage of at least Five Million Dollars (\$5,000,000) per occurrence and Ten Million Dollars (\$10,000,000) annual aggregate.
- c. **Policy Provisions.** All insurance policies provided by Seller hereunder shall (i) contain a provision whereby the insurer agrees to give the party not providing the insurance (a) not less than ten (10) days written notice before the insurance is cancelled, or terminated as a result of non-payment of premiums, or (b) not less than thirty (30) days written notice before the insurance is otherwise cancelled or terminated, (ii) be written on an occurrence basis, and (iii) be maintained with companies either rated no less than A-VII as to Policy Holder's Rating in the current edition of A.M. Best's Insurance Guide or otherwise reasonably acceptable to the other party. Purchaser shall give Seller written notice of any cancellation, termination or non-renewal of insurance coverage within ten (10) days of obtaining knowledge thereof. Each Party shall ensure that the other Party is named as an additional insured on its commercial general liability policy. All Financing Parties shall be named as additional insureds on Purchaser's commercial general liability policies.
- d. **Certificates.** Annually and upon request by Purchaser, Seller shall deliver to Purchaser certificates of insurance evidencing the required coverage set forth on Exhibit A9 and a copy of the policy endorsement that adds Purchaser as an additional insured to the applicable commercial general liability insurance policy. Annually, as applicable, Purchaser shall deliver to Seller a certificate of coverage provided to Seller by the California Joint Powers Risk Management Authority ("CJPRMA"), a California public agency risk sharing pool of which Purchaser is a member, and a copy of a certificate from Purchaser naming Seller and its Financing Parties as additional insureds to Purchaser's self-insurance pool for commercial general liability losses. Upon request by Seller, Purchaser shall deliver to Seller a copy of the memorandum of coverage provided by CJPRMA and available on its website. A Party's receipt, review or acceptance of any such certificate or memorandum shall in no way limit or relieve the other Party of the duties and responsibilities to maintain insurance as set forth in this Agreement.
- e. **Deductibles.** Unless and to the extent that a claim is covered by an indemnity set forth in this Agreement, each Party shall be responsible for the payment of its own deductibles.
- f. **Waiver of Subrogation.** Seller and Purchaser hereby mutually waive their respective rights of recovery against each other for any loss of, or damage to, either parties' property with respect to loss of, or damage to the extent that such loss or damage is insured by a Third Party Insurance Policy issued by a Third Party Insurance Carrier applicable to the System, Facility or other property of Seller or Purchaser. Each party shall obtain any special endorsements, if required by its Third Party Insurance Carrier, whereby the Third Party Insurance Carrier waives its rights of subrogation against the other party as required by this Section 15(f). This provision is intended to waive fully, and for the benefit of the Parties hereto, any rights and/or claims which might give rise to a right of subrogation in favor of any Third Party Insurance Carrier.

16. Ownership; Option to Purchase.

- a. **Ownership of System.** Throughout the Term, Seller shall be the legal and beneficial owner of the System at all times (excluding all Environmental Attributes), and the System shall remain the personal property of Seller and shall not attach to or be deemed a part of, or fixture to, the Facility or the Premises. Each of Seller and Purchaser agree that Seller (or the designated assignee of Seller permitted under Section 19) is the tax owner of the System and all

tax and accounting filings and reports will be filed in a manner consistent with this Agreement. It is the intent of Seller and Purchaser that the System shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code and shall not be characterized, considered or deemed a fixture or affixed to or a part of the Facility or the Premises. If there is any mortgage or fixture filing against the Premises which could reasonably be construed as prospectively attaching to the System as a fixture of the Premises, Purchaser shall, at Seller's cost, use commercially reasonable efforts to provide a disclaimer or release from such lienholder upon Seller's written request. If Purchaser is the fee owner of the Premises, Purchaser consents to the filing of a disclaimer of the System as a fixture of the Premises in the County office where real estate records are customarily filed in the jurisdiction where the Facility is located. If Purchaser is not the fee owner, Purchaser, at Seller's cost, will use commercially reasonable efforts to obtain such consent from such owner. With respect to any financing or refinancing of the System entered into by Seller after the Conditions Satisfaction Date, upon request, Purchaser agrees, at Seller's cost, to use commercially reasonable efforts to deliver to Seller a non-disturbance agreement in a form reasonably acceptable to Seller from the owner of the Facility (if the Facility is leased by Purchaser), any mortgagee with a lien on the Premises, and other Persons holding a similar interest in the Premises. To the extent that Purchaser does not own the Premises or Facility, Purchaser shall provide to Seller immediate written notice of receipt of notice of eviction from the Premises or Facility or termination of Purchaser's lease of the Premises and/or Facility.

- b. **Option to Purchase.** At the end of the seventh (7th) and fifteenth (15th) Contract Years and at the end of the Initial Term and each Additional Term, so long as Purchaser is not in default under this Agreement, Purchaser may purchase the System from Seller on any such date for a purchase price equal to the Fair Market Value of the System as mutually agreed by the Parties or, if the Parties are unable to agree, the Fair Market Value of the System as determined by an appraiser. Purchaser must provide a notification to Seller of its intent to purchase at least ninety (90) days and not more than one hundred eighty (180) days prior to the end of the applicable Contract Year or the Initial Term or Additional Term, as applicable, and the purchase shall be complete prior to the end of the applicable Contract Year or the Initial Term or Additional Term, as applicable. For a reasonable period not exceeding thirty (30) days from the date of provision of notice referred to in this Section 16(b), the Parties shall make best efforts to mutually agree on the Fair Market Value of the System. If the Fair Market Value cannot be mutually agreed upon, then the Parties shall use good faith commercially reasonable efforts to agree on the selection of a nationally recognized independent, third-party professional appraiser with experience and expertise in the solar photovoltaic industry to determine the Fair Market Value, as of the final day of the applicable Contract Year ("**Buyout Date**"). Within thirty (30) days of the selection of such appraiser, s/he shall evaluate and determine the Fair Market Value of the applicable System as of the Buyout Date and shall submit a report on same to the Parties. The costs of the appraisal shall be shared equally between Purchaser and Seller.
- c. **Definition of Fair Market Value.** "**Fair Market Value**" means the greater of: (i) the amount that would be paid in an arm's length, free market transaction, for cash, between an informed, willing seller and an informed willing Purchaser, neither of whom is under compulsion to complete the transaction, taking into account, among other things, the age, condition and performance of the System and advances in solar technology, provided that installed equipment shall be valued on an installed basis, shall not be valued as scrap if it is functioning and in good condition, and (ii) for any given Contract Year, the present value (using a discount rate of eight percent (8%)) of all associated future income streams expected to be received by Seller arising from the operation of the System for the remaining term of the Agreement including but not limited to the expected price of electricity and Tax Credits and factoring in future costs and expenses associated with the System. If an appraiser is selected pursuant to Section 16(b), such appraiser shall act reasonably and in good faith to determine the Fair Market Value of the System based on the formulation set forth herein, and shall set forth such determination in a written opinion delivered to the Parties. The valuation made by any such appraiser shall be binding upon the Parties in the absence of fraud or manifest error.
- d. **Buyout Determination.** No later than sixty (60) days after determination of the Fair Market Value of the System, Purchaser shall confirm to Seller in writing of its intent to proceed or not to proceed with its option to purchase the System at the Fair Market Value. In the event Purchaser does not provide such written confirmation or elects not to proceed with such option, the provisions of the Agreement shall continue to apply as if Purchaser had not exercised the option to purchase the System.
- e. **Buyout Obligations.** If Purchaser confirms its intent to proceed with its option to purchase as specified above, the Parties shall promptly execute all documents necessary to (A) cause title and ownership of the applicable System to pass to Purchaser on the Buyout Date, free and clear of any liens, and (B) assign all warranties for the applicable System to Purchaser. Purchaser shall pay the Fair Market Value to Seller on or about the Buyout Date, in

accordance with any previous written instructions delivered to Purchaser by Seller for payments under the Agreement. Upon such execution of documents and payment of the Fair Market Value, this Agreement shall terminate automatically and Purchaser shall own the System and all Environmental Attributes, Environmental Incentives and any available Tax Credits relating to the System. For the avoidance of doubt, payment of the Fair Market Value shall be in lieu of and instead of any payments described in Section 4(a) accruing from and after the Buyout Date. Seller shall provide all necessary cooperation with Purchaser to give prompt effect to this transfer. All other personal property of Seller not included in Purchaser's purchase shall be removed by Seller from Purchaser's premises at no cost to Purchaser. Upon purchase of the System, Purchaser will assume complete responsibility for the operation and maintenance of the System and liability for the performance of the System, and Seller shall have no further liabilities or obligations hereunder.

17. Indemnification and Limitations of Liability.

- a. **General.** Each Party (the "**Indemnifying Party**") shall defend, indemnify and hold harmless the other Party and the directors, officers, shareholders, partners, members, agents and employees of such other Party, and the respective affiliates of each thereof (collectively, the "**Indemnified Parties**"), from and against all loss, damage, expense, liability and other claims, including court costs and reasonable attorneys' fees (collectively, "**Liabilities**") resulting from any third party actions relating to the breach of any representation or warranty set forth in Section 14 and from injury to or death of persons, and damage to or loss of property to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnifying Party (or its contractors, agents or employees) in connection with this Agreement; provided, however, that nothing herein shall require the Indemnifying Party to indemnify the Indemnified Party for any Liabilities to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnified Party. This Section 17(a) however, shall not apply to liability arising from any form of hazardous substances or other environmental contamination, such matters being addressed exclusively by Section 17(c).
- b. **Notice and Participation in Third Party Claims.** The Indemnified Party shall give the Indemnifying Party written notice with respect to any Liability asserted by a third party (a "**Claim**"), as soon as possible upon the receipt of information of any possible Claim or of the commencement of such Claim. The Indemnifying Party may assume the defense of any Claim, at its sole cost and expense, with counsel designated by the Indemnifying Party and reasonably satisfactory to the Indemnified Party. The Indemnified Party may, however, select separate counsel if both Parties are defendants in the Claim and such defense or other form of participation is not reasonably available to the Indemnifying Party. The Indemnifying Party shall pay the reasonable attorneys' fees incurred by such separate counsel until such time as the need for separate counsel expires. The Indemnified Party may also, at the sole cost and expense of the Indemnifying Party, assume the defense of any Claim if the Indemnifying Party fails to assume the defense of the Claim within a reasonable time. Neither Party shall settle any Claim covered by this Section 17(b) unless it has obtained the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. The Indemnifying Party shall not be liable under this Section 17(b) for any Claim for which such notice is not provided to extent such failure to delivery such notice prejudices the Indemnifying Party.
- c. **Environmental Indemnification.** Seller shall indemnify, defend and hold harmless all of Purchaser's Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, below or near the Premises of any Hazardous Substance (as defined in Section 17(c)(i)) to the extent deposited, spilled or otherwise caused by any Seller Party. Purchaser shall indemnify, defend and hold harmless all of Seller's Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, below or near the Premises of any Hazardous Substance, to the extent deposited, spilled or otherwise caused by any Purchaser Party. Each Party shall promptly notify the other Party if it becomes aware of any Hazardous Substance on or about the Premises or the Premises generally or any deposit, spill or release of any Hazardous Substance.
- i. "**Hazardous Substance**" means any chemical, waste or other substance (A) which now or hereafter becomes defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollution," "pollutants," "regulated substances," or words of similar import under any laws pertaining to the environment, health, safety or welfare, (B) which is declared to be hazardous, toxic, or polluting by any Governmental Authority, (C) exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority, (D) the storage, use, handling, disposal or release of which is restricted or regulated by any Governmental Authority, or (E) for which remediation or cleanup is required by any Governmental Authority.

d. **Limitations on Liability.**

- i. **No Consequential Damages.** Neither Party nor its directors, officers, shareholders, partners, members, agents and employees subcontractors or suppliers shall be liable for any indirect, special, incidental, exemplary, or consequential loss or damage of any nature arising out of their performance or non-performance hereunder even if advised of such.
- ii. **Actual Damages.** Seller's aggregate liability under this Agreement arising out of or in connection with the performance or non-performance of this Agreement shall not exceed the total payments anticipated to be made by Purchaser during the Initial Term under this Agreement; provided with respect to any Claim made or Liability incurred prior to the issuance of notice to proceed, Seller's aggregate liability shall not exceed the applicable Design Cancellation Payment. Purchaser's aggregate liability under this Agreement arising out of or in connection with the performance or non-performance of this Agreement shall not exceed the Termination Payment set forth in **Exhibit A4, Attachment A** for the year in which the Claim is made (such that if a Claim is made in one year and a second Claim is made in a second year, Seller will only be entitled to recover the difference (if any) between the amount recovered on the first Claim and the Termination Payment for the year in which the second Claim is made); provided that if the Claim is made or Liability incurred prior to the issuance of notice to proceed, Purchaser's aggregate liability shall not exceed the applicable Design Cancellation Payment. The provisions of this **Section (17)(d)(ii) (A)** shall apply whether such liability arises in contract, tort (including negligence), strict liability or otherwise, (B) shall not limit the recovery by any Party under any insurance policy, (C) prior to the issuance of notice to proceed, shall not apply to limit the liability of any Party for claims for property damage or personal injury, and (D) following the issuance of notice to proceed, shall not apply to limit the liability of any Party for third party claims for property damage or personal injury.
- iii. **Non-Recoverable Costs.** In every instance pursuant to the terms of this Agreement where Purchaser has the option or is required to pay Seller the Termination Payment set forth in **Exhibit A4, Attachment A**, in no event shall Purchaser be liable for costs, not included in the Termination Payment set forth in **Exhibit A4, Attachment A**, incurred by Seller or any of its subcontractors after the termination date specified by Purchaser. Such non recoverable costs include, but are not limited to, anticipated profits on this Agreement, post-termination employee salaries, post-termination administrative expenses, post-termination overhead or unabsorbed overhead, attorneys' fees or other costs relating to the prosecution of a claim or lawsuit, prejudgment interest, or any other expense which is not reasonable.

18. **Force Majeure.**

- a. **Definition of Force Majeure.** "Force Majeure" means any event or circumstances beyond the reasonable control of and without the fault or negligence of the Party claiming Force Majeure. It shall include, without limitation, failure or interruption of the production, delivery or acceptance of electricity due to: an act of god; war (declared or undeclared); theft; vandalism; collision with third party automobile, aircraft or space object (such as a meteor); sabotage; riot; insurrection; civil unrest or disturbance; military or guerilla action; terrorism; economic sanction or embargo; civil strike, work stoppage, slow-down, or lock-out; explosion; fire; earthquake; hurricane; tornadoes, ice storms, flood; lightning; acts of nature such as storms, floods, volcanic eruptions, forest fires, earthquakes, landslide, mudslide or other cataclysmic events; unavailability of electricity from the utility grid; failure of equipment not utilized by or under the control of the Party claiming Force Majeure; third-party challenge to the installation and operation of the System; and a budget non-appropriation event (as described in further detail in **Section 18(c)**). Notwithstanding the foregoing, "Force Majeure" shall specifically not include, without limitation, the failure or interruption of the production, delivery or acceptance of Electricity due to: economic hardship of either Party or insufficiency, unavailability, failure or diminishment of solar resource, except as a result of an event that would otherwise qualify as a Force Majeure event.
- b. **Excuse Due to Force Majeure.** Except as otherwise expressly provided to the contrary in this Agreement, if either Party is rendered wholly or partly unable to timely perform its obligations under this Agreement because of a Force Majeure event, that Party shall be excused from the performance affected by the Force Majeure event (but only to the extent so affected) and the time for performing such excused obligations shall be extended as reasonably necessary; **provided**, that: (i) the Party affected by such Force Majeure event, as soon as reasonably practicable after obtaining knowledge of the occurrence of the claimed Force Majeure event, gives the other Party prompt oral notice, followed by a written notice reasonably describing the event; (ii) the suspension of or extension of time for performance is of no greater scope and of no longer duration than is required by the Force Majeure event; and (iii)

the Party affected by such Force Majeure event uses all reasonable efforts to mitigate or remedy its inability to perform as soon as reasonably possible. The Term shall be extended day for day for each day performance is suspended due to a Force Majeure event.

- c. **Non Appropriation Event.** Notwithstanding anything herein to the contrary, due to the constitutional limitations on Purchaser, a Force Majeure event shall include a “budget non-appropriation event” in which Purchaser’s appropriation for any year covered in this Agreement does not appropriate funds for the procurement of any utility services for Purchaser. During the continuation of a budget non-appropriation event as defined above, if Purchaser does not otherwise have other funds available to make payments otherwise due on this Agreement, Purchaser shall not be obligated to pay for (and Seller shall not be required to deliver) any services provided under this Agreement until the budget non-appropriation event has terminated. Purchaser agrees that it shall use its best efforts to seek appropriation for utility services during the term of this Agreement. If a budget non-appropriation event continues for more than 180 days, Seller (but not Purchaser) may terminate this Agreement.
- d. **Termination Event.** Except as provided in Section 7(c)(v) above with respect to the extension of Milestones, if a Force Majeure event (other than a budget non-appropriate event, which is addressed in Section 18(c) above) continues for a period of one hundred eighty (180) days or more within a twelve (12) month period and prevents a material part of the performance by a Party hereunder, the Party not claiming the Force Majeure shall have the right to terminate this Agreement without fault or further liability to either Party (except for amounts accrued but unpaid). For the avoidance of doubt, (i) if Purchaser terminates the Agreement pursuant to the terms of this Section 18(d), no Termination Payment shall be payable by Purchaser hereunder and (ii) Purchaser may not terminate this Agreement for a Force Majeure event that results in the extension of Milestones until such extensions exceed the amount permitted pursuant to Section 7(c)(v).

19. Assignment and Financing.

- a. **Assignment; Change of Control.** This Agreement may not be assigned in whole or in part by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed, provided that, Seller may, without the consent of Purchaser, assign, mortgage, pledge or otherwise collaterally assign its interests in this Agreement and the System to any Financing Party. Seller shall give Purchaser notice of any such collateral assignment within five (5) business days of making such assignment. Purchaser’s consent to any assignment shall not be unreasonably withheld if Purchaser has been provided with reasonable proof that the proposed assignee (x) has comparable experience in operating and maintaining photovoltaic solar systems comparable to the System and providing services comparable to those contemplated by this Agreement and (y) has the financial capability to maintain the System and provide the services contemplated by this Agreement in the manner required by this Agreement. In the event of any assignment, the assignor shall remain a primary obligor unless assignee shall expressly assume in writing all obligations under this Agreement. Any assignment of Seller’s rights and/or obligations under this Agreement shall not result in any change to Purchaser’s rights and obligations under this Agreement. This Agreement shall be binding on and inure to the benefit of the successors and permitted assignees. Except as provided below, any direct or indirect change of control of Seller shall be deemed an “assignment” hereunder, requiring the prior written consent of Purchaser, provided that any change of control that results (i) from a direct or indirect transfer of any membership interests in Seller or any entity of which Seller is a subsidiary to a Financing Party making a tax equity investment in the System or (ii) to an existing member of Seller or any entity which is a member of Seller, shall not constitute an “assignment” for the purposes of this Section 19 and shall not require the prior written consent of Purchaser. Seller shall give Purchaser notice of any such transfer to a Financing Party making a tax equity investment within five (5) business days of such transfer.
- b. **Financing.** The Parties acknowledge that Seller may obtain construction and long-term financing or other credit support from one or more Financing Parties. “**Financing Parties**” means person or persons providing construction or permanent financing to Seller in connection with construction, ownership, operation and maintenance of the System, or if applicable, means any person to whom Seller has transferred the ownership interest in the System, subject to a leaseback of the System from such person. The term “**person**” means any natural person, unincorporated association, corporation, partnership, joint venture, limited liability company, trust, other legal entity or any Governmental Authority. Both Parties agree, at Seller’s expense, in good faith to consider and to negotiate changes or additions to this Agreement that may be reasonably requested by the Financing Parties; provided, that such changes do not alter the fundamental economic terms of this Agreement. In connection with an assignment pursuant to Section 19(a), Purchaser agrees, at Seller’s expense, to execute any consent, estoppel or acknowledgement in form and substance reasonably acceptable to Purchaser and such Financing Parties. Purchaser will agree, at Seller’s expense, to make payments under this Agreement as directed by Financing Parties, to provide

copies of notices under the Agreement to Financing Parties, and not to amend or terminate this Agreement without notice to Financing Parties.

c. **Successor Servicing.** The Parties further acknowledge that in connection with any construction or long term financing or other credit support provided to Seller or its affiliates by Financing Parties, that such Financing Parties may require that Seller or its affiliates appoint a third party to act as backup or successor provider of operation and maintenance services with respect to the System and/or administrative services with respect to this Agreement (the “**Successor Provider**”). Purchaser agrees to accept performance from any Successor Provider so appointed, provided, that (i) such Successor Provider performs in accordance with the terms of this Agreement, and (ii) such Successor Provider (x) has comparable experience in operating and maintaining photovoltaic solar systems comparable to the System and providing services comparable to those contemplated by this Agreement and (y) has the financial capability to maintain the System and provide the services contemplated by this Agreement in the manner required by this Agreement.

d. **Financing Party Rights.**

i. **Notice.** Purchaser shall deliver to each Financing Party, concurrently with delivery thereof to Seller, a copy of every notice of default, notice of termination or intent to terminate this Agreement, and any notice delivered pursuant to Sections 13, 16 and/or 18 above. Any Financing Party shall have the right, but not the obligation, to perform any obligation of Seller under this Agreement and to cure any breach and/or Seller Default Event. Purchaser shall accept performance by or at the instigation of a Financing Party in fulfillment of Seller’s obligations, for the account of Seller and with the same force and effect as if performed by Seller. No performance by or on behalf of a Financing Party shall cause it to be deemed to be in possession of the System or bound by or liable under this Agreement.

ii. **No Termination; Financing Party Cure Period.** Notwithstanding anything to the contrary contained herein, Purchaser agrees that it shall not terminate this Agreement for a Seller Default Event unless it has given all Financing Parties written notice in accordance with Section 19(d)(i) above and such Financing Parties fail to cure such Seller Default Event within a cure period calculated as follows: (a) for a Payment Default, the cure period set forth in Section 13(a)(i) above plus an additional thirty (30) days, and (b) for a Default Event other than a Payment Default, the cure period set forth in Section 13(a)(ii) above plus an additional sixty (60) days.

iii. **Cure Requiring Possession.** If a Seller Default Event under this Agreement is of such a nature that it cannot be practicably cured without first taking possession of the System or is of a nature that is not susceptible of being cured by the Financing Parties, then Purchaser shall not be entitled to terminate this Agreement by reason of such Seller Default Event if and so long as (a) the Financing Parties proceed diligently to attempt to obtain possession of the System pursuant to the rights of the Financing Parties under the financing documents and (b) upon obtaining such possession, the Financing Parties shall proceed diligently to cure such Seller Default Event if the same is susceptible of being cured by the Financing Parties. The Parties acknowledge and agree that a Payment Default (x) is susceptible of being cured by the Financing Parties and (y) can be cured by the Financing Parties without first obtaining possession of the System.

iv. **Effect of Cure.** The Financing Parties shall not be required to continue to proceed to obtain possession, or to continue in possession of the System if and when such default or Default Event is cured. If the Financing Parties, or a purchaser through foreclosure under the financing documents or otherwise, shall (a) acquire title to the System and the rights under this Agreement, (b) cure all Payment Defaults and other defaults which are susceptible of being cured by the Financing Parties or such purchaser, as the case may be, and (c) assume all the obligations of Seller hereunder to the extent first accruing and arising from and after the date of such assumption, then (i) any default or Default Event of Seller which is not susceptible of being cured by the Financing Parties or such purchaser, as the case may be, shall no longer be deemed to be a default under this Agreement, and (ii) Purchaser shall recognize the Financing Parties or such purchaser, as the case may be, as if such party had been the Seller under this Agreement.

v. **Exercise of Remedies.** So long as the period for a Financing Party to exercise such Financing Party’s cure rights for any Seller Default Event has not expired, Purchaser shall not (a) give any notice terminating or electing to terminate this Agreement, or (b) otherwise exercise any other rights or remedies under this Agreement by reason of such Seller Default Event.

- vi. No Amendment. Notwithstanding anything to the contrary in this Agreement, if Seller at any time or from time to time has given Purchaser written notice of a Financing Party, then no cancellation, termination (including Seller's termination of this Agreement pursuant to any express right of termination in this Agreement or under applicable law), surrender, acceptance of surrender, abandonment, amendment, modification, or rejection of this Agreement, or subordination of this Agreement to any encumbrance on the fee estate, shall be effective or binding if done without such Financing Party's prior written consent.

Seller's Financing Parties are hereby made express third party beneficiaries of the provisions of this Section 19.

20. **California Public Records Act.** If Purchaser is a public agency, Purchaser is subject to the disclosure requirements of the California Public Records Act ("CPRA"). If Seller proprietary information is contained in documents or information submitted to Purchaser, and Seller claims that such information falls within one or more CPRA exemptions, Seller must clearly mark such information "CONFIDENTIAL AND PROPRIETARY," and identify the specific lines containing the information. In the event of a request for such information, Purchaser will make best efforts to provide notice to Seller prior to such disclosure. If Seller contends that any documents are exempt from the CPRA and wishes to prevent disclosure, it is required to obtain a protective order, injunctive relief or other appropriate remedy from a court of law in [] County before Purchaser's deadline for responding to the CPRA request. If Seller fails to obtain such remedy within Purchaser's deadline for responding to the CPRA request, Purchaser may disclose the requested information. Seller further agrees that it shall defend, indemnify and hold Purchaser harmless against any claim, action or litigation (including but not limited to all judgments, costs, fees, and attorneys' fees) that may result from denial by Purchaser of a CPRA request for information arising from any representation, or any action (or inaction), by Seller.

21. **Goodwill and Publicity.** Neither Party shall use any name, trade name, agency name, service mark or trademark of the other Party in any promotional or advertising material without the prior written consent of such other Party. The Parties shall coordinate and cooperate with each other when making public announcements related to the execution and existence of this Agreement, and each Party shall have the right to promptly review, comment upon and approve any publicity materials, press releases or other public statements by the other Party that refer to, or that describe any aspect of, this Agreement. Neither Party shall make any press release or public announcement of the specific terms of this Agreement (except for filings or other statements or releases as may be required by applicable law) without the specific prior written consent of the other Party. Without limiting the generality of the foregoing, all public statements must accurately reflect the rights and obligations of the Parties under this Agreement, including the ownership of Environmental Attributes and Environmental Incentives and any related reporting rights.

22. **Miscellaneous Provisions**

a. **Choice of Law.** The law of California, the state where the System is located, shall govern this Agreement without giving effect to conflict of laws principles.

b. **Dispute Resolution and Attorneys' Fees.** Seller and Purchaser shall negotiate in good faith in the event of any dispute arising during the performance of this Agreement. If the dispute cannot be resolved by the designated representatives of each of Seller and Purchaser after two (2) business days of negotiations, at either Party's option the dispute may be promptly escalated to negotiations among representatives of the Parties with authority to resolve the dispute ("**Decision-Makers**"). If the designated Decision-Makers are unable to resolve the dispute within five (5) business days of negotiations, either Party may require that non-binding mediation take place. In such mediation, the Decision-Makers shall meet for at least (3) hours with a mediator whom they choose together and their respective counsel. Any dispute that remains unresolved after such non-binding mediation shall be resolved in the state and federal courts located in [] County, California. Each Party hereby submits to the personal jurisdiction of such courts and consents to service of process in connection with any action, suit or proceeding against such Party. The prevailing party in any dispute arising out of this Agreement shall be entitled to reasonable attorneys' fees and costs.

c. **Notices.** All notices under this Agreement shall be in writing and shall be by personal delivery, facsimile transmission, electronic mail, overnight courier, or regular, certified, or registered mail, return receipt requested, and deemed received upon personal delivery, acknowledgment of receipt of electronic transmission, the promised delivery date after deposit with overnight courier, or five (5) days after deposit in the mail. Notices shall be sent to the person identified in this Agreement at the addresses set forth in this Agreement or such other address as either party may specify in writing. Each party shall deem a document faxed, emailed or electronically sent in PDF form to it as an original document.

- d. **Cooperation.** The Parties agree to reasonably cooperate with each other in the implementation and performance of the Agreement. Such duty to cooperate shall not require either Party to act in a manner inconsistent with its rights under this Agreement. Seller shall cooperate with Purchaser's periodic review of Seller's performance. Such review may be conducted on a semi-annual or more frequent basis at the option and sole cost of Purchaser. Seller shall have the option to make itself available onsite to review the progress of the project and Agreement, as requested by Purchaser, upon reasonable advanced notice. Seller agrees to extend to Purchaser or his/her designees and/or designated auditor of Purchaser, the right to monitor or otherwise evaluate all work performed and all records, including service records and procedures to assure that the project is achieving its purpose, that all applicable Purchaser, state, and federal regulations are met, and that adequate internal fiscal controls are maintained. Seller shall be responsible for receiving, replying to, and complying with any audit exceptions set forth in Purchaser audits. Seller shall pay to Purchaser the full amount of any audit determined to be due as a result of Purchaser audit exceptions. This provision is in addition to other inspection and access rights specified in this Agreement.
- e. **Severability.** Should any provision of this Agreement be or become void, illegal or unenforceable, the validity or enforceability of the other provisions of this Agreement shall not be affected and shall continue in full force and effect. The Parties will, however, use their best endeavors to agree on the replacement of the void, illegal, or unenforceable provision(s) with legally acceptable clauses that correspond as closely as possible to the sense and purpose of the affected provision.
- f. **Survival.** Provisions of this Agreement that should reasonably be considered to survive termination of this Agreement shall survive. For the avoidance of doubt, surviving provisions shall include, without limitation, Section 11 (Removal of System at Expiration), Section 13(b) (Remedies), Section 15(b) (Insurance Coverage), Section 17 (Indemnification and Limits of Liability), Section 20 (California Public Records Act) when applicable, Section 22(a) (Choice of Law), Section 22(b) (Dispute Resolution and Attorneys' Fees), Section 22(c) (Notices), Section 22(j) (Comparative Negligence), Section 22(k) (Non-Dedication of Facilities), Section 22(m) (Service Contract), Section 22(n) (No Partnership), Section 22(p) (Full Agreement, Modification, Invalidity, Counterparts, Captions), Section 22(q) (Forward Contract), Section 22(r) (No Third Party Beneficiaries), Section 22(u) (Debt Liability Disclaimer), and Section 22(w) (Conflict of Interest).
- g. **Further Assurances.** Each of the Parties hereto agree to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.
- h. **Time is of the Essence.** Time is of the essence in performance by the Parties.
- i. **Right of Waiver.** Each Party, in its sole discretion, shall have the right to waive, defer or reduce any of the requirements to which the other Party is subject under this Agreement at any time (other than with respect to and/or relating to the obligation to make any payment due under this Agreement); provided, however that neither Party shall be deemed to have waived, deferred or reduced any such requirements unless such action is in writing and signed by the waiving Party. No waiver will be implied by any usage of trade, course of dealing or course of performance. A Party's exercise of any rights hereunder shall apply only to such requirements and on such occasions as such Party may specify and shall in no event relieve the other Party of any requirements or other obligations not so specified. No failure of either Party to enforce any term of this Agreement will be deemed to be a waiver. No exercise of any right or remedy under this Agreement by Purchaser or Seller shall constitute a waiver of any other right or remedy contained or provided by law. Any delay or failure of a Party to exercise, or any partial exercise of, its rights and remedies under this Agreement shall not operate to limit or otherwise affect such rights or remedies. Any waiver of performance under this Agreement shall be limited to the specific performance waived and shall not, unless otherwise expressly stated in writing, constitute a continuous waiver or a waiver of future performance.
- j. **Comparative Negligence.** It is the intent of the Parties that where negligence is determined to have been joint, contributory or concurrent, each Party shall bear the proportionate cost of any Liability.
- k. **Non-Dedication of Facilities.** Nothing herein shall be construed as the dedication by either Party of its facilities or equipment to the public or any part thereof. Neither Party shall knowingly take any action that would subject the other Party, or other Party's facilities or equipment, to the jurisdiction of any Governmental Authority as a public utility or similar entity. Neither Party shall assert in any proceeding before a court or regulatory body that the other

Party is a public utility by virtue of such other Party's performance under this agreement. If Seller is reasonably likely to become subject to regulation as a public utility, then the Parties shall use all reasonable efforts to restructure their relationship under this Agreement in a manner that preserves their relative economic interests while ensuring that Seller does not become subject to any such regulation. If the Parties are unable to agree upon such restructuring, Seller shall have the right to terminate this Agreement without further liability, and Seller shall remove the System in accordance with Section 11 of this Agreement.

- l. Estoppel.** Either Party hereto, without charge but, in the event that Seller is the requesting Party, at Seller's expense, at any time and from time to time, within five (5) business days after receipt of a written request by the other party hereto, shall deliver a written instrument, duly executed, certifying to such requesting party, or any other person specified by such requesting Party: (i) that this Agreement is unmodified and in full force and effect, or if there has been any modification, that the same is in full force and effect as so modified, and identifying any such modification; (ii) whether or not to the knowledge of any such party there are then existing any offsets or defenses in favor of such party against enforcement of any of the terms, covenants and conditions of this Agreement and, if so, specifying the same and also whether or not to the knowledge of such party the other party has observed and performed all of the terms, covenants and conditions on its part to be observed and performed, and if not, specifying the same; and (iii) such other information as may be reasonably requested by the requesting Party. Any written instrument given hereunder may be relied upon by the recipient of such instrument, except to the extent the recipient has actual knowledge of facts contained in the certificate.
- m. Service Contract.** The Parties intend this Agreement to be a "service contract" within the meaning of Section 7701(e)(3) of the Internal Revenue Code. Purchaser will not take the position in any public accounting or in any other filings suggesting that it is anything other than a purchase of electricity and receipt of Environmental Attributes and any applicable Environmental Incentives (as agreed by the Parties) from the System.
- n. No Partnership.** No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties. No Party is authorized to act on behalf of the other Party, and neither shall be considered the agent of the other.
- o. Non-Exclusive Contract.** This Agreement does not establish an exclusive contract between Purchaser and Seller for the purchase of electricity or power or any services. Purchaser expressly reserves all its rights, including but not limited to, the following: the right to utilize others to provide Electricity, products, support and services beyond the System contemplated herein; the right to request proposals from others with or without requesting proposals from Seller; and the unrestricted right to bid any such product, support or service.
- p. Full Agreement, Modification, Invalidity, Counterparts, Captions.** This Agreement, together with any exhibits, attachments or schedules, completely and exclusively states the agreement of the Parties regarding its subject matter and supersedes all prior proposals, agreements, or other communications between the Parties, oral or written, regarding its subject matter. This Agreement may be modified only by a writing signed by both Parties. If any provision of this Agreement is found unenforceable or invalid, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole. In such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law. This Agreement may be executed in any number of separate counterparts and each counterpart shall be considered an original and together shall comprise the same Agreement. The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement.
- q. Forward Contract.** The transaction contemplated under this Agreement constitutes a "forward contract" within the meaning of the United States Bankruptcy Code, and the Parties further acknowledge and agree that each Party is a "forward contract merchant" within the meaning of the United States Bankruptcy Code.
- r. No Third Party Beneficiaries.** Except as set forth in Section 19, this Agreement and all rights hereunder are intended for the sole benefit of the Parties hereto and shall not imply or create any rights on the part of, or obligations to, any other Person.
- s. Non-Discrimination.** Seller shall not discriminate, in any way, against any person on the basis of age, sex, race, color, religion, ancestry, national origin or disability in connection with or related to the performance of its duties and obligations under this Agreement.

- t. **City Business License.** If applicable, Seller shall obtain and maintain and shall cause its contractors and subcontractors to obtain and maintain during the duration of this Agreement, a City of [_____] business license as required by any applicable Municipal Code. Seller shall pay and shall cause its contractors and subcontractors to pay any and all state and federal taxes and any other applicable taxes. Purchaser shall not be required to pay for any Energy provided under this Agreement, until Seller has provided Purchaser with a completed Internal Revenue Service Form W-9 (Request for Taxpayer Identification Number and Certification).
- u. **Debt Liability Disclaimer.** Purchaser, including, but not limited to, any source of funding for Purchaser, any General Fund or any special self insurance program, is not liable for any debts, liabilities, settlements, liens, or any other obligations of Seller or its heirs, successors or assigns. Purchaser shall not be liable for and shall be held harmless and indemnified by Seller for any claims for damages arising out of any other contract to which Seller is a party, tort, action or inaction, negligent error in judgment, act of negligence, intentional tort, negligent mistakes or other acts taken or not taken by Seller, its employees, agents, servants, invitees, guests or anyone acting in concert with or on behalf of Seller. Purchaser and its agencies and divisions, including, has no obligation to defend or undertake the defense on behalf of Seller or its heirs, successors or assigns.
- v. **Prevailing Wage.** Seller agrees it shall pay prevailing wages in connection with the construction and operation of the System.
- w. **Conflict of Interest.** Seller warrants that it presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of services required under this Agreement.

Exhibit A4
Attachment A

Termination Payment

Contract Year	Termination Payment Amount
Installation Period	
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
After Year 20	Fair Market Value

Exhibit A4
Attachment B

Subcontractors

End of Exhibit A4

SAMPLE

Exhibit A5
Form of Memorandum of License

NOTICE OF GRANT OF CONTRACTUAL INTEREST

In accordance with the provisions of [____], notice is hereby given of that Solar Power Purchase Agreement dated as of [____] for purchase and sale of electrical energy (the “**Solar Agreement**”), such Solar Agreement includes the grant of License to Seller of energy, pursuant to the terms of the Solar Agreement. This notice may be executed in counterparts by the Parties to the Solar Agreement.

Parties to the Agreement:

Seller: [____]
[____]
[____]

Purchaser: [____]
[____]
[____]

Date of Execution of Solar Agreement: [____]

Description of Premises: See **Exhibit A5, Attachment A**

TERM OF AGREEMENT:

The term of the Agreement shall be until the last day of the calendar month in which the twentieth (20th) anniversary of the Commercial Operation Date (as that term is defined in the Agreement) occurs, subject to any Additional Terms or early termination pursuant to the terms of the Agreement.

[signature pages follow]

Exhibit A5
Attachment A

Description of the Premises

[Participant to provide]

SAMPLE

IN WITNESS WHEREOF, this Agreement has been executed and delivered under seal on this _____ day of _____, _____.

Seller:

By: _____
Print Name: _____
Title: _____

Purchaser:

By: _____
Print Name: _____
Title: _____

[FOR FORM PURPOSES ONLY – DO NOT EXECUTE]

SAMPLE

Exhibit A6-1

Design and Engineering Requirements

[Participant to provide]

End of Exhibit A6-1

SAMPLE

Exhibit A6-2

Equipment Warranties

[Seller to provide]

End of Exhibit A6-2

SAMPLE

Exhibit A7

Form of Attestation

Environmental Attribute Attestation

[Name of Seller] ("Seller") hereby transfers and delivers to the [Name of Participant] ("Purchaser") the Environmental Attributes and Environmental Attributes Reporting Rights associated with the generation of the indicated energy (as such terms are defined in the Solar Power Purchase Agreement ("Agreement") dated [Date], between Purchaser and Seller) arising from the generation of the energy by the System described below:

Facility name and location: _____

EIA ID #: _____

CEC ID#: _____

ISO Meter ID#: _____

Fuel Type: _____

Capacity (MW): _____

Commercial Operation Date: _____

Dates	MWhs generated	Dates MWhs generated
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

In the amount of one Environmental Attribute for each megawatt hour generated; and Seller further attests, warrants and represents as follows:

1. To the best of its knowledge, the information provided herein is true and correct;
2. This transfer to Purchaser is the one and only transfer of the Environmental Attributes and associated Environmental Attributes Reporting Rights referenced herein;
3. The Facility generated the energy in the amount indicated as undifferentiated energy; and

(Check one)

_____ Seller owns the facility.

_____ To the best of Seller's knowledge, each of the Environmental Attributes associated with the generation of the indicated energy have been generated and sold by the Facility.

This serves as a transfer from Seller to Purchaser all of Seller's right, title and interest in and to the Environmental Attributes associated with the generation of the energy.

Contact Person: Name: _____ Phone: _____

WITNESS MY HAND,

Seller: _____

By: _____

Title: _____

Date: _____

End of Exhibit A7

Exhibit A8

Milestone Schedule

[Seller to provide]

End of Exhibit A8

SAMPLE

Exhibit A9

Insurance Requirements

[Participant to provide]

End of Exhibit A9

SAMPLE

Exhibit A10

Seller and Purchaser Agreed Responsibilities

[Seller to provide]

End of Exhibit A10

SAMPLE

Exhibit B

SAMPLE MAINTENANCE AGREEMENT

This maintenance agreement ("Maintenance Agreement") is made and entered into this ____ day of _____, 20__ by and between _____ (hereinafter referred to as the "Owner") and _____ (hereinafter referred to as the "Contractor").

RECITALS

1. Pursuant to that certain design-build contract with Contractor, Contractor shall design and install a fully functional integrated photovoltaic (PV) system (Facility) upon Owner's property at _____.
2. In connection with the design-build contract, Owner is entering into this Maintenance Agreement with Contractor for Facility maintenance for a period of 5 years as described herein.

NOW THEREFORE, in consideration of the mutual promises contained in this Maintenance Agreement, Owner and Contractor agree as follows:

1. Contractor's Obligations.
 - a. Contractor shall perform the following annual services on Owner's Facility
 - i. DC Operating Current Testing
 - ii. Open Circuit Voltage Testing
 - iii. Check for Damage or Defects in Modules
 - iv. Visual Inspection of Array Mechanical Components
 - v. Visual Inspection of AC and DC Electrical Components
 - vi. Inverter Inspection and Check Torque on Electrical Terminations
 - vii. Inverter Filter Cleaning/Replacement
 - viii. Inverter Pad/Container – Inspection and Cleaning
 - ix. Check Torque on System Mechanical Connections
 - x. Routine Monitoring System Maintenance, Data Integrity Check
 - xi. Routine Electrical and Ground Connections System Maintenance
 - xii. Inspect Combiner Boxes, Tighten Connections
 - xiii. Infrared Camera Testing
 - xiv. Inspection of Control Enclosures and Components
 - xv. Ground System Testing
 - xvi. Sensor Calibration
 - xvii. Inverter Functional Testing
 - xviii. Corrosion Protection
 - xix. Maintenance and testing of associated disconnect switches and transformers
 - xx. Provide Maintenance report including work performed, results, findings and images.
 - b. Contractor shall perform the following semi-annual services on Owner's Facility:
 - i. Cleaning of panels (twice a year)
 - ii. Cleaning of panels as requested by Owner, at a rate of \$_____ for each additional cleaning
 - c. Annual servicing shall begin within one month of the anniversary of the date of the Notice of Completion for the Project and proceed for five calendar years.
 - d. Semi-annual cleaning of panels shall occur at the time of the annual maintenance and then again approximately six months later or as otherwise agreed to by Owner and Contractor.
 - e. Contractor shall contact Owner's representative _____ [NAME], _____ [PHONE NUMBER], at least three days in advance of any on-site activity.

- f. Contractor shall respond to a request for a nonscheduled service or maintenance call within 72 hours after receipt of such request.
- g. Contractor shall not obstruct access to nearby building or through traffic to the site.
- h. Needed repairs identified during the maintenance inspection shall be immediately performed if covered by this Maintenance Agreement or the complete system warranty as described in the design-build contract. Needed repairs identified during the maintenance inspection not covered by this Maintenance Agreement or the complete system warranty, shall be brought to the attention of Owner, and any additional work identified as necessary will require written approval by Owner prior to implementation. Any such work will be performed at a rate of \$__ per hour for labor and include all charges for materials.
- i. *Performance Standard and Standard of Care:* Contractor hereby agrees that all its work will be performed and that its operations shall be conducted in accordance with the standards of a reasonable professional having specialized knowledge and expertise in the services provided under this Maintenance Agreement and in accordance with all applicable federal, state and local laws, it being understood that acceptance of Contractor's work by Owner shall not operate as a waiver or release. Owner has relied upon the professional ability and training of Contractor as a material inducement to enter into this Maintenance Agreement. If Owner determines that any of Contractor's work is not in accordance with such level of competency and standard of care, Owner, in its sole discretion, shall have the right to do any or all of the following: (a) require Contractor to meet with Owner to review the quality of the work and resolve matters of concern; (b) require Contractor to repeat the work at no additional charge until it is satisfactory; (c) terminate this Maintenance Agreement pursuant to the provisions of Paragraph 3 (Term); or (d) pursue any and all other remedies at law or in equity.
- j. To the furthest extent *permitted* by law (including without limitation California Civil Code Section 2782), Contractor shall assume defense of, and indemnify and hold harmless, Owner and each of its officers, employees, consultants and agents, including but not limited to the Board, Engineer and each Owner's Representative, from claims, suits, actions, losses and liability of every kind, nature and description, including but not limited to claims and fines of regulatory agencies and attorney's fees and consultant's fees, directly or indirectly arising out of, connected with or resulting from performance of the Work, failure to perform the Work, or condition of the Work which is caused in whole or part by any act or omission of Contractor, Subcontractors, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether it is caused in part by the negligence of Owner or by any person or entity required to be indemnified hereunder.
- k. With respect to performance of work under this Maintenance Agreement, Contractor shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain, insurance as described in Attachment A (Insurance Requirements).

2. Owner's Obligations.

- a. For satisfactory performance of the services described herein, Owner agrees to pay to Contractor the sums as follows:

Year 1	
Year 2	
Year 3	
Year 4	
Year 5	

Each payment shall become payable upon completion of each annual maintenance service.

- b. All fees are due and payable within forty-five (45) days of billing.
- c. Owner shall provide Contractor with such access to the property as is reasonably necessary for Contractor to comply with the terms of this Maintenance Agreement.

3. Term.

- a. This Maintenance Agreement shall commence upon the issuance of Notice of Completion for the Project and shall remain in effect until Contractor's obligations hereunder are completed.
- b. Owner has the right to terminate this Maintenance Agreement by giving notice to Contractor thirty (30) days in advance of the date of termination.

4. Use of subcontractors.

- a. Contractor may only subcontract with maintenance contractors who are approved by Owner. All subcontracts must require the subcontractor to be licensed to perform the work contemplated hereunder, follow all applicable labor and safety laws, and contain indemnity in favor of Owner, as follows:
 - 1) To the furthest extent permitted by law (including without limitation California Civil Code Section 2782), Contractor shall assume defense of, and indemnify and hold harmless, Owner and each of its officers, employees, consultants and agents, including but not limited to the Board, Engineer and each Owner's Representative, from claims, suits, actions, losses and liability of every kind, nature and description, including but not limited to claims and fines of regulatory agencies and attorney's fees and consultant's fees, directly or indirectly arising out of, connected with or resulting from performance of the Work, failure to perform the Work, or condition of the Work which is caused in whole or part by any act or omission of Contractor, Subcontractors, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether it is caused in part by the negligence of Owner or by any person or entity required to be indemnified hereunder.
- b. Contractor shall at all times remain responsible for the work and for the subcontractors' compliance with this contract and all applicable laws and regulations.

IN WITNESS WHEREOF, the Parties have executed this Maintenance Agreement as of ___ day of _____, 20__.

Contractor

Signature: _____
Print Name: _____
Title: _____
Date: _____

Owner

Signature: _____
Print Name: _____
Title: _____
Date: _____

Exhibit B

ATTACHMENT A

CONSTRUCTION INSURANCE REQUIREMENTS

Note: These are general construction insurance requirements. The Town of Windsor's Construction and Services Agreement can be found at Exhibit G.

A. General

1. Contractor shall maintain and shall require all of its subcontractors and other agents to maintain the insurance listed below. Contractor shall not commence Work, nor allow its employees, subcontractors or anyone to commence Work until the required insurance has been submitted and approved by Owner and a Notice to Proceed has been issued. Any requirement for insurance to be maintained after completion of the Work shall survive this Agreement.
2. Owner reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Contract or failure to identify any insurance deficiency shall not relieve Contractor from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Contract.

B. Contractor - Required Insurance.

1. Contractor shall furnish to Owner satisfactory proof that Contractor has obtained the following insurance as specified below:
 - a. Workers Compensation Insurance & Employers Liability Insurance.
 - 1) Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California.
 - 2) Employers Liability with minimum limits of \$1,000,000 per Accident; \$1,000,000 Disease per employee; \$1,000,000 Disease per policy.
 - 3) The policy shall be endorsed to include a written waiver of the insurer's right to subrogate against Owner.
 - 4) Required Evidence of Insurance:
 - (a) Subrogation waiver endorsement, and
 - (b) Certificate of Insurance.
 - 5) If injury occurs to any employee of Contractor, Subcontractor, or sub-subcontractor for which the employee, or the employee's dependents in the event of employee's death, is entitled to compensation from Owner under provisions of the Workers Compensation Insurance and Safety Act (Act), as amended, or for which compensation is claimed from Owner, Owner may retain out of sums due Contractor under Contract Documents, amount sufficient to cover such compensation, as fixed by the Act, as amended, until such compensation is paid, or until it is determined that no compensation is due. If Owner is compelled to pay compensation, Owner may, in its discretion, either deduct and retain from the Contract Sum the amount so paid, or require Contractor to reimburse Owner.
 - b. General Liability Insurance.
 - 1) Commercial General Liability Insurance on a standard occurrence form, no less broad than ISO form CG 00 01.
 - 2) Minimum Limits. The required limits may be provided by a combination of General Liability Insurance and Commercial Umbrella Liability Insurance. If Contractor maintains higher limits than the specified minimum limits, Owner requires and shall be entitled to coverage for the higher limits maintained by Contractor.

- (a) Projects under \$1,000,000: \$1,000,000 per Occurrence; \$2,000,000 General Aggregate; \$2,000,000 Products/Completed Operations Aggregate. The General Aggregate shall apply separately to each Project.
 - (b) Projects from \$1,000,000 - \$4,999,999: \$2,000,000 per Occurrence; \$4,000,000 General Aggregate; \$4,000,000 Products/Completed Operations Aggregate. The General Aggregate shall apply separately to each Project.
 - (c) Projects from \$5,000,000 - \$9,999,999: \$5,000,000 per Occurrence; \$5,000,000 General Aggregate; \$5,000,000 Products/Completed Operations Aggregate. The General Aggregate shall apply separately to each Project.
 - (d) Projects \$10,000,000 and Over: Minimum Limits: \$10,000,000 per Occurrence; \$10,000,000 General Aggregate; \$10,000,000 Products/Completed Operations Aggregate. The General Aggregate shall apply separately to each Project.
- 3) Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$25,000 it must be approved in advance by Owner. Contractor is responsible for any deductible or self-insured retention and shall fund it upon Owner's written request, regardless of whether Contractor has a claim against the insurance or is named as a party in any action involving Owner.
 - 4) Insurance shall be maintained for the entire period of the Work, including any warranty period. Completed operations insurance shall be maintained after the end of the warranty period for the additional periods specified below:
 - (a) Projects under \$1,000,000: One (1) year after end of warranty period.
 - (b) Projects from \$1,000,000 - \$4,999,999: Two (2) years after end of warranty period.
 - (c) Projects from \$5,000,000 - \$9,999,999: Three (3) years after end of warranty period.
 - (d) Projects \$10,000,000 and Over: Five (5) years after end of warranty period.
 - 5) Owner, its Board of Directors, and its employees, representatives, consultants, and agents shall be additional insureds for liability arising out of ongoing and completed operations by or on behalf of the Contractor in the performance of the Contract Documents. Additional insureds status shall continue for the period(s) specified in paragraph 4).
 - 6) The policy definition of "insured contract" shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the "f" definition of insured contract in ISO form CG 00 01, or equivalent).
 - 7) The insurance provided to the additional insureds shall be primary to, and non-contributory with, any insurance or self-insurance program maintained by Owner *et al.*
 - 8) The policy shall not exclude injury or damage caused by, or resulting from, explosion, collapse and/or underground hazards.
 - 9) The policy shall not contain a Contractors' Warranty or other similar language which eliminates or restricts insurance because of a Subcontractor's failure to carry specific insurance or to supply evidence of such insurance.
 - 10) The policy shall be endorsed to include a written waiver of the insurer's right to subrogate against all persons or entities that are, or are required to be, additional insureds.
 - 11) The policy shall cover inter-insured suits between Contractor and the additional insureds and shall include a "separation of insureds" or "severability" clause which treats each insured separately.
 - 12) Required Evidence of Insurance:
 - (a) Additional insured endorsements or policy language granting additional insured status;
 - (b) Endorsement or policy language indicating that insurance is primary and non-contributory; and

- (c) Certificate of Insurance.
- c. Automobile Liability Insurance.
 - 1) Minimum Limits:
 - (a) Projects under \$1,000,000: \$1,000,000 combined single limit per accident.
 - (b) Projects \$1,000,000 and Over: \$2,000,000 combined single limit per accident.
 - 2) Insurance shall apply to all owned, hired, and non-owned vehicles.
 - 3) Owner, its Board of Directors, and its employees, representatives, consultants, and agents shall qualify as an insured.
 - 4) Insurance shall be maintained for the entire term of this Contract, including any warranty period.
 - 5) Required Evidence of Insurance:
 - (a) Endorsement or policy language indicating that Owner, its Board of Directors, and its employees, representatives, consultants, and agents; are insureds; and
 - (b) Certificate of Insurance.
- d. Contractors Pollution Liability Insurance.
 - 1) Minimum Limits:
 - (a) Projects under \$5,000,000: \$1,000,000 per pollution Incident; \$1,000,000 Aggregate; and
 - (b) Projects \$5,000,000 and Over: \$2,000,000 per pollution Incident; \$2,000,000 Aggregate.
 - 2) Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$25,000 it must be approved in advance by Owner. Contractor is responsible for any deductible or self-insured retention and shall fund it upon Owner's written request, regardless of whether Contractor has a claim against the insurance or is named as a party in any action involving Owner.
 - 3) If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of Work.
 - 4) Insurance shall be maintained for the entire period of the Work plus the additional periods as specified below:
 - (a) Projects under \$1,000,000: One (1) year after end of warranty period.
 - (b) Projects from \$1,000,000 - \$4,999,999: Two (2) years after end of warranty period.
 - (c) Projects from \$5,000,000 - \$9,999,999: Three (3) years after end of warranty period.
 - (d) Projects \$10,000,000 and Over: Five (5) years after end of warranty period.
 - 5) If the insurance is on a Claims-Made basis, the continuation coverage may be provided by: (a) renewal of the existing policy; (b) an extended reporting period endorsement; or (c) replacement insurance with a retroactive date no later than the commencement of the Work.
 - 6) Owner, its Board of Directors, and its employees, representatives, consultants, and agents; shall be additional insureds for liability arising out of operations by or on behalf of the Contractor in the performance of the Contract Documents.
 - 7) The insurance provided to the additional insureds shall apply on a primary and non-contributory basis with respect to any insurance or self-insurance program maintained by Owner *et al.*
 - 8) Required Evidence of Insurance:
 - (a) Additional insured endorsement or policy language granting additional insured status;
 - (b) Endorsement or policy language indicating that coverage is primary and non-contributory; and
 - (c) Certificate of Insurance.
- e. Professional Liability/Errors & Omissions Insurance.

- 1) Required if the Contractor or its employees engage in design or professional activities (architecture, engineering or surveying) that are not subcontracted out.
 - 2) Minimum Limit: \$1,000,000 per claim or per occurrence.
 - 3) Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$25,000 it must be approved in advance by Owner.
 - 4) If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the Work.
 - 5) Insurance applicable to the Work performed under the Contract shall be continued for two (2) years after completion of the Work. Such continuation insurance may be provided by one of the following: (a) renewal of the existing policy; (b) an extended reporting period endorsement; or (c) replacement insurance with a retroactive date no later than the commencement of the Work.
 - 6) Required Evidence of Insurance:
 - (a) Certificate of Insurance.
2. Increase of Minimum Limits.
 - a. Required minimum amounts of insurance may be increased should conditions of Work, in opinion of Owner, warrant such increase. Contractor shall increase required insurance amounts upon direction by Owner.
 3. Standards for Insurance Companies.
 - a. Insurers, other than the California State Compensation Insurance Fund, shall have an A.M. Best's rating of at least A:VII.
 4. Documentation.
 - a. The Certificate of Insurance shall include the following reference:_____.
 - b. Contractor agrees to maintain current Evidence of Insurance on file with Owner for the periods of insurance specified above in Paragraphs 2.4.2.B.1.a through 2.4.2.B.1.e. Any requirement to maintain insurance after Final Completion of the Work, including providing Certificates evidencing required insurance, shall survive the Contract.
 - 1) Required Evidence of Insurance shall be submitted to [OWNER] [ADDRESS]
 - 2) Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.
 - 3) Contractor shall provide immediate written notice if: (a) any of the required insurance policies is terminated; (b) the limits of any of the required policies are reduced; or (c) the deductible or self-insured retention is increased.
 - 4) Upon written request, certified copies of required insurance policies must be provided within thirty (30) days.
 5. Policy Obligations
 - a. Contractor's indemnity and other obligations shall not be limited by the foregoing insurance requirements.
 6. Material Breach.
 - a. If Contractor fails to maintain Insurance which is required pursuant to the Contract Documents, it shall be deemed a material breach. Owner, at its sole option, may terminate the Contract for default and obtain damages from Contractor resulting from said breach. Alternatively, Owner may purchase the required Insurance, and without further notice to Contractor, Owner may deduct from sums due to Contractor any premium costs advanced by Owner for such insurance. These remedies shall be in addition to any other remedies available to Owner under the Contract Documents or Law.

C. Subcontractors - Required Insurance.

1. With respect to their portion of the Work, Subcontractors of all tiers shall maintain the same insurance required to be maintained by Contractor with limits as follows:

- a. Minimum General Liability Limits for Framing, Mechanical, and Electrical Subcontractors.
 - 1) Projects under \$1,000,000: \$1,000,000 per Occurrence; \$2,000,000 General Aggregate; \$2,000,000 Products/Completed Operations Aggregate. The General Aggregate shall apply separately to each Project.
 - 2) Projects \$1,000,000 and Over: \$2,000,000 per Occurrence; \$4,000,000 General Aggregate; \$4,000,000 Products/Completed Operations Aggregate. The General Aggregate shall apply separately to each Project.
- b. Minimum General Liability Limits for all Subcontractors other than Framing, Mechanical, and Electrical Subcontractors.
 - 1) \$1,000,000 per Occurrence; \$2,000,000 General Aggregate; \$2,000,000 Products/Completed Operations Aggregate. The General Aggregate shall apply separately to each Project.
- c. Minimum Automobile Liability Limits.
 - 1) \$1,000,000 combined single limit per accident.
- d. Minimum Employers Liability Limits.
 - 1) \$1,000,000 per Accident; \$1,000,000 Disease per employee; \$1,000,000 Disease per policy.
- e. Professional Liability/Errors & Omissions Insurance.
 - 1) Required for any architect, engineer, surveyor or other licensed professional engaged by Contractor to perform portions of the Work.
 - 2) Minimum Limit: \$1,000,000 per claim or per occurrence.
 - 3) Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$25,000 it must be approved in advance by Owner.
 - 4) If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the Work.
 - 5) Coverage applicable to the Work performed under the Contract shall be continued for two (2) years after completion of the Work. Such continuation coverage may be provided by one of the following: (a) renewal of the existing policy; (b) an extended reporting period endorsement; or (c) replacement insurance with a retroactive date no later than the commencement of the Work.
 - 6) Required Evidence of Insurance:
 - (a) Certificate of Insurance.

D. Builder's Risk.

1. With respect to Work under this Contract, Owner shall maintain "All-Risk" Course of Construction insurance as follows:
 - a. Insured Property shall include: (1) Real property in Course of Construction; (2) building materials and supplies intended to be in or on the completed Work located at the Site, in storage or in transit, and whether or not owned or paid for by Owner; (3) fixtures and machinery intended to be in or on the completed Work; (4) scaffolding, cribbing, fencing, forms and temporary trailers, while located on the Site, in storage or in transit.
 - b. Limit of insurance shall be the full contract value.
 - c. Responsibility for paying deductibles is as follows:

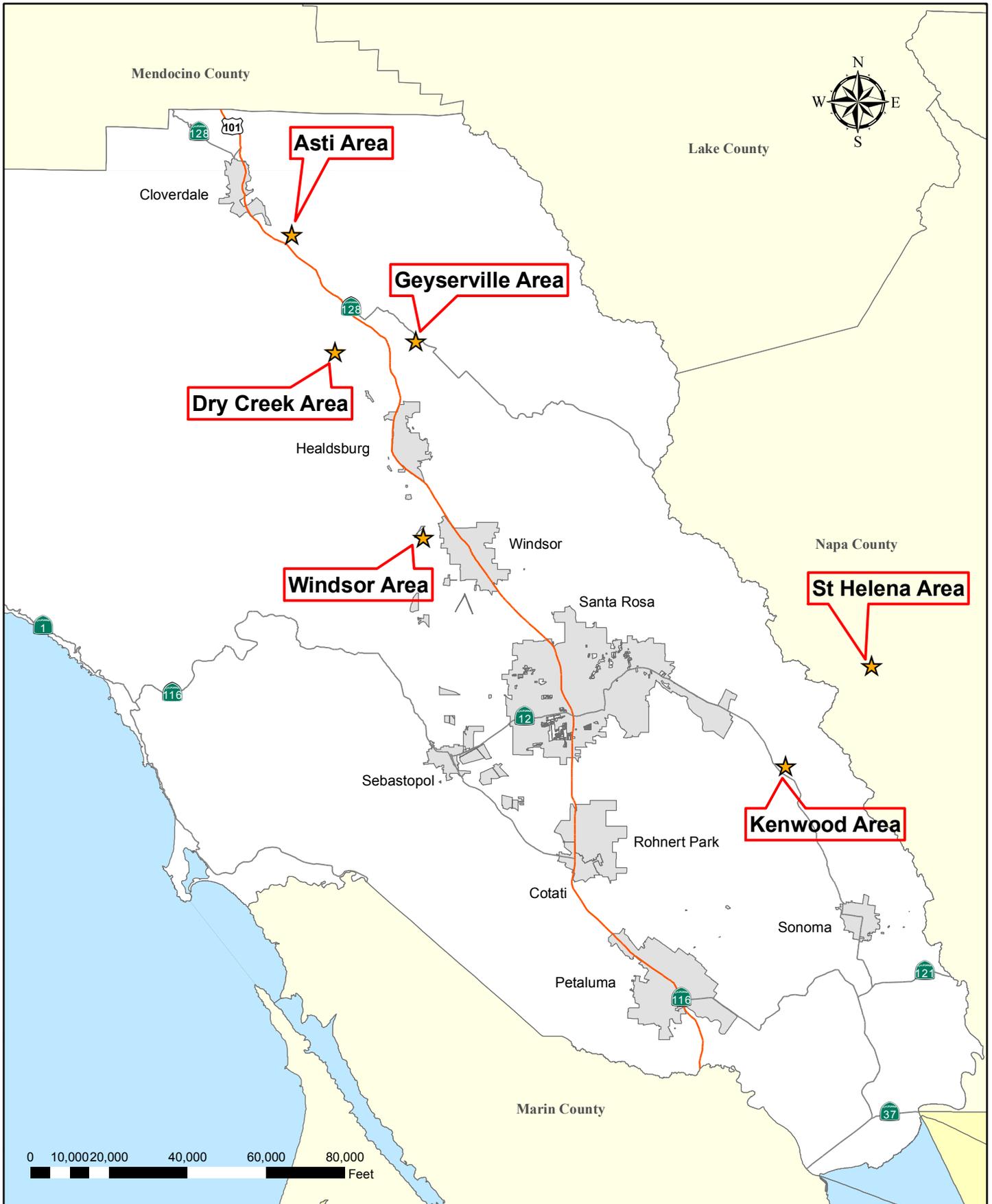
<i>Contract Value or Description</i>	<i>Contractor's Responsibility for Deductible: Earthquake and Flood</i>	<i>Contractor's Responsibility for Deductible: Other Insured Perils</i>	<i>Owner's Responsibility for Deductible</i>
Full Contract Value under \$1,000,000	First \$10,000	First \$5,000	Balance of Deductible

Full Contract Value: \$1,000,000 - \$9,999,999	First \$20,000	First \$10,000	Balance of Deductible
Full Contract Value: \$10,000,000 - \$19,999,999	First \$50,000	First \$25,000	Balance of Deductible
Full Contract Value: \$20,000,000 and above	First \$60,000	First \$30,000	Balance of Deductible

- d. Contractor and Subcontractors of all tiers shall be additional insureds.
- e. Excluded property: Equipment, tools, and personal effects belonging to Contractor or Subcontractors of all tiers.
- f. Insured perils: All Risks of Direct Physical Damage or Loss, including flood and, for scheduled locations, earthquake, except as excluded.
- g. Exclusions may include, but are not limited to:
 - 1) Loss due to wear and tear, moth, vermin, termites, insects, latent defects, gradual deterioration, wet or dry rot, rust, corrosion, erosion or normal settling, shrinkage and/or expansion of buildings or foundations.
 - 2) Loss or damage due to contaminants and/or pollutants. However, fire losses arising directly or indirectly from pollutants or contaminants are covered.
 - 3) Loss of use or occupancy or consequential loss.
 - 4) Liquidated damages and/or penalties for delay or detention in connection with guarantees of performance or efficiency.
 - 5) Loss or damage caused by or resulting from infidelity or dishonesty on the part of any insured or the employees or agents of any insured.
 - 6) Inventory shortage or unexplained disappearance.
- h. A copy of Owner's Course of Construction Insurance, including all policy coverages, conditions and exclusions, shall control in the event of any conflict with the language of this Document. Upon request, Owner will provide a Certificate of Property Insurance.

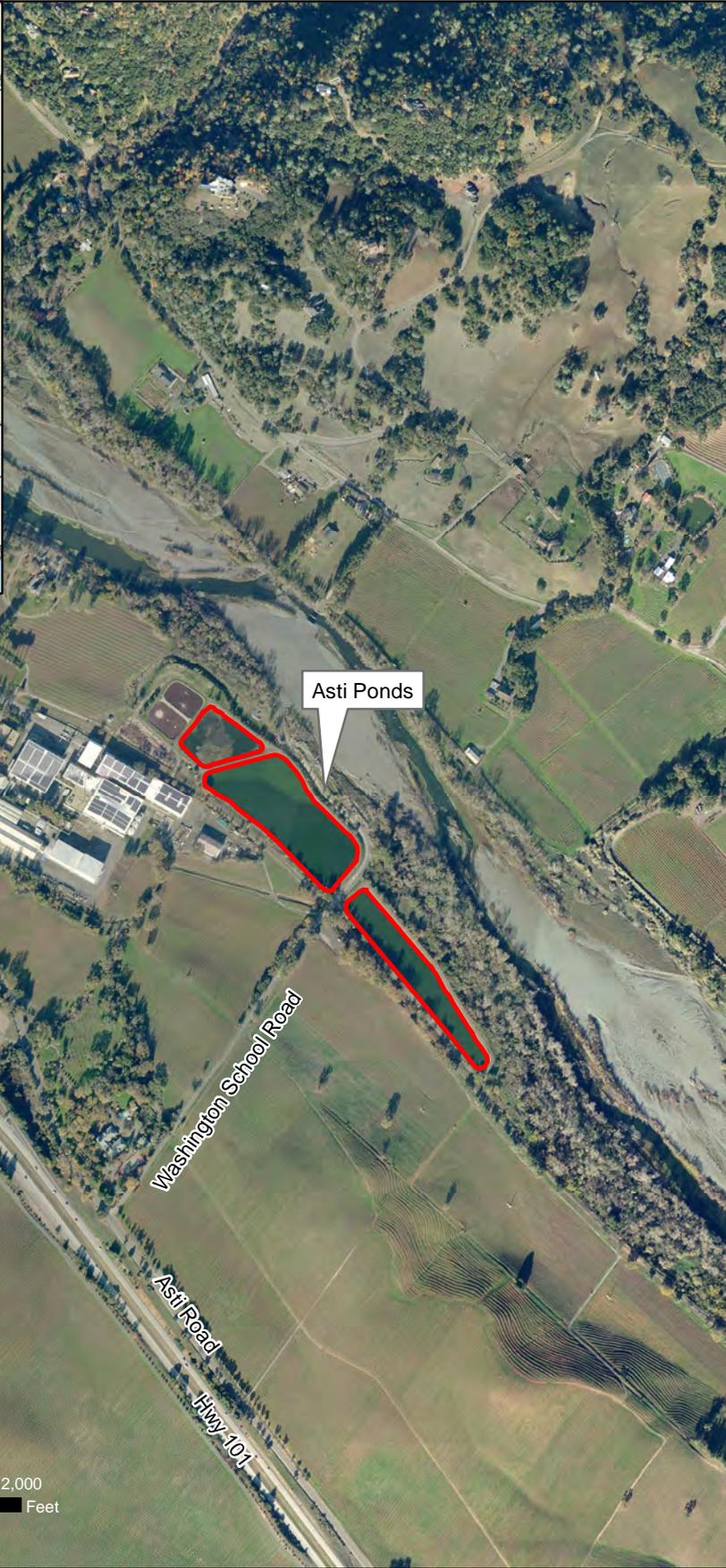
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Sonoma County Water Agency
Floating Solar Pond Locations
Asti - Dry Creek - Geyserville - Kenwood - Windsor - St Helena

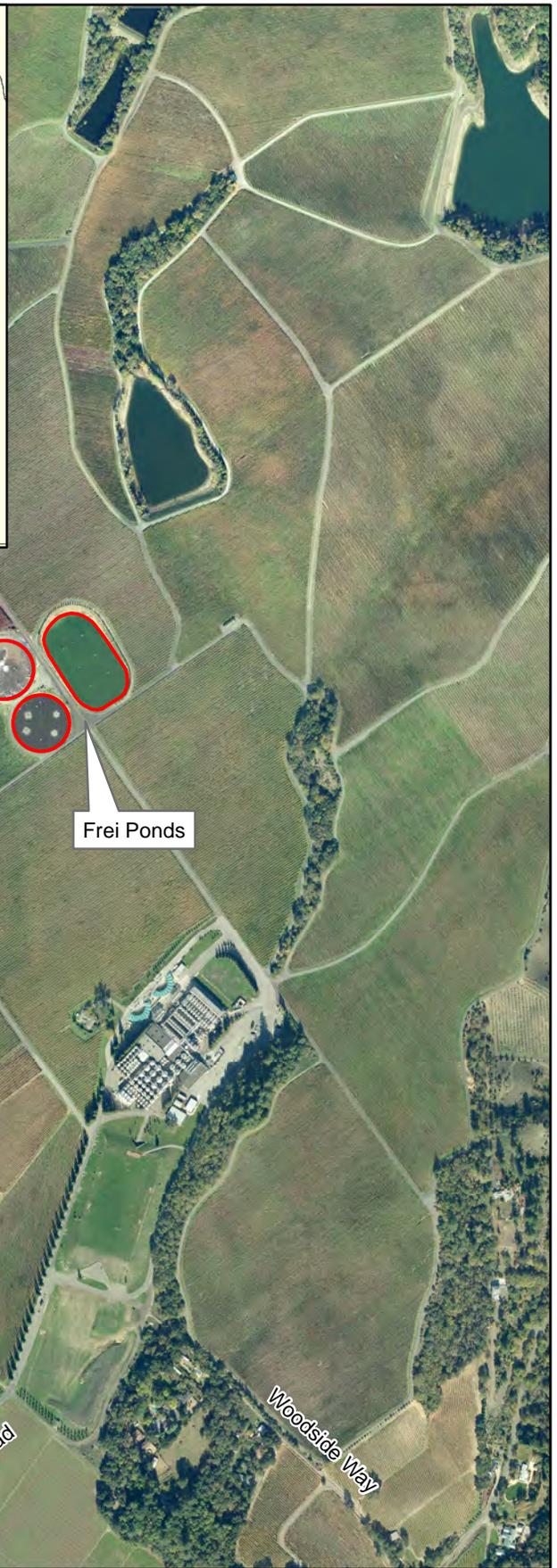
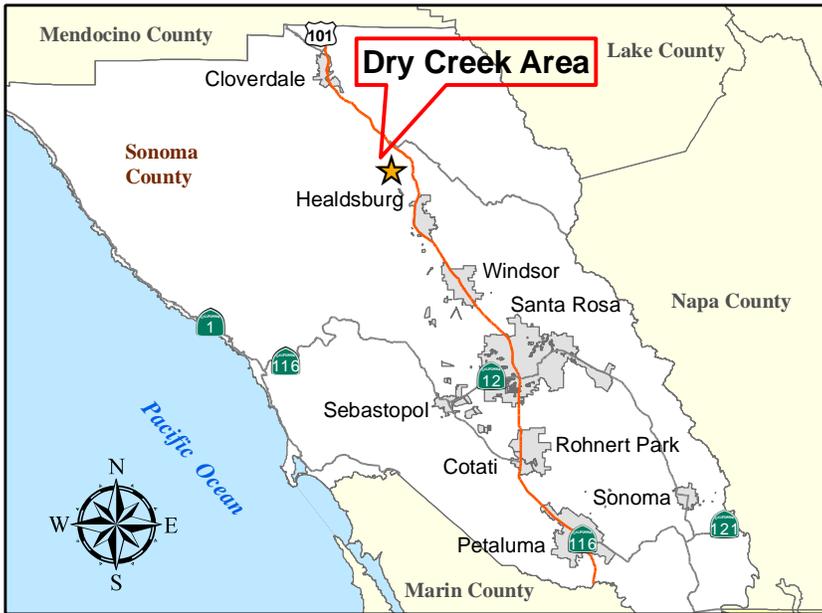
Exhibit
C



Sonoma County Water Agency
 Floating Solar
 Asti Winery

Exhibit
 C

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Sonoma County Water Agency
 Floating Solar
 Dry Creek - Frei Brothers Ponds

Exhibit
 C



Sonoma County Water Agency
 Floating Solar
 Geyserville - Francis Ford Coppola Pond

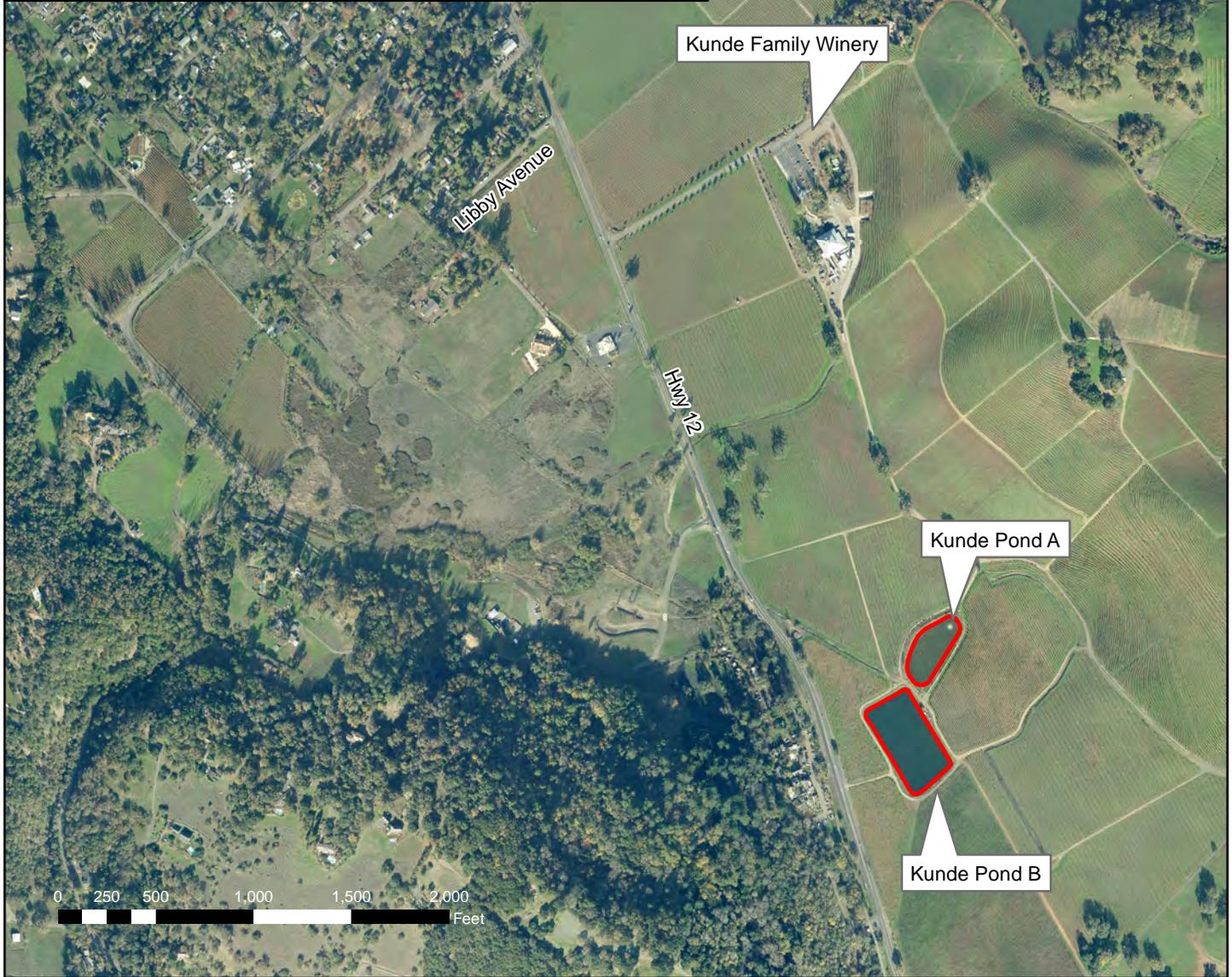
Exhibit
 C



Sonoma County Water Agency
 Floating Solar
 Geyserville - Clo Du Bois Ponds A & B

Exhibit
 C

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Sonoma County Water Agency
Floating Solar
Kenwood - Kunde Ponds A & B

Exhibit
C

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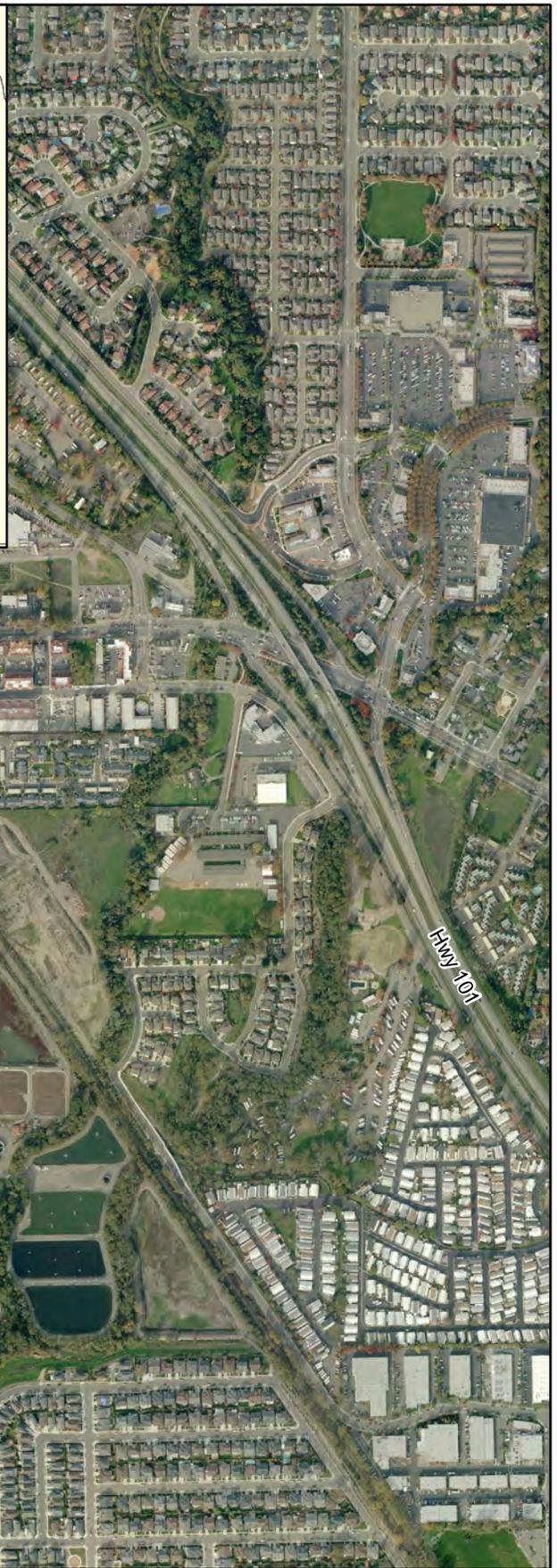
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Sonoma County Water Agency
Floating Solar
St Helena - Louis M. Martini Winery - Gallo Ponds A & B

Exhibit
C

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community



Sonoma County Water Agency
 Floating Solar
 Windsor Pond 7

Exhibit
 C

IMPROVEMENT PLANS
OF

RECEIVED
WINDSOR WATER DISTRICT
AS 07-89

RECEIVED
WINDSOR WATER DISTRICT
AS 07-89

ADVANCED WASTEWATER TREATMENT STORAGE RESERVOIR

WINDSOR WATER DISTRICT
SONOMA COUNTY, CALIFORNIA

JULY 1989

WINDSOR WATER DISTRICT
BOARD OF DIRECTORS

Floyd Coakley, Chairman

Charles Betschart

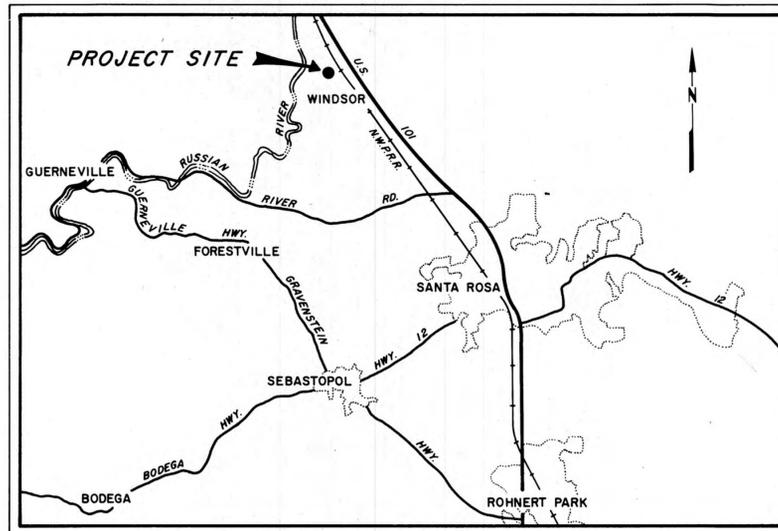
Don Hanks

Robert Henry

Barbara Siegler

Hal Wood, General Manager

BRELJE & RACE
CIVIL & SANITARY ENGINEERS
SURVEYORS / LAND PLANNERS
5341 Skylane Boulevard
Santa Rosa, California 95402
Phone: (707) 576-1322



VICINITY MAP

ARGONAUT CONSTR. 573,713

Brelje & Race

James V. Daugherty

R.C.E. 15610



Windsor Water District

Chairman, Board of Directors

Floyd Coakley

ABBREVIATIONS

A.C. ASPHALT CONCRETE	M.H. MANHOLE
A.C.P. ASBESTOS CEMENT PIPE	MIN. MINIMUM
ADT. ADAPTOR	MISC. MISCELLANEOUS
AGG. AGGREGATE	M.J. MECHANICAL JOINT
A.R.C. ALTERNATIVE PIPE CULVERT	M.P. METAL PLATE
APPROX. APPROXIMATE	N. NORTH
ASPH. ASPHALT	N.I.C. NOT INCLUDED IN CONTRACT
AVE. AVENUE	N'LY. NORTHERLY
B.C. BEGIN HORIZONTAL CURVE	NO. NUMBER
BDY. BOUNDARY	N.T.S. NOT TO SCALE
BLDG. BUILDING	O.C. ON CENTER
BL. BASELINE	O.D. OUTSIDE DIAMETER
B.M. BENCH MARK	O.G. ORIGINAL GROUND
B.V.C. BEGIN VERTICAL CURVE	P.B. PULL BOX
C. CHANNEL OR CONDUIT	P.C.C. POINT OF COMPOUND CURVE
C.B. CATCH BASIN	P.I. POINT OF INTERSECTION
C.I. CAST IRON	P.L. PROPERTY LINE
C.I.P. CAST IRON PIPE	P.L. PLATE
C.L. CENTERLINE	P.O.C. POINT ON HORIZONTAL CURVE
C.L. CLASS	P.O.T. POINT ON TANGENT
C.L. CHAIN LINK	P.O.V.C. POINT ON VERTICAL CURVE
CL.R. CLEARANCE	P.P. POWER POLE
C.M.P. CORRUGATED METAL PIPE	P.R.C. POINT OF REVERSE CURVE
C.O. CLEANOUT	P.S.I. POUNDS PER SQUARE INCH
CO. COUNTY	P.T. POINT
CONC. CONCRETE	P.V.C. POLYVINYL CHLORIDE PIPE
COND. CONDUIT	PVMT. PAVEMENT
CONST. CONSTRUCT (ION)	R. RADIUS
C.P. CONTROL POINT	R.C.E. REGISTERED CIVIL ENGINEER
CPLG. COUPLING	R.C.P. REINFORCED CONCRETE PIPE
C.R. CURB RETURN	RD. ROAD
C.S.P.A. CORRUGATED STEEL PIPE ARCH	RD'WD. REDWOOD
CU. FT. CUBIC FEET	RED. REDUCER
CULV. CULVERT	REF. REFERENCE
C.Y. CUBIC YARDS	REINF. REINFORCED
¢ PENNY (NAIL SIZE)	REQ'D. REQUIRED
D.I. DROP INLET	R.T. RING TITE
DIA. DIAMETER	R/W. RIGHT OF WAY
D.I.P. DUCTILE IRON PIPE	S. SEWER OR SLOPE OR SOUTH
DWY. OR D/W. DRIVEWAY	SCH. SCHEDULE
DWS. DRAWING	S.D. STORM DRAIN
E. EAST	SECT. SECTION
E.C. END HORIZONTAL CURVE	S'LY. SOUTHERLY
EL. OR ELEV. ELEVATION	SPEC. SPECIFICATIONS
ELB. ELBOW	S.S. STAINLESS STEEL
E'LY. EASTERLY	ST. STREET
E.P. EDGE OF PAVEMENT	STA. STATION
EQ. EQUAL (S)	STD. STANDARD
EQU. EQUATION	STL. STEEL
E.V.C. END VERTICAL CURVE	STR. STRUCTURE
EXIST. OR EX. EXISTING	S.Y. SQUARE YARD
F.E.S. FLARED END SECTION	T.B. TOP OF BOX OR TOP OF BANK
F.G. FINISH GRADE	T.C. TOP OF CURB
FL. FLOWLINE	T.D. TOP OF DIKE
FLG. FLANGE	T.D.M. TOTAL DISCHARGE HEAD
F.M. FORCE MAIN	TEL. TELEPHONE
FT. FOOT OR FEET	TEMP. TEMPORARY
GA. GAUGE	THD. THREADED
GALV. GALVANIZED	TOE. TOE OF BANK
G.B. GRADE BREAK	TRANS. TRANSITION
G.I. GRATE INLET	TYP. TYPICAL
G.I.P. GALVANIZED IRON PIPE	VAR. OR V. VARIES
G.P.M. GALLONS PER MINUTE	V.C. VERTICAL CURVE
GRND/GND. GROUND	V.C.P. VITRIFIED CLAY PIPE
G.V. GATE VALVE	VERT. VERTICAL
H. HEIGHT (S)	W. WATER OR WEST
H.B. HOSE BIBB	W'LY. WESTERLY
HORIZ. HORIZONTAL	W.M. WATER METER
H.P. HORSEPOWER	W.S. WATER SURFACE
HWY. HIGHWAY	W.W.F. WELDED WIRE FABRIC
I.D. INSIDE DIAMETER	∅ AT
INV. INVERT	∅ AND
J.B. JUNCTION BOX	∠ ANGLE
J.P. JOINT POLE	Δ DELTA
JT. JOINT	° DEGREE
L. LENGTH	∅ DIAMETER OR ROUND
LB. POUND	∅ EQUAL (S)
L.F. LINEAL FEET	' FOOT OR FEET OR MINUTES
MATL. MATERIAL	" INCH(ES) OR SECOND(S)
MAX. MAXIMUM	# NUMBER OR POUND(S)
M.G. MILLION GALLON	% PERCENT
I.S.M. IRRIGATION SERVICE MAIN	

LEGEND

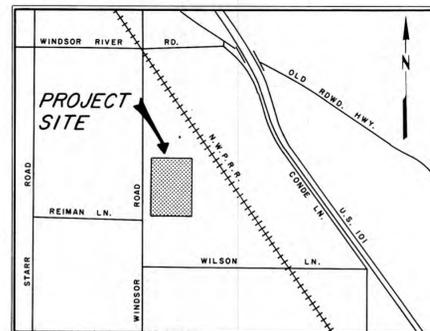
PIPING			MISCELLANEOUS	
DESCRIPTION	DOUBLE LINE	SINGLE LINE	DESCRIPTION	
JOINTS			CONCRETE IN SECTION	OR
BELL & SPIGOT			EXISTING GRADE	
FLANGED			GRATING	
MECHANICAL			STEEL IN SECTION	
VALVES			WATER SURFACE	
BALL			WOOD IN SECTION	
CHECK			CLEANOUT	
GATE			DIRECTION OF FLOW	
PLUG			HOSE BIBB	
FITTINGS			MANHOLE	
CROSS			STRUCTURAL STEEL ANGLE 6" LEG, 4" LEG, 5/8" THICK	L 6 x 4 x 5/8
ELBOW (REDUCING)			STRUCTURAL STEEL CHANNEL 10" DEEP, 15.3 POUNDS / LINEAR FOOT	C 10 x 15.3
ELBOW (STRAIGHT)			STRUCTURAL STEEL WIDE FLANGE 6" DEEP, 12 POUNDS / LINEAR FOOT	W 6 x 12
FLANGED COUPLING ADAPTOR			PLATE 1/2" THICK, 18" WIDE, 24" LONG	PL 1/2 x 18 x 24
FLEXIBLE COUPLING				
REDUCER CONCENTRIC				
TEE				

SYMBOLS

DETAIL REFERENCE		DETAIL
		DRAWING REFERENCE NUMBER
SECTION REFERENCE		SECTION NUMBER
		DRAWING REFERENCE NUMBER

BENCHMARKS

B.M.	DWG. NO.	DESCRIPTION	ELEV.



LOCATION MAP

NO SCALE

UNDERGROUND SERVICE ALERT

CALL TOLL FREE 800 - 642-2444, 48 HOURS BEFORE EXCAVATION.

GENERAL NOTES

CONTRACTOR AGREES THAT HE SHALL ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THIS PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY; THAT THIS REQUIREMENT SHALL APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS, AND THAT THE CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD THE OWNER AND THE ENGINEER HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPTING FOR LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF THE OWNER OR THE ENGINEER.

THE LOCATIONS OF ALL EXISTING UTILITIES OR OTHER UNDERGROUND OBSTRUCTIONS SHOWN ON THE PLANS ARE APPROXIMATE ONLY AND SHOULD NOT BE TAKEN AS FINAL OR ALL INCLUSIVE. THE CONTRACTOR IS CAUTIONED THAT THE PLANS MAY NOT INCLUDE THE LOCATION OF ALL UNDERGROUND OBSTRUCTIONS WHICH MAY BE ENCOUNTERED.

THE CONTRACTOR SHALL RELOCATE EXISTING UTILITIES OR MODIFY THE LOCATION OF THE IRRIGATION MAIN AS REQUIRED TO PROVIDE 12" CLEARANCE BETWEEN WATER AND OTHER UTILITIES, WHETHER OR NOT SHOWN ON THE PLANS. ALL UTILITIES DAMAGED OR RELOCATED DURING CONSTRUCTION SHALL BE REPLACED IN KIND. ALL UTILITY RELOCATION AND REPAIR SHALL BE DONE BY UTILITY OWNER PERSONNEL OR UNDER THEIR DIRECT SUPERVISION.

CONTRACTOR SHALL GIVE THE WINDSOR WATER DISTRICT 48 HOURS PRIOR NOTICE BEFORE STARTING CONSTRUCTION WORK. CALL 838-4355.

CONTRACTOR SHALL OBTAIN AN ENCROACHMENT PERMIT PRIOR TO BEGINNING ANY WORK IN ANY ROADWAY, RIGHT OF WAY, ETC., FROM THE PROPER ENTITY.

CONTRACTOR SHALL DO NO EXCAVATION UNTIL ALL EXISTING UTILITIES HAVE BEEN MARKED IN THE FIELD BY THE APPLICABLE ENTITY RESPONSIBLE FOR THAT PARTICULAR UTILITY. THE CONTRACTOR SHALL NOTIFY EACH APPLICABLE ENTITY AT LEAST 24 HOURS BEFORE STARTING WORK.

UNAUTHORIZED CHANGES & USES: The engineer preparing these plans will not be responsible for, or liable for, unauthorized changes to or uses of these plans. All changes to the plans must be in writing and must be approved by the preparer of these plans.

INDEX OF DRAWINGS

NO.	TITLE
1	COVER SHEET
2	INDEX, LEGEND AND GENERAL NOTES
3	SITE GRADING AND PIPING PLAN
4	GRADING SECTIONS AND DETAILS
5	INLET / OUTLET AREA PLAN AND DETAILS
6	PIPING PROFILES
7	STRUCTURE DETAILS
8	MISCELLANEOUS DETAILS
9	STORM DRAIN DETAILS

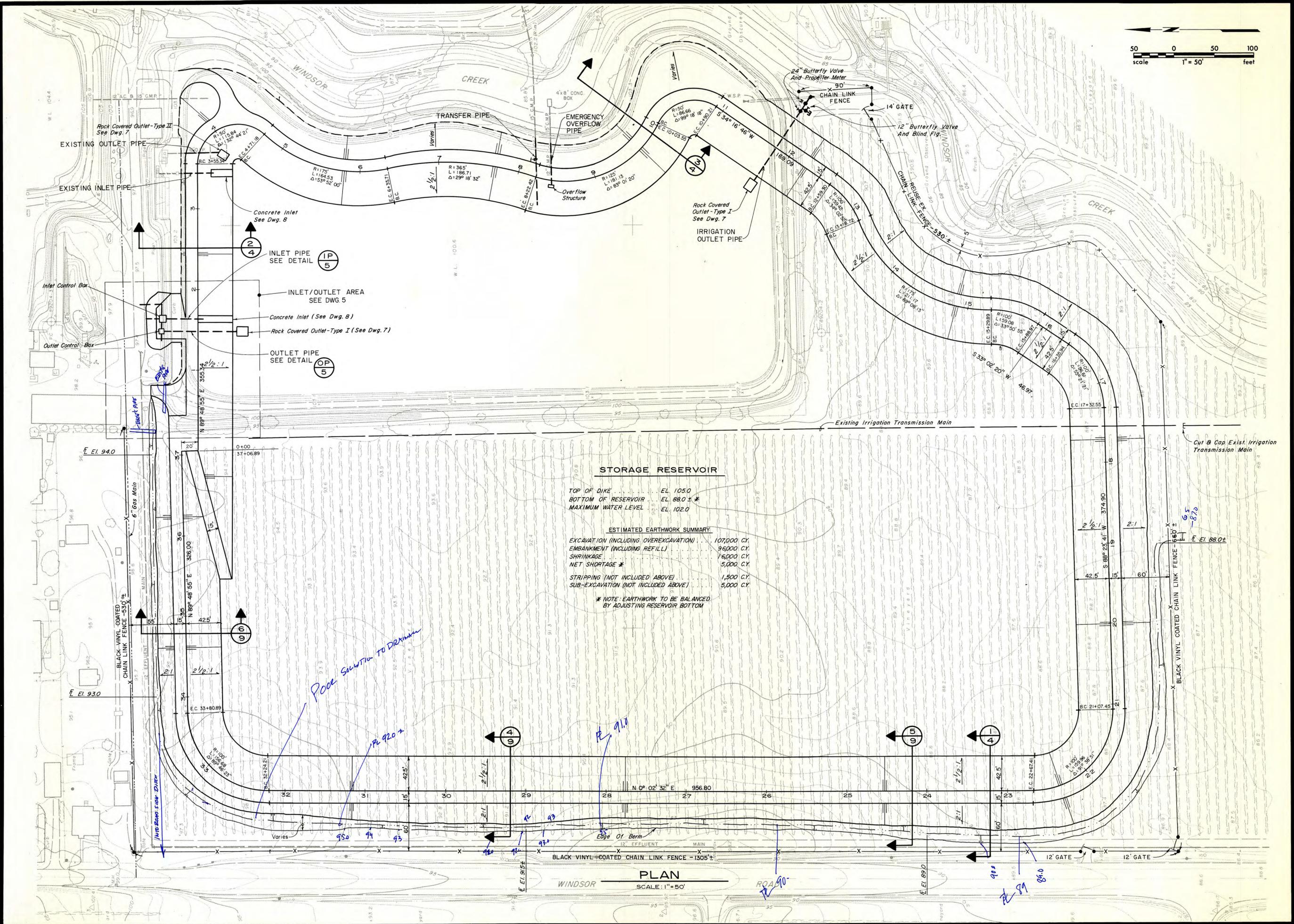


JAMES V. DAUGHERTY
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WINDSOR WATER DISTRICT
ADVANCED WASTEWATER TREATMENT
STORAGE RESERVOIR
INDEX, LEGEND AND
GENERAL NOTES

DATE	JULY 1989
REVISIONS	
DRAWN BY	CHECKED
G.R.	R.D.
JOB NO.	223.299
DRAWING NUMBER	



STORAGE RESERVOIR

TOP OF DIKE EL 105.0
 BOTTOM OF RESERVOIR EL 88.0 ± *
 MAXIMUM WATER LEVEL EL 102.0

ESTIMATED EARTHWORK SUMMARY

EXCAVATION (INCLUDING OVEREXCAVATION) 107,000 CY
 EMBANKMENT (INCLUDING REFILL) 96,000 CY
 SHRINKAGE 76,000 CY
 NET SHORTAGE * 5,000 CY
 STRIPPING (NOT INCLUDED ABOVE) 1,500 CY
 SUB-EXCAVATION (NOT INCLUDED ABOVE) 5,000 CY

* NOTE: EARTHWORK TO BE BALANCED BY ADJUSTING RESERVOIR BOTTOM

PLAN

SCALE: 1" = 50'



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WINDSOR WATER DISTRICT
 ADVANCED WASTEWATER TREATMENT
 STORAGE RESERVOIR
SITE GRADING AND PIPING PLAN

DATE JULY 1989

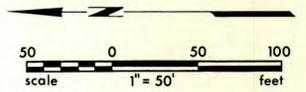
REVISIONS

DRAWN BY DLW CHECKED R.D.

JOB NO. 223.299

DRAWING NUMBER

3 of 9



Pool Section to Determine

INT. BANK SLOPE DIKE

EL 91.0

EL 90.0

EL 91.0

EL 90.0



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WINDSOR WATER DISTRICT
ADVANCED WASTEWATER TREATMENT
STORAGE RESERVOIR

GRADING SECTIONS AND DETAILS

DATE JULY 1989

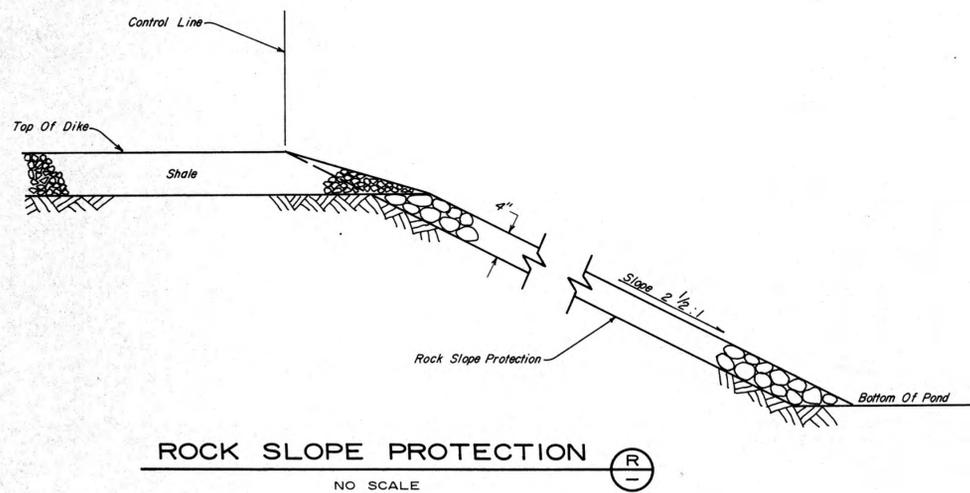
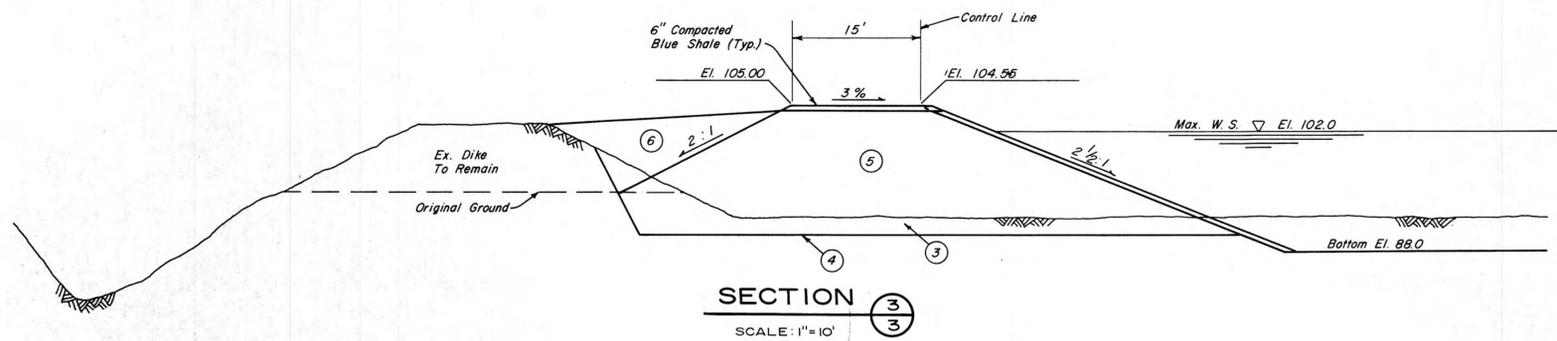
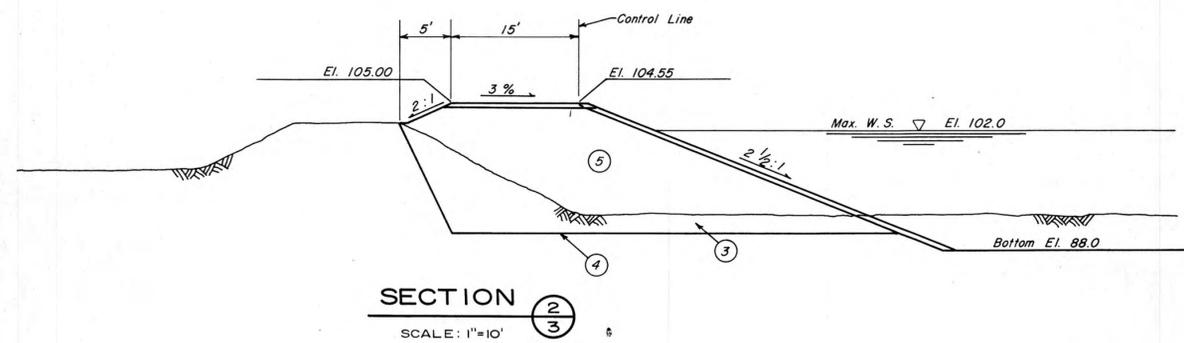
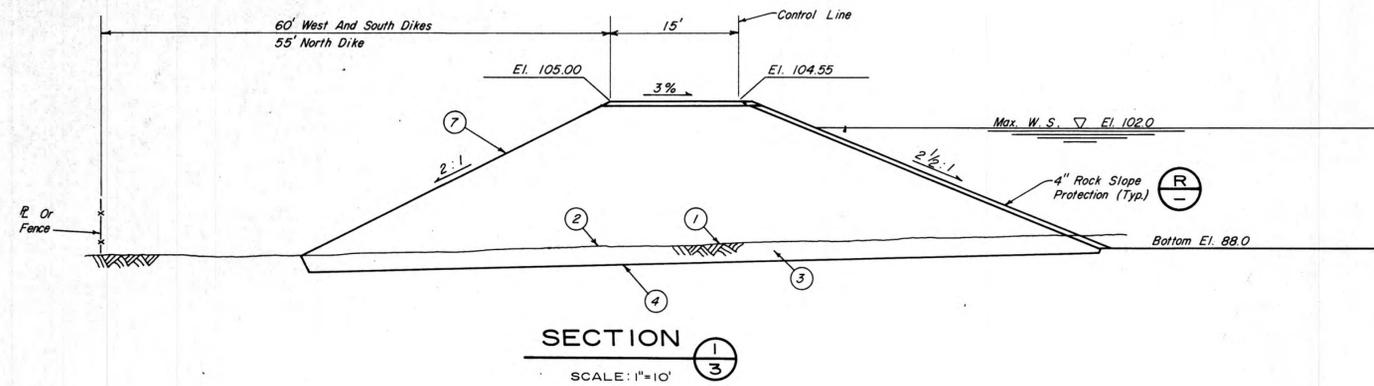
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DRAWN BY DLW CHECKED R. D.

JOB NO. 223.299

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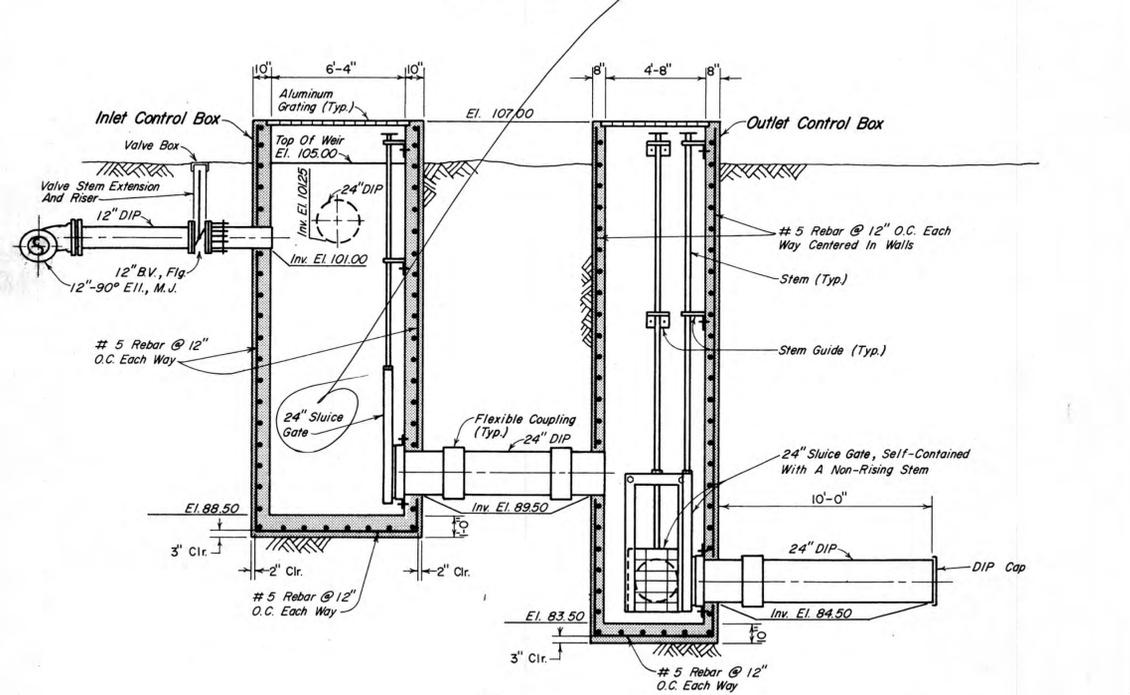
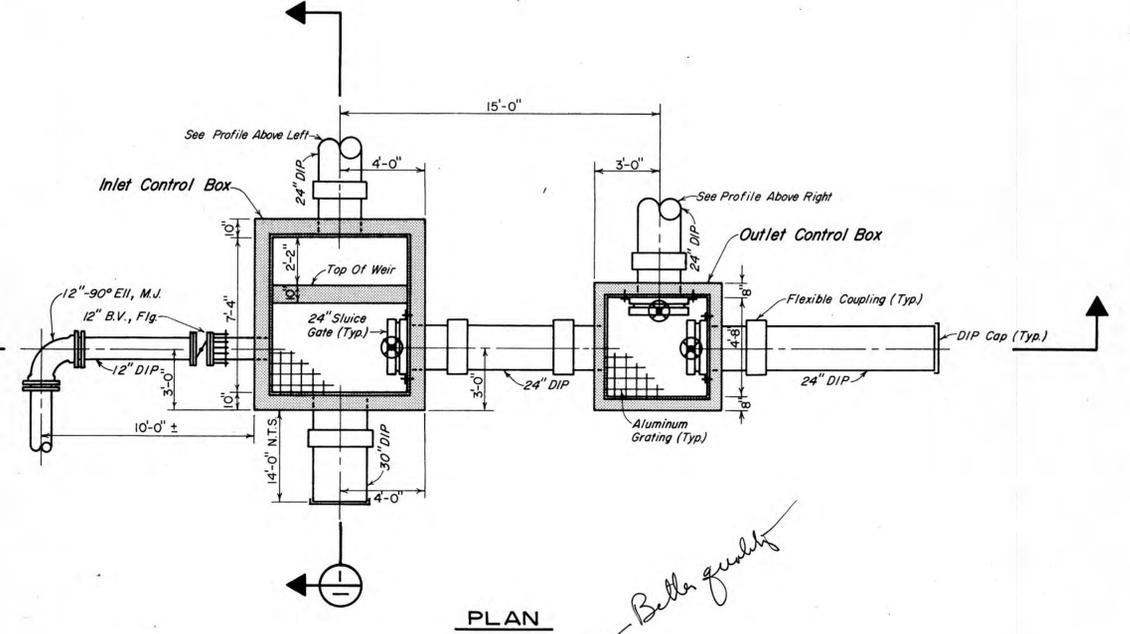
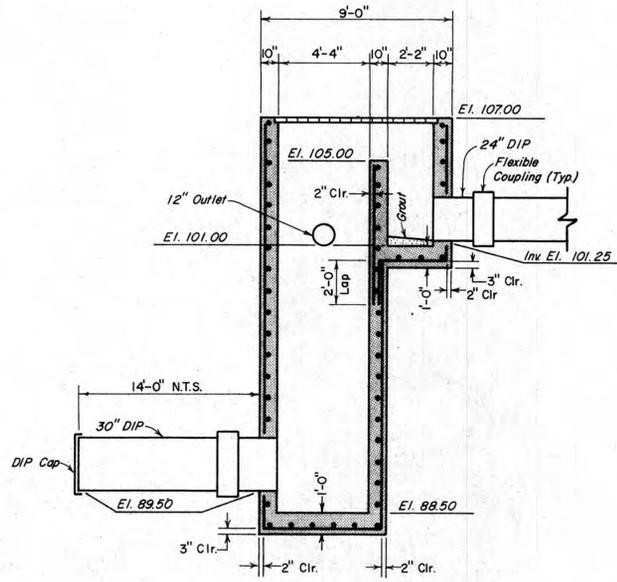
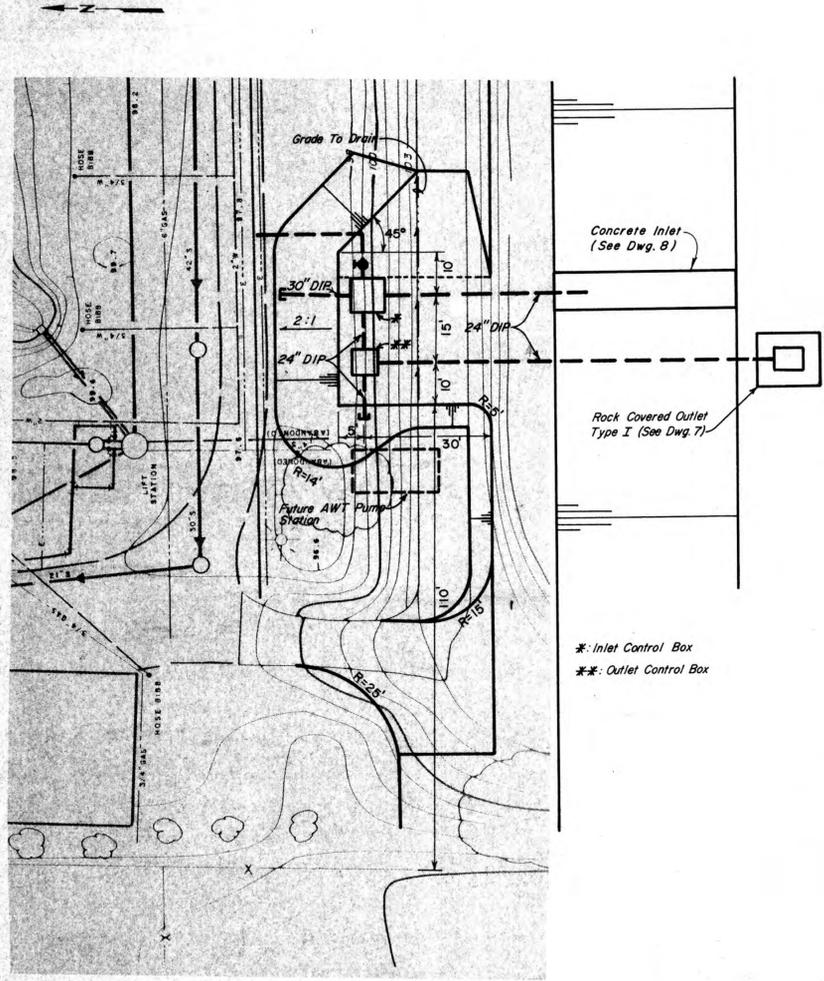
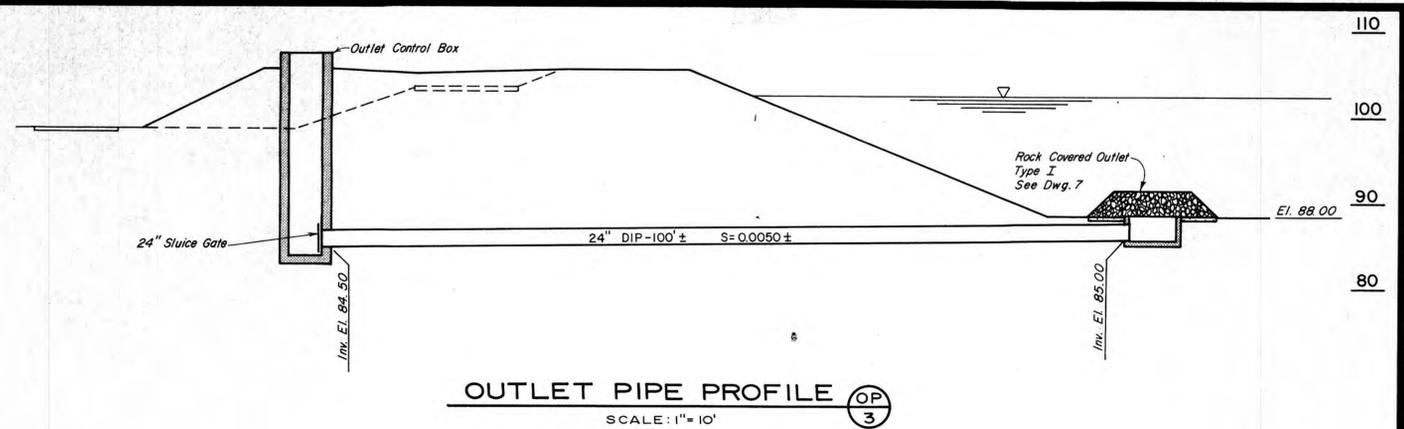
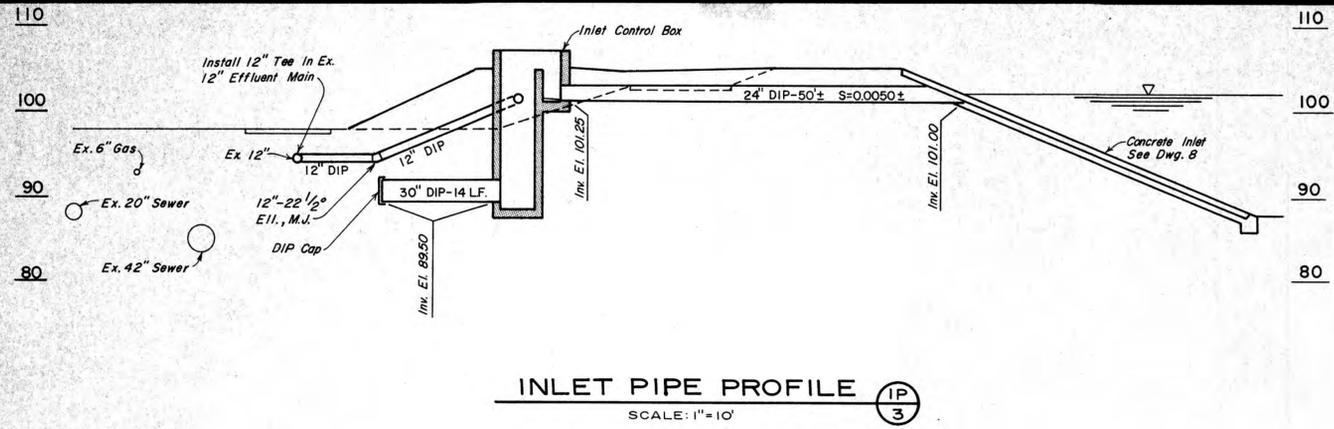
4 of 9



CONSTRUCTION NOTES

- 1 Remove Grape Vines, Posts, Irrigation Pipe, Roots Over 1" In Diameter And Other Unsuitable Material.
- 2 Strip 1"± Topsoil And Stockpile For Redistribution.
- 3 Overexcavate 1' To 2' And As Shown. Material May Be Blended For Use In Dike.
- 4 Scarify, Moisture Condition And Compact To 98% R. C.
- 5 Homogeneous Fill Compacted To 98% R. C. -- Material From Excavation Blended As Required To Maintain Minimum of 30% Passing The #200 Sieve. Maximum Size 3 Inches. Rock Slope Protection From Existing Pond May Be Mixed In.
- 6 Fill With Material From Excavation Compacted To 85% R. C.
- 7 Redistribute Topsoil Stripping And Track Roll.

x-2200-40



INLET/OUTLET CONTROL STRUCTURES
SCALE: 1/4" = 1'-0"

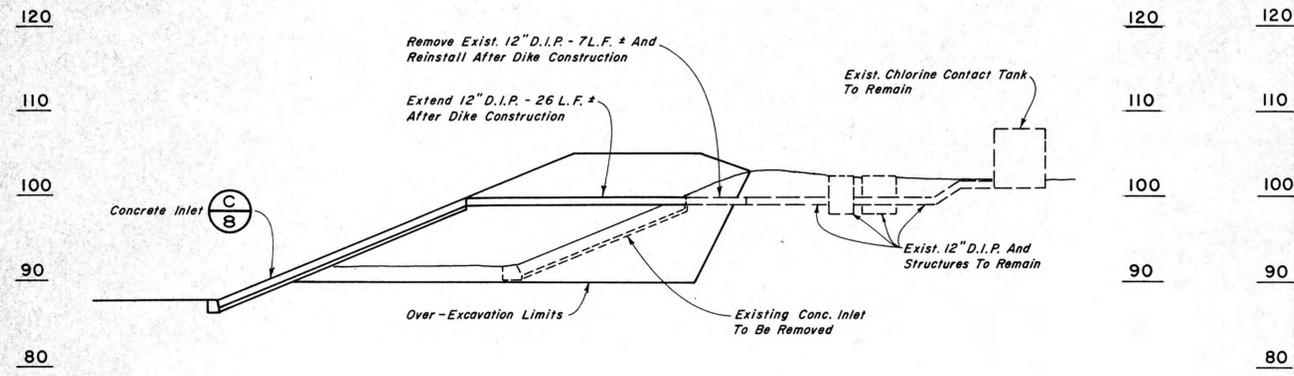


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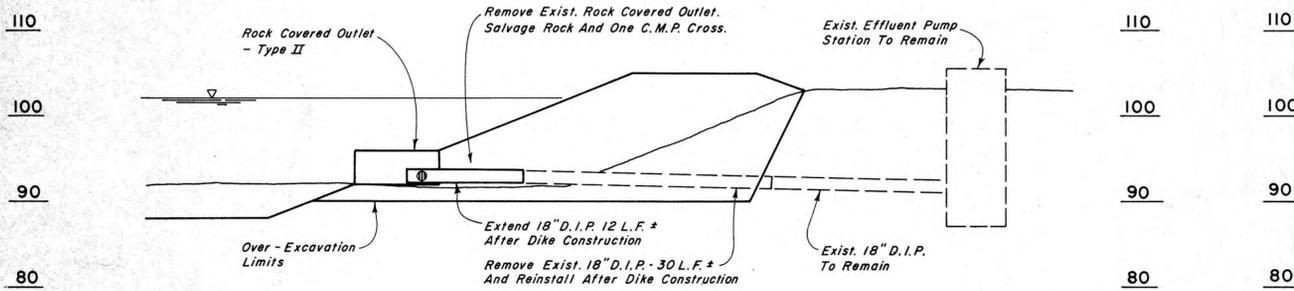
WINDSOR WATER DISTRICT
ADVANCED WASTEWATER TREATMENT
STORAGE RESERVOIR
**INLET/OUTLET AREA PLAN
AND DETAILS**

DATE	JULY 1989
REVISIONS	
DRAWN BY	DLW
CHECKED	R.D.
JOB NO.	223.299
DRAWING NUMBER	5 OF 9



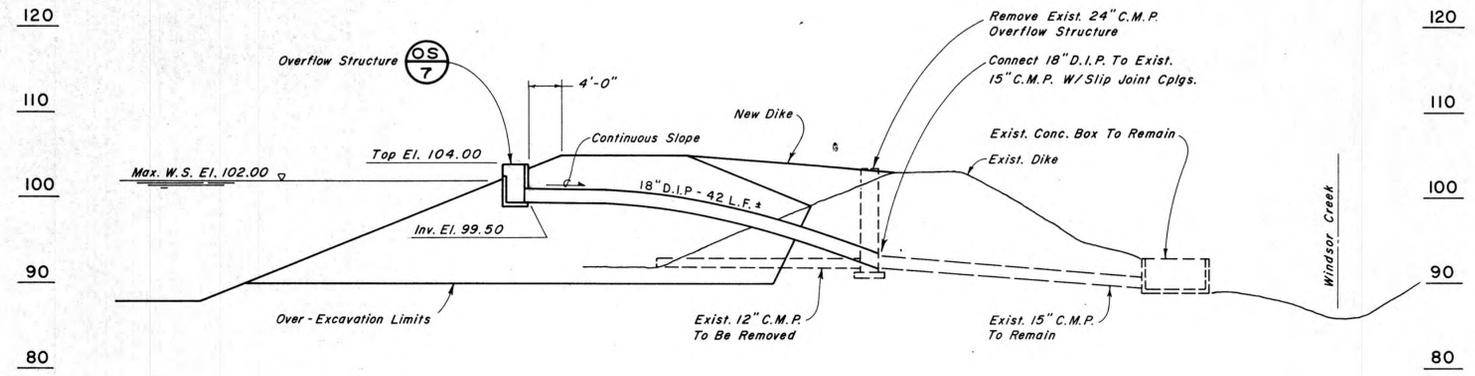
EXISTING INLET PIPE PROFILE

SCALE: 1" = 10'



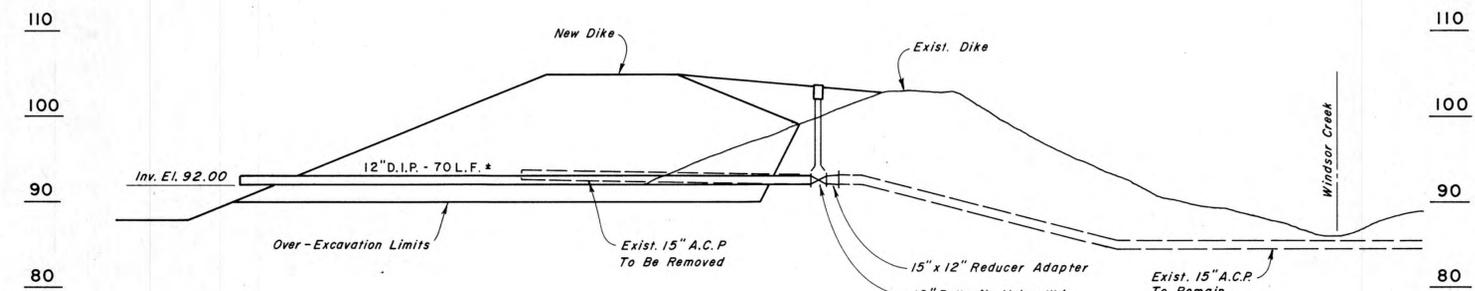
EXISTING OUTLET PIPE PROFILE

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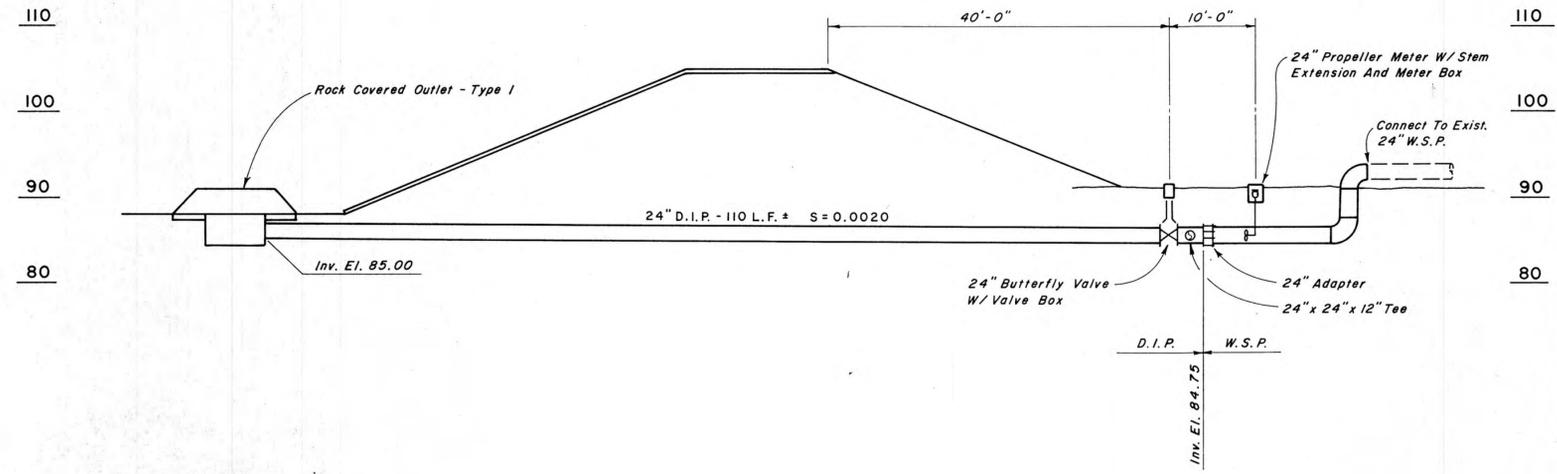
EMERGENCY OVERFLOW PIPE PROFILE

SCALE: 1" = 10'



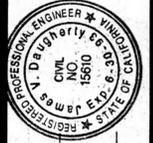
TRANSFER PIPE PROFILE

SCALE: 1" = 10'



IRRIGATION OUTLET PIPE PROFILE

SCALE: 1" = 10'



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WINDSOR WATER DISTRICT
ADVANCED WASTEWATER TREATMENT
STORAGE RESERVOIR
PIPING PROFILES

DATE: JULY 1989

REVISIONS:

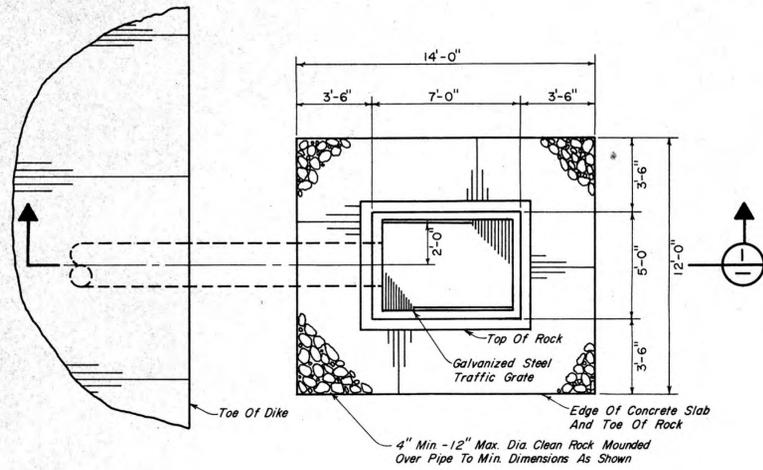
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JOB NO.: 223,299

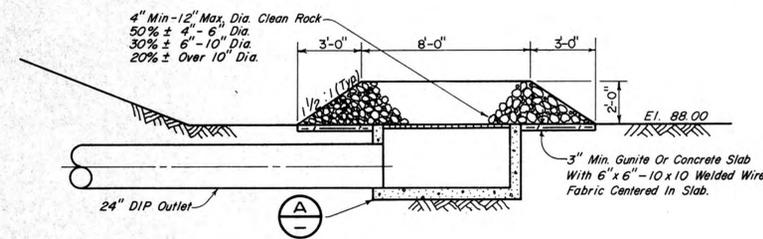
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X-750-42



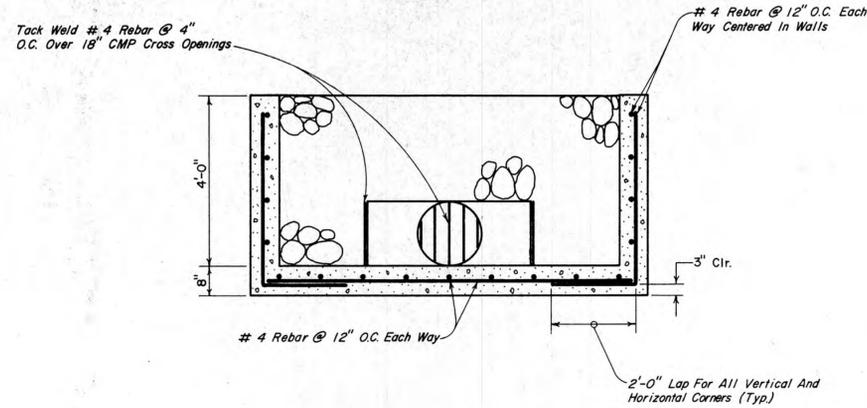
PLAN



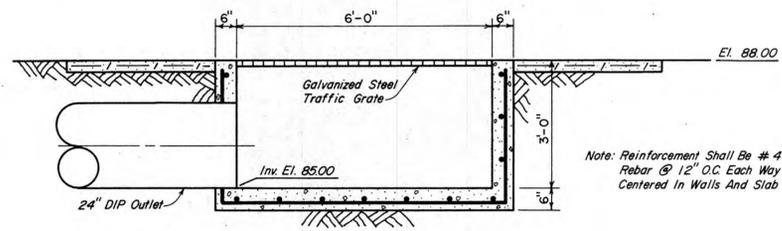
SECTION I

ROCK COVERED OUTLET - TYPE I

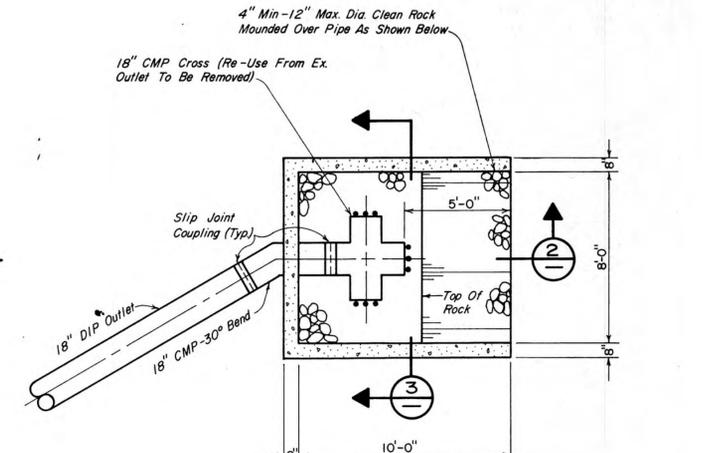
SCALE: 1/4" = 1'-0"



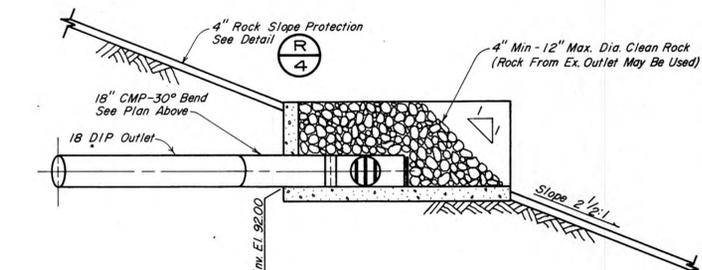
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DETAIL A



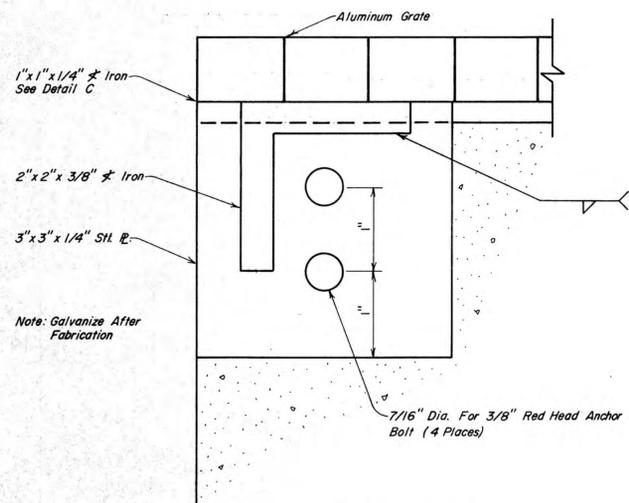
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SECTION 2

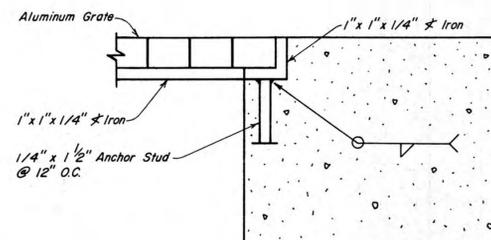
ROCK COVERED OUTLET - TYPE II

SCALE: 1/4" = 1'-0"



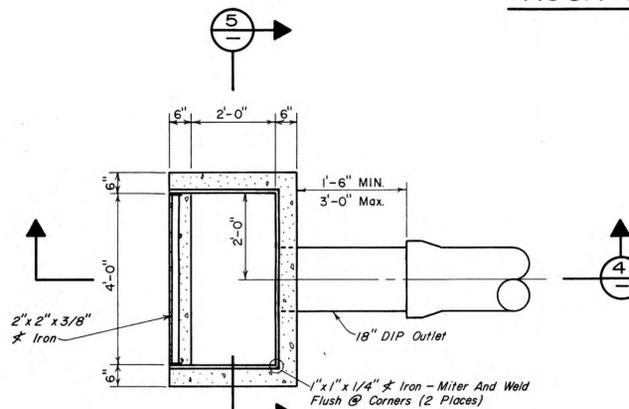
SUPPORT DETAIL B

SCALE: 1" = 1"

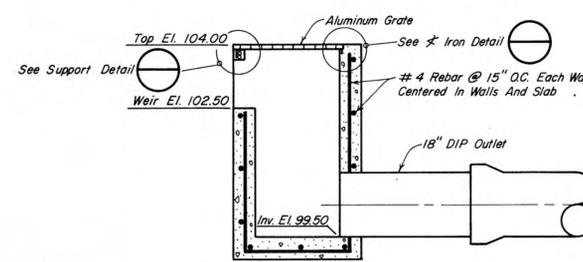


ANGLE IRON DETAIL C

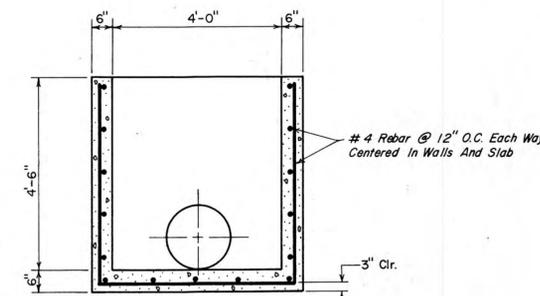
SCALE: 1" = 2"



PLAN



SECTION 4



SECTION 5

OVERFLOW STRUCTURE DETAILS

SCALE: 1/2" = 1'-0"



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WINDSOR WATER DISTRICT
ADVANCED WASTEWATER TREATMENT
STORAGE RESERVOIR

STRUCTURE DETAILS

DATE JULY 1989

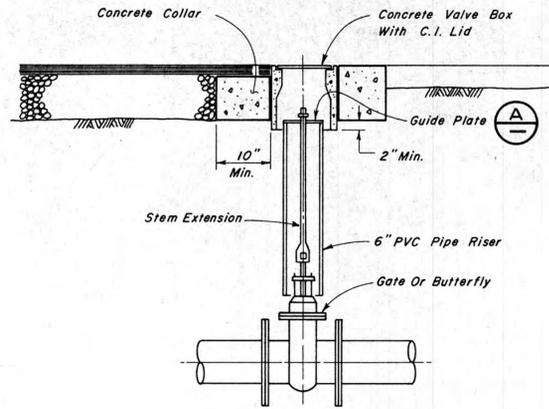
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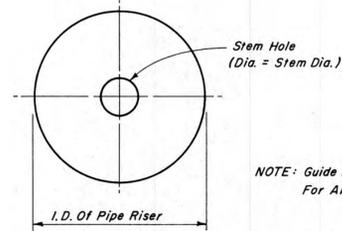
JOB NO. 223.299

DRAWING NUMBER

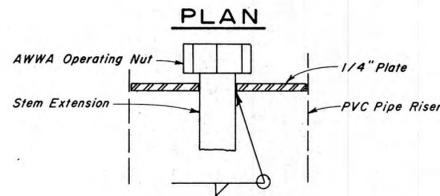
7 of 9



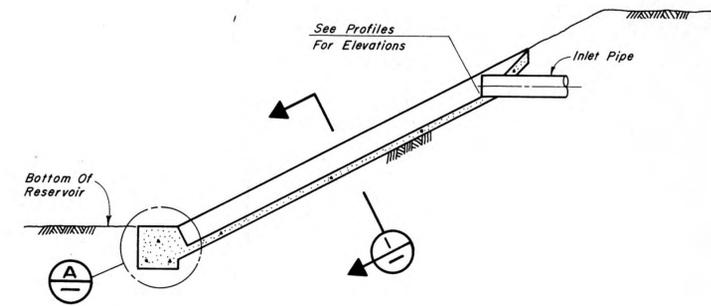
VALVE BOX DETAIL
NO SCALE



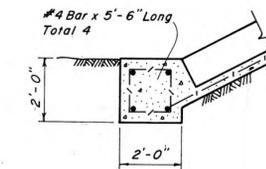
NOTE: Guide Plate Required For All Stem Extensions



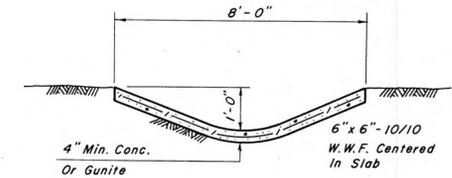
GUIDE PLATE DETAIL
NO SCALE



TYPICAL SECTION

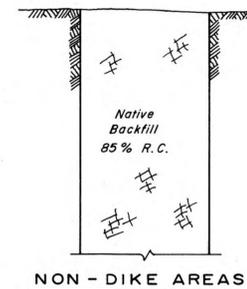


DETAIL A

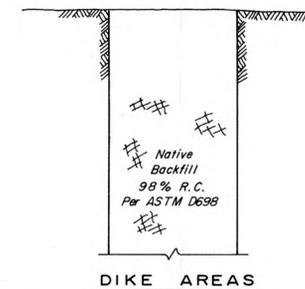


SECTION I

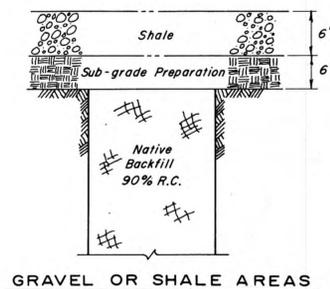
CONCRETE INLET DETAILS
NO SCALE



NON-DIKE AREAS



DIKE AREAS

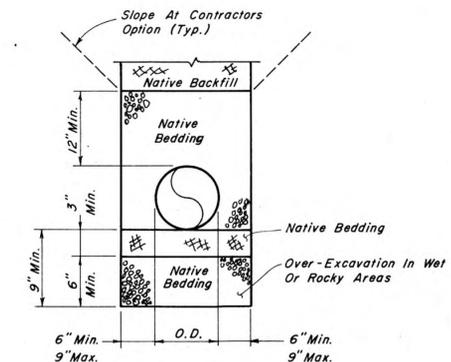


GRAVEL OR SHALE AREAS

TOP OF TRENCH DETAILS
NO SCALE

	Percent Passing			
	4 1/2"	1 1/2"	1/2"	No. 4 R.C.
Native Bedding	-	100	-	40-100 90%
Native Backfill	100	-	-	40-100 *

* See Detail Above



PIPE BEDDING DETAIL
NO SCALE



JAMES V. DAUGHERTY
R.C.E. 1560

BRELJE & RACE
CONSULTING CIVIL ENGINEERS
5341 SKYLINE BLVD. PO. BOX 1895 SANTA ROSA, CA 95402 707/576-1322

WINDSOR WATER DISTRICT
ADVANCED WASTE WATER TREATMENT
STORAGE RESERVOIR

MISCELLANEOUS DETAILS

DATE JULY 1989

REVISIONS

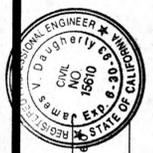
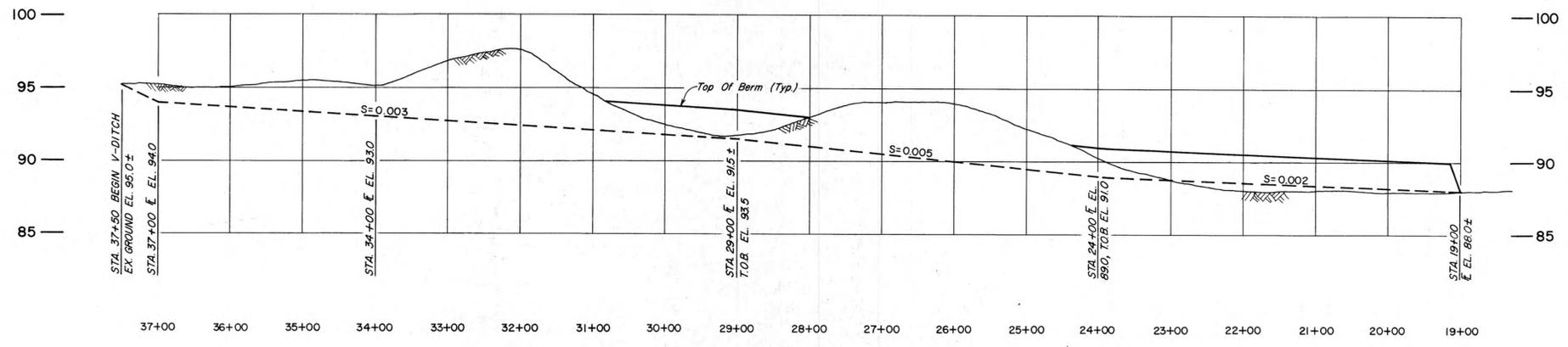
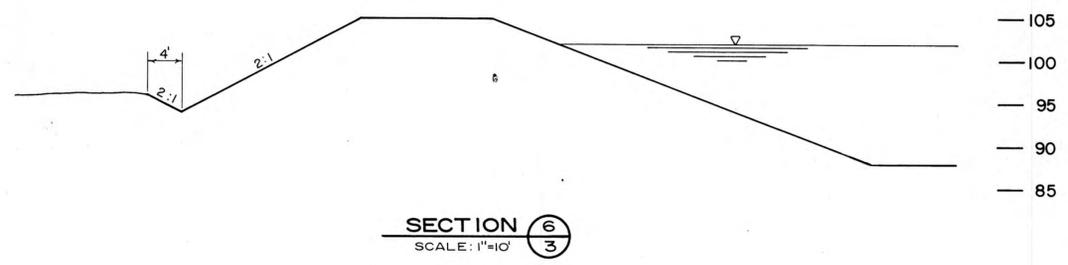
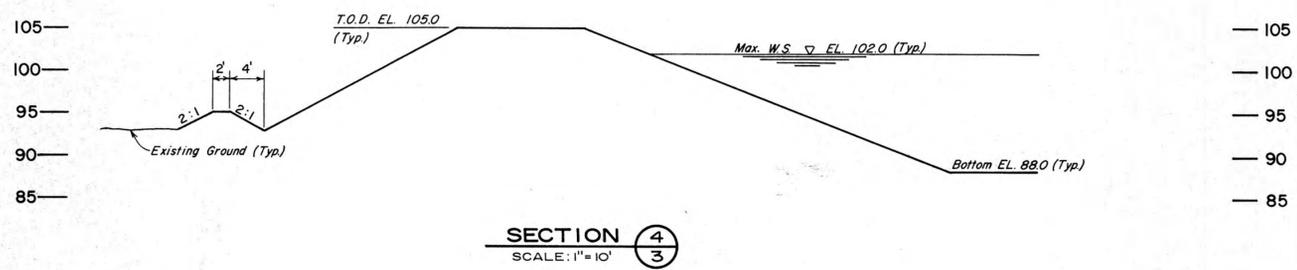
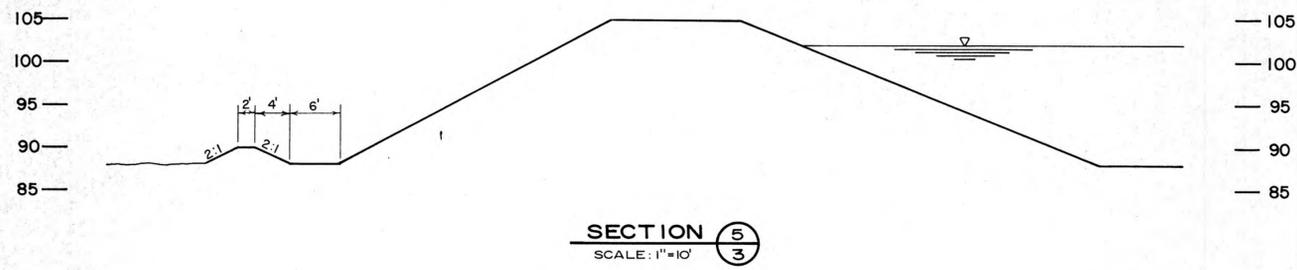
DRAWN BY G.R. CHECKED R.D.

JOB NO. 223.299

DRAWING NUMBER

8 of 9

x-200-42



JAMES V. DAUGHERTY
R.C.E. I.R.E.

BRELJE & RACE
CONSULTING CIVIL ENGINEERS
5341 SKYLANE BLVD. PO BOX 1885 SANTA ROSA CA 95402 707/576-1322

WINDSOR WATER DISTRICT
ADVANCED WASTEWATER TREATMENT
STORAGE RESERVOIR

STORM DRAIN DETAILS

DATE: JULY 1989

REVISIONS:

DRAWN BY: DLW CHECKED BY: R.D.

JOB NO. 223 299

DRAWING NUMBER

9 Of 9

**Exhibit D
Pricing Sheet**

NAME OF PROPOSER: _____

ADDRESS: _____

TELEPHONE: _____

In accordance with the Request For Proposal, the undersigned declares that the services offered are in accordance with requirements of the RFP. Further, the undersigned declares that he/she is authorized to enter into an agreement on behalf of the above named business.

PV System Description

Pond Location: _____

Item	Description	Manufacturer	Model#	Qty	Total Capacity (MW DC)
1	PV Modules				
2	Inverter(s)				

PV System Performance

Estimated MWh (AC) produced year one _____

Costs

Proposer to provide all services, material, and equipment necessary to provide the [PARTICIPANT NAME] with electrical power for the following price:

First Year Total Energy Cost- \$/MWh (AC)	\$
First Year Energy Cost Attributable to Lease Only- \$/MWh (AC)	\$
Energy Cost Escalation Rate- %	%
Term- Years	Yrs
Cost of Removal at end of Term	\$

Lease Area

Estimated square footage of PV System including any ground mounted equipment (inverters, pads, etc), if applicable _____ x \$0.018/sf/yr = \$_____ per year

It is hereby understood that the above proposal reflects the total cost of the PV system proposed.

Name

Title

Date



COUNTY OF SONOMA

GENERAL SERVICES PURCHASING DIVISION

2300 COUNTY CENTER DRIVE, SUITE A208
SANTA ROSA, CALIFORNIA 95403
(707) 565-2433 Fax: (707) 565-6107

DECLARATION OF LOCAL BUSINESS FOR SERVICES

Sonoma County gives local businesses a preference in formal solicitations of services as set forth in the County of Sonoma Local Preference Policy for Services.

In order to qualify for this preference, a business must meet *all* of the following criteria:

1. For businesses with a location in a city within Sonoma County, a valid business license if required by the city; and
2. A valid physical address located within Sonoma County from which the vendor or consultant operates or performs business on a day-to-day basis.

By completing and signing this form, the undersigned states that, under penalty of perjury, the statements provided herein are true and correct and that the business meets the definition of a local business as set forth in the County of Sonoma Local Preference Policy for Goods.

All information submitted is subject to investigation as well as disclosure to third parties under the California Public Records Act. Incomplete, unclear, or incomprehensible responses to the following will result in the bid not being considered for application of the County's local preference policy. False or dishonest responses will cause the rejection of the bid and curtail the declarant's ability to conduct business with the County in the future. It may also result in legal action.

1. Legal name of business: _____
2. Physical address of the principal place of business.

3. Business license issued by incorporated city within the County:

License Number _____ Issued by: _____

Authorized Signature: _____ Date: _____

Printed Name & Title: _____

Exhibit F

**TOWN OF WINDSOR
PROFESSIONAL SERVICES AGREEMENT**

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is entered into and effective as of _____, 20__ (“Effective Date”), by and between the Town of Windsor, a municipal corporation (“Town”) and _____ (“Consultant”) (collectively, the “Parties”).

WHEREAS, the Parties enter into this Agreement for the purpose of Consultant providing professional services to Town under the terms and conditions set forth herein.

THEREFORE, in consideration of the mutual covenants contained in this Agreement, the Parties agree as follows:

1. **Services.** Consultant shall provide the professional services as described in and in accordance with the schedule set forth in Exhibit F - Attachment A, attached hereto and incorporated herein (“Services”).
2. **Compensation.**
 - A. For the full performance of the Services described in Exhibit F - Attachment A hereto Town shall compensate Consultant on a time-and-materials basis at the compensation rates specified in Consultant’s Services Rate Schedule included in Exhibit F - Attachment A; provided, however, that total compensation for the full performance by Consultant of all Services under all Task Orders shall not exceed _____ dollars (\$_____), said amount being referred to herein as the “not-to-exceed” amount.
 - B. Consultant shall submit detailed monthly invoices reflecting all services performed during the preceding month, and including a revised schedule for performance and additional documentation requested by Town, as applicable.
 - C. Consultant shall be compensated for services in addition to those described in Exhibit F - Attachment A, only if Consultant and Town execute a written amendment to this Agreement describing the additional services to be performed and the compensation to be paid for such services. In no case shall the total compensation under this Agreement exceed the “not-to-exceed” amount specified in Paragraph A, above, without prior written authorization of the Town Manager.
 - D. Town’s obligation to pay compensation to Consultant as provided herein is contingent upon Consultant’s performance of the Services pursuant to the terms and conditions of this Agreement and any amendments thereto. Notwithstanding

any other provision herein, Consultant shall not be paid any compensation until Consultant has complied with the Town's Business License Ordinance.

3. **Term.** The term of this Agreement commences on the Effective Date, and terminates on _____, unless sooner terminated in accordance with Section 4. Upon termination, any and all of Town's documents or materials provided to Consultant and any and all of the documents or materials prepared for Town or relating to the performance of the Services, shall be delivered to the Town as soon as possible, but not later than fourteen (14) days after termination of the Agreement.
4. **Termination.** Town may terminate this Agreement without cause upon ten (10) days' written notice. Town may immediately terminate or suspend this Agreement for cause. Cause for immediate termination or suspension shall include, but not be limited to, any breach of this Agreement by Consultant or Consultant's bankruptcy or insolvency. Upon receipt of notice of termination or suspension for cause, Consultant shall immediately stop all work in progress under this Agreement. In the event of early termination of this Agreement by Town, Consultant shall be entitled to payment for all Services performed to the date of termination to the extent such Services were performed to the satisfaction of Town in accordance with the terms and conditions of this Agreement. If Town terminates this Agreement for cause, Consultant shall be liable to Town for any excess cost Town incurs for completion of the Services.
5. **Consultant's Representation; Independent Contractor.** Consultant represents that Consultant possesses distinct skills in performing the Services. Town has relied upon said representation as a material inducement to enter into this Agreement. Consultant shall, therefore, provide properly skilled and technical personnel to perform all Services under this Agreement. It is expressly understood that Consultant, its agents and employees shall act in an independent capacity and as an independent contractor and not as officers, employees or agents of Town. This Agreement shall not be construed as an agreement for employment.
6. **Facilities and Equipment.** Consultant shall, at its sole cost and expense, furnish all facilities and equipment that may be required for furnishing Services pursuant to this Agreement. Town shall furnish to Consultant no facilities or equipment, unless the Town otherwise agrees in writing to provide the same.
7. **Licenses, Permits, Etc.** Consultant shall, at Consultant's sole cost and expense, keep in effect and require its subcontractors, if any, to keep in effect at all times during the term of this Agreement any licenses, permits or other such approvals which are legally required for performing the Services.
8. **Time.** Consultant shall devote such time to the performance of the Services as may be reasonably necessary for satisfactory performance of Consultant's obligations pursuant to this Agreement.

9. **Inspection.** Consultant shall provide the Town every reasonable opportunity to ascertain that the Services are being performed in accordance with the requirements and intentions of this Agreement. All work done and materials furnished, if any, shall be subject to inspection and approval by the Town. The inspection of such work shall not relieve Consultant of any of its obligations pursuant to this Agreement.
10. **Progress Reports.** Upon the Town's request, Consultant shall provide, in a form acceptable to Town, written progress reports of all oral and written observations, opinions, recommendations, analyses, progress and conclusions related to Consultant's performance of the Services.
11. **Confidentiality.** In the course of providing services for Town, Consultant may have access to trade secrets and confidential information, disclosure of which is protected or limited by law. Consultant shall not directly or indirectly disclose or use any such confidential information, except as required for the performance of the Services.
12. **Conflict of Interest.** Consultant represents that it presently has no interest, and covenants that it shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the Services hereunder. Consultant further covenants that, in the performance of this Agreement, it shall not employ any subcontractor or person having such a conflict of interest. Consultant represents that no one who has or will have any financial interest under the Agreement is an officer or employee of Town. If such conflict of interest arises during this Agreement or any extension, Consultant will immediately advise Town and Town may, at its sole discretion, immediately terminate this Agreement.
13. **Consultant No Agent.** Except as Town may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of Town in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind Town to any obligation whatsoever.
14. **Standard of Performance.** Consultant shall perform all the Services in a manner consistent with the standards of Consultant's profession or, if no such professional standard, in a manner consistent with the standards applicable to said Consultant or type of work. All instruments of service of whatsoever nature, which Consultant delivers to Town pursuant to this Agreement, shall be prepared to comply and conform to the standards of Consultant's type of work. All such instruments of service shall become the sole and exclusive property of Town upon delivery of the same.
15. **Assignment/Transfer.** Consultant shall make no assignment or transfer in whole or in part of this Agreement shall be made without the prior written consent of Town.
16. **Subcontractors.** Consultant shall directly perform all Services, and shall not subcontract any portion of performance of the Services without the prior written consent of the Town. Any such subcontractors shall be required to comply, to the full extent applicable, with the terms and conditions of this Agreement. Upon execution of this Agreement,

Consultant shall furnish a separate schedule of names and addresses of subcontractors, if any, and shall notify Town in advance if changes in subcontractors occur.

17. **Statement of Economic Interests.** The Town may determine that the Consultant must file a Form 700, Statement of Economic Interests, as required by the Town's Conflict of Interest Code. If such is the case, the Town Clerk's office will provide the Consultant with form and Consultant shall file form with the Town Clerk's office. Said filing shall include an Assuming Office Statement within thirty (30) days of execution of this contract, annual statements on or before April 1 of each year, and a Leaving Office Statement within thirty (30) days after termination of this Agreement or any extensions thereto.
18. **Internal Revenue Service Form W-9.** The Town may determine that the Consultant must file an Internal Revenue Service Form W-9, Request for Taxpayer Identification Number and Certification, as required by the Town to comply with regulations of the United States Department of the Treasury. If such is the case, the Administrative Services Department shall provide the Consultant with the required form. Consultant shall complete and file the form with the Town before any payment for Services under this Agreement is rendered.
19. **Business License.** Consultant shall file and require all its subcontractors to file, a Business License Application as required by the Town. The Administrative Services Department shall provide the Consultant with the required form. Consultant shall and require all its subcontractors to complete and file the form with the Town and shall pay or cause to be paid the business license fee before any payment for Services under this Agreement is rendered.
20. **Compliance With All Laws.** Consultant and any subcontractors shall fully comply with all applicable local, state and federal rules, laws, regulations and ordinances pertaining to performance of the Services required hereunder, including the Americans with Disabilities Act and any copyright, patent or trademark law. To the extent that any other government agency or entity provides compensation for any Services, Consultant shall comply with all rules and regulations applicable to such fiscal assistance. Consultant's failure to comply with any law(s) or regulations(s) applicable to the performance of the Services hereunder shall, at the discretion of the Town, be deemed to constitute a breach of contract.

Such laws include, but are not limited to, the California Prevailing Wage Law, California Labor Code section 1720 et seq. Because the services described in Exhibit F - Attachment A include "work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work," the services constitute a public works within the definition of section 1720(a)(1) of the California Labor Code. Therefore, the services described in Exhibit F - Attachment A shall be performed in accordance with all applicable requirements of the California Prevailing Wage Law including, but not limited to, all applicable requirements contained in Exhibit F - Attachment B, which is attached to and made a part of this Agreement. To

shall not be disclosed to others without the written consent of the Town Manager or his or her designated representative. Town agrees to indemnify and hold Consultant harmless for claims resulting from Town's alteration for another Town project, of said Project Documents.

24. **Internet-Ready Deliverables.** If applicable to this Agreement, each contract deliverable shall be delivered as a data file suitable for publication on the Internet. The following specifications define the formats that satisfy this requirement:
- A. Brochures, reports, plan documents, catalogues, flyers with graphics included, and forms are to be formatted as screen-optimized “.pdf” files, if possible.
 - B. Freestanding, individual graphics such as logos, small maps and photos are to be formatted as “.tif” files, with the largest side no larger than four inches.
 - C. Large maps are to be formatted as “.jpg” files with the largest side no larger than four inches, unless mutually agreed otherwise by the Parties.
 - D. Short text documents with no graphics are to be in MS Word.
 - E. Freestanding charts, graphs and listings are to be in MS Excel.
25. **Indemnification.** To the fullest extent allowed by law, Consultant shall indemnify, defend with counsel acceptable to Town, and hold harmless Town and its officers, officials, employees, agents and volunteers from and against any and all liability, loss, damage, claims, suits, actions, arbitrations proceedings, administrative proceedings, regulatory proceedings, civil penalties and fines, expenses and costs (including, without limitation, attorney's fees and costs and fees of litigation) (collectively, "Liability") of every nature, whether actual, alleged or threatened, arising out of or in connection with Consultant's performance of the Services or its failure to comply with any of its obligations contained in this Agreement, except such Liability caused by the sole negligence or willful misconduct of Town.

The Consultant's obligation to defend and indemnify shall not be excused because of the Consultant's inability to evaluate Liability or because the Consultant evaluates Liability and determines that the Consultant is not liable to the claimant. The Consultant must respond within thirty (30) days to the tender of any claim for defense and indemnity by the Town, unless this time has been extended by the Town. If the Consultant fails to accept or reject a tender of defense and indemnity within thirty (30) days, in addition to any other remedy authorized by law, so much of the money due the Consultant under and by virtue of this Agreement as shall reasonably be considered necessary by the Town, may be retained by the Town until disposition has been made of the claim or suit for damages, or until the Consultant accepts or rejects the tender of defense, whichever occurs first. Furthermore, Consultant and Subcontractors' obligations to indemnify and defend the Town are binding on their successors and assigns and shall survive the

termination or completion of this Agreement for the fullest extent and duration allowed by law.

With respect to third party claims against the Consultant, the Consultant waives any and all rights of any type to express or implied indemnity against the Indemnitees.

Notwithstanding the foregoing, to the extent this Agreement is a "construction contract" as defined by California Civil Code section 2783, as may be amended from time to time, such duties of Consultant to indemnify shall not apply when to do so would be prohibited by California Civil Code Section 2782.

Notwithstanding the foregoing, to the extent that this Agreement includes design professional services under Civil Code Section 2782.8, as may be amended from time to time, such duties of Consultant to indemnify shall only be to the full extent permitted by Civil Code Section 2782.8.

The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement. If any term of portion of this section is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, said section shall be interpreted to allow the broadest indemnity permitted by law.

26. **Insurance.** Consultant shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, Consultant's agents, representatives and employees.

A. **Minimum Scope of Insurance.** Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
2. Insurance Services Office form number CA 0001 (Ed. 12/90) covering Automobile Liability, code 1 (any auto), or code 8, 9 if no owned auto.
3. Workers' Compensation Insurance as required by the State of California and Employers' Liability Insurance. If no employees are utilized, the Consultant shall sign a declaration as described in California Health and Safety Code Section 19825.
4. Errors and Omissions liability insurance appropriate to the Consultant's profession. Architects' and Engineers' coverage is to be endorsed to include contractual liability.

- B. Minimum Limits of Insurance. Consultant shall maintain limits no less than:
1. General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
 2. Automobile Liability: \$2,000,000 per accident for bodily injury and property damage.
 3. Workers' Compensation: statutory limit; Employer's Liability: \$1,000,000 per accident for bodily injury or disease.
 4. Errors and Omissions liability: \$1,000,000 per occurrence or claim as approved by the Town's Risk Manager.
- C. Umbrella or Excess Insurance. The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the Town before the Town's insurance or self-insurance shall be called upon to protect it as a named insured.
- D. Deductibles and Self-Insured Retention. Any deductibles or self-insured retentions must be declared to and approved by the Town and shall not reduce the limits of liability. Policies containing any self-insured retention provision shall provide or be endorsed to provide that the self-insured retention may be satisfied by either the named Insured or the Town. At the option of the Town, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Town, its officers, officials, employees and volunteers, or the Consultant shall provide a financial guarantee satisfactory to the Town guaranteeing payment of losses and related investigations, claim administration and defense expenses. The Town reserves the right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to so exercise later.
- E. Other Insurance Provisions.
1. The Commercial General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions:
 - a.. The Town, its officers, officials, employees and volunteers (the "Additional Insureds") are to be covered as insureds as respects: liability arising out of work or operations as performed by or on behalf of the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant.

- b. For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the Town, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Town, its officers, officials, employees or volunteers shall be in excess of the Consultant's insurance and shall not contribute with it. The Additional Insured coverage under the Consultant's policy shall be at least as broad as ISO Form CG 20 01 04 13.
 - c. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either Party, unless thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Town.
 - 2. The Workers' Compensation endorsement shall contain a Waiver of Subrogation against the Town. The Consultant shall provide to the Town an endorsement from the Workers' Compensation insurer, if any, agreeing to waive all rights of subrogation against the Town for injuries to employees of the Insured resulting from work for the Town or use of the Town's premises or facilities.
 - 3. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits included above shall be available to the Town. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.
- F. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Town.
- G. Verification of Coverage. Consultant shall furnish the Town with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the Town or on other than the Town's forms provided those endorsements conform to the Town's requirements. All certificates and endorsements are to be received and approved by the Town before work commences. The Town reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.
- H. Subcontractors. Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor prior to commencement of subcontractor's work. Consultant agrees

to include with all subcontractors in their subcontract the same requirements stated herein including the indemnity and insurance requirements. Subcontractors hired by Consultant agree to be bound to Consultant and the Town in the same manner and to the same extent as Consultant is bound to Town under this Agreement. Subcontractor further agrees to include these same provisions with any Sub-subcontractor. A copy of these indemnity and insurance provisions shall be furnished by Consultant to any subcontractor. The Consultant shall require all subcontractors to provide a valid certificate of insurance and the required endorsements included in the agreement prior to commencement of any work and Consultant shall provide proof of compliance to the Town. If Town is not furnished separate endorsements for each subcontractor prior to the commencement of subcontractor's work, then Consultant shall include all subcontractors as insureds under its policies

27. **Amendment.** This Agreement may be amended only by a written instrument executed by both Parties.
28. **Litigation.** If litigation ensues between Town and a third-party which pertains to the subject matter of Consultant's services hereunder, Consultant, upon request from Town, agrees to testify therein at a reasonable and customary fee.
29. **Construction.** This Agreement is the product of negotiation and compromise on the part of both Parties and that the Parties agree that, notwithstanding Civil Code Section 1654, any uncertainty in the Agreement shall not be construed against the drafter of the Agreement.
30. **Governing Law; Venue.** This Agreement shall be enforced and interpreted under the laws of the State of California and the Town of Windsor. Any action arising from or brought in connection with this Agreement shall be venued in a court of competent jurisdiction in the County of Sonoma, State of California.
31. **Non-Waiver.** The Town's failure to enforce any provision of this Agreement or the waiver thereof in a particular instance shall not be construed as a general waiver of any part of such provision. The provision shall remain in full force and effect.
32. **Severability.** If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.
33. **No Third Party Beneficiaries.** The Parties do not intend to create, and nothing in this Agreement shall be construed to create, any benefit or right in any third party.
34. **Mediation.** The Parties agree to make a good faith attempt to resolve any dispute arising out of this Agreement through mediation prior to commencing litigation. The Parties shall mutually agree upon the mediator and shall divide the costs of mediation equally.

35. **Consultant's Books and Records.**

- A. Consultant shall maintain any and all ledgers, books of accounts, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to the Town for a minimum period of three (3) years or for any longer period required by law, from the date of final payment to Consultant pursuant to this Agreement.
- B. Consultant shall maintain all documents and records which demonstrate performance under this Agreement for a minimum period of three (3) years or for any longer period required by law, from the date of termination or completion of this Agreement.
- C. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the Town Manager, Town Attorney, Town Administrative Services Director, or a designated representative of these officers. Copies of such documents shall be provided to the Town for inspection at Windsor Town Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Consultant's address indicated for receipt of notices in this Agreement.
- D. Where Town has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of Consultant's business, Town may, by written request by any of the above-named officers, require that custody of the records be given to the Town and that the records and documents be maintained by the Town. Access to such records and documents shall be granted to any party authorized by Consultant, Consultant's representatives, or Consultant's successor in interest.

36. **Headings.** The headings used in this Agreement are for convenience only and are not intended to affect the interpretation or construction of any provisions herein.

37. **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Town and Consultant shall survive the termination or completion of this Agreement for the fullest period of time allowed by law.

38. **Entire Agreement.** This Agreement, including the exhibits attached hereto and incorporated herein, constitutes the entire agreement between the Parties with respect to the Services, and supersedes all prior agreements or understandings, oral or written, between the Parties in this regard.

IN WITNESS WHEREOF, the Parties have executed this document the day, month and year first above written.

For Town of Windsor:

For Consultant:

Linda Kelly
Town Manager

Name:
Title:

Recommended for Approval:

Camille Kazarian
Administrative Services Director

Recommended for Approval:

Department Director

Approved As to Form:

Robin Donoghue
Town Attorney

EXHIBIT F - ATTACHMENT A
SCOPE OF SERVICES AND SCHEDULE

EXHIBIT F - ATTACHMENT B

PROVISIONS REQUIRED FOR PUBLIC WORKS PROJECTS PURSUANT TO CALIFORNIA LABOR CODE SECTION 1720 *ET SEQ.*

HOURS OF WORK:

- A. In accordance with California Labor Code Section 1810, eight (8) hours of labor in performance of the Services shall constitute a legal day's work under this Agreement.
- B. By signing this Agreement, Consultant agrees that Consultant is aware of the provision of California Labor Code section 3700 which requires every employer to be insured against liability for workers compensation or to undertake self-insurance in accordance with the provisions of the California Labor Code, and that Consultant will comply with such provisions before commencing performance of the Services.
- C. The Consultant and its subconsultants shall forfeit as a penalty to the City \$50 for each worker employed in the performance of the Services for each calendar day during which the worker is required or permitted to work more than eight (8) hours in any one calendar day, or more than forty (40) hours in any one calendar week, in violation of the provisions of California Labor Code Section 1810 and following.

WAGES:

- A. The services of the Consultant shall be done on or in the execution of a "public works" project as defined by Law. In accordance with California Labor Code Section 1773.2, the City has determined the general prevailing wages in the locality in which the Services are to be performed for each craft or type of work needed to be as published by the State of California Department of Industrial Relations, Division of Labor Statistics and Research, a copy of which is on file with the City and shall be made available on request. The Consultant and subconsultants engaged in the performance of the Services shall pay no less than these rates to all persons engaged in performance of the Services. The Consultant shall be responsible for the compliance of its subcontractors.

2260921.1



SPECIFIC INSURANCE REQUIREMENTS
&
REQUIRED POLICY LIMITS

CONSTRUCTION AND SERVICES CONTRACTS

Including but not limited to construction and remodeling, janitorial service, movers, on-site equipment maintenance agreements, tow service, tree maintenance, road maintenance, welding, plumbing, painting, electrical work and fireworks exhibits.

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the contractor, his agents, representatives, employees or subcontractors.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (with the CG 0001, or insurer's equivalent endorsement provided to the District.)
2. Insurance Services Office form number CA 0001 covering Automobile Liability, code 1 (any auto).
3. Worker's Compensation insurance as required by the State of California and Employer's Liability insurance.

Minimum Limits of Insurance

Contractor shall maintain limits no less than:

1. General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage **including operations, products and completed operations**. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$2,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation statutory limit and Employer's Liability: \$1,000,000 per accident for bodily injury or disease.

Other Insurance Provisions

The Commercial General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions:

1. **The Town, its officers, officials, employees and volunteers** are to be covered as insured's as respects: liability arising out of work or operations as performed by or on behalf of the contractor; or automobiles owned, leased, hired or borrowed by the contractor.
2. For any claims related to this project, the contractor's insurance coverage shall be primary insurance as respects the Town, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the **Town, its officers,**

- officials, employees or volunteers** shall be in excess of the contractor's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, unless thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Town.
 4. **Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.**

Waiver of Subrogation

The Worker's Compensation policy is to be endorsed with a waiver of subrogation. The insurance company, in its endorsement, agrees to waive all rights of subrogation against the **Town, its officers, officials, employees and volunteers** for losses paid under the terms of this policy which arises from the work performed by the named insured for the Town.

Deductibles and Self-Insurance Retentions

Any deductibles or self-insured retentions must be declared to and approved by the Town. At the option of the Town, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Town, its officers, officials, employees and volunteers, or the contractor shall provide a financial guarantee satisfactory to the Town guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Town

Verification of Coverage

Contractor shall furnish the Town with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the Town or on other than the Town's forms provided those endorsements conform to the Town's requirements. All certificates and endorsements are to be received and approved by the Town before work commences. The Town reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time

Subcontractors

Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

Tech Writing#			Service(s)			
First Name	Last Name	Courtesy Title (e.g. Mr.)	Organization	Phone No.	Email address	Verified (For clerical's use)
Janes	Gillespie	Mr.	Pacific Power	530-887-1984 x 1	jamesg@pacpower.biz	yes
Arnold	Macatangay	Mr.	SunPower Corporation, Systems	510.439.4700	Arnold.Macatangay@sunpowercorp.com	yes
Clara	Nagy	Ms.	SunLink Corporation	415- 925 -9650 x 1	clara.nagy@sunlink.com	yes
Jane	Trinh	Ms.	Solar World USA	805-482-6800	jane.trinh@solarworld.com	yes
Robert	Gould	Mr.	SolarCraft	415-382-7717, x2	rgould@solarcraft.com	yes
Brian	Hines	Mr.	North Coast Solar	707-575-3999	brian@ncsr.com	yes
Vicki	Vaughn	Ms.	Solar Works		vicki@solarworksca.com	yes
John	Parry	Mr.	Solar Works		john@solarworksca.com	yes
Scott	Meinzen	Mr.	Siemens Industry, Inc	510-783-6000	Scott.meinzen@siemens.com	yes
Michael	Johnson	Mr.	Spear Point Energy	415-331-2525	Michael@spearpointenergy.com	yes
Tim	Holmes	Mr	Solar Action Alliance	707-284-9799	timholmes@kenwoodenergy.com	yes
Carpol	Michael	Mr.	SolarCity	650-350-0106	mcarpol@solarcity.com	yes

Sam	Youneszadeh	Mr.	Sun Edison	949-892-7594	syouneszadeh@sunedison.com	yes
Ian	Webster	Mr.	Project Navigator	714-863-0483	iwebster@projectnavigator.com	yes
Robert	Potter	Mr.	Project Navigator		robert.potter@pvnavigator.com	yes
Jason	Jackson	Mr.	Pristine Sun	415-848-8151	jay.jackson@pristinesun.com	yes
Sean	Jazayeri	Mr.	Pristine Sun		sean.jazayeri@pristinesun.com	yes
Cary	Hayes	Mr.	Pristine Sun		cary.hayes@pristinesun.com	yes
Bruce	Chamberlain	Mr.	kW Engineering	510-834-6420	bchamberlain@kw-engineering.com	yes
Dave	Hood	Mr.	Coldwell Solar	916-435-2900 x 1	dhood@coldwellsolar.com	yes
Simon	Decker	Mr.	Phoenix Solar Inc.	925-659-3700	s.decker@phoenixsolar.us	yes
Yossi	Fisher		Solaris Synergy		Yossi@solaris-synergy.com	yes
Phil	Connor	Mr.	Sunengy		pmc@sunengy.com	yes
Jose	Castillo	Mr.	Prism Solar	520-624-3876	j.castillo@prismsolar.com	yes
John	Whisman	Mr.	VeriSol		jwhisman@verisolinc.com	yes
Eva	Pauly	Ms.	Ciel & Terre		epauly@ciel-et-terre.net	yes
Geoffrey	Smith	Ms	Center for Climate Protection	707-654-4350	geoffrey@climateprotection.org	yes

David	Fuller	Mr.	EDF Renewable Energy	503-807-5494	david.fuller@edf-re.com	yes
Kirk	Laughead	Mr.	IMS	858-490-5018	mlanden@imsinfo.com	yes
Phil	Alwitt	Mr.	PBI		palwitt@gmail.com	yes
Jay	Jacobus	Mr.	ESA		jjacobus@esassoc.com	yes
Paul	Wisniewski	Mr.	SCS Engineers		pwisniewski@scsengineers.com	yes
Dan	O'Rourke	Mr.	O'Rourke Electric		dan@orourke-electric.com	yes
Luciano	Lisi	Mr.	CBEX- Sonoma		lucianolisi@yahoo.com	yes
Jake	Gray	Mr.	Capstone Power		jgray@capstoneinfra.com	yes
Mike	Chapin	Mr.	Capstone Power		mchapin@capstoneinfra.com	yes
Jose	Andino	Mr.	Capstone Power		jandino@capstoneinfra.com	yes
Luke	Mawhinney	Mr.	SunEdison	888-786-3347	lmawhinney@sunedison.com	yes
Jeff	Spinardi	Mr.	SunEdison		jspinardi@sunedison.com	yes
Mike	Francis	Mr.	SunEdison		mfrancis@sunedison.com	yes
David	Ganske	Mr.	SunEdison		dganske@sunedison.com	yes
John	Larkey	Mr.	Recurrent Energy		john.larkey@recurrentenergy.com	yes
Carolyn	Campbell	Ms.	Recurrent Energy		carolyn.campbell@recurrentenergy.com	yes

Scott	Gordon	Mr.	HelioPower		sgordon@heliopower.com	yes
Al	Whitecar	Mr.	Interactive Resources		al.whitecar@intres.com	yes
Simon	Decker	Mr.	Phoenix Solar		s.decker@phoenixsolar.us	yes
Dawn	Gleiter	Ms.	NRG Energy		dawn.gleiter@nrgenergy.com	yes
Tom	Millhoff	Mr.	HelioPower		tmillhoff@heliopower.com	yes
Minwoo	Kim		INIMARINE		viva99kim@naver.com	yes
Ilan	Fuss	Mr.	Sage Renewables		ilan@sagerenew.com	yes
Whisman	Rick	Mr.	Sol Patch LLC	415 370-4298	Rick.Whisman@SolPatchResources.com	yes
Renfro	Peter	Mr.	Westcoast Solar Energy	707 664-6450	peter@westcoastsolarenergy.com	yes
Gobar	Frank	Mr.	Danlin Corporation	415-971-1130	fgobar@danlincorp.com	yes

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Tue 11/10/2015 5:45 PM

Sonoma County Water Agency

FW: Sonoma County Water Agency - Addendum No. 1 to Request for Proposals for Floating Solar Photovoltaic (PV) Bulk Purchase

To

Bcc 'jamesg@pacpower.biz'; 'Arnold.Macatangay@sunpowercorp.comyes'; 'clara.nagy@sunlink.com'; 'jane.trinh@solarworld.com'; 'rgould@solarcraft.com'; 'brian@ncsr.com'; 'vicki@solarworksca.com'; 'john@solarworksca.com'; 'Scott.meinzen@siemens.com'; 'Michael@spearpointenergy.com'; 'timholmes@kenwoodenergy.com'; 'mcarpol@solarcity.com'; 'syouneszadeh@sunedison.com'; 'iwebster@projectnavigator.com'; 'robert.potter@pvnavigator.com'; 'jay.jackson@pristinesun.com'; 'sean.jazayeri@pristinesun.com'; 'cary.hayes@pristinesun.com'; 'bchamberlain@kw-engineering.com'; 'dhood@coldwellsolar.com'; 's.decker@phoenixsolar.us'; 'Yossi@solaris-synergy.com'; 'pmc@sunengy.com'; 'j.castillo@prismsolar.com'; 'jwhisman@verisolinc.com'; 'epauly@ciel-et-terre.net'; 'geoffrey@climateprotection.org'; 'david.fuller@edf-re.com'; 'mlanden@imsinfo.com'; 'palwitt@gmail.com'; 'jjacobus@esassoc.com'; 'pwisniewski@scsengineers.com';

- Message
- Floating Solar Ag Ponds RFP letter20151110.pdf (161 KB)
 - Exhibit A Sample Solar PPA.pdf (521 KB)
 - Exhibit B Sample Maintenance Agreement.pdf (149 KB)
 - Exhibit C Location Maps and Drawings20151110.pdf (12 MB)
 - Exhibit D Pricing Sheet.pdf (44 KB)
 - Exhibit E - Local Business Declaration.pdf (32 KB)
 - Exhibit F Town of Windsor Professional Services Agreement.pdf (62 KB)
 - Exhibit G Town of Windsor Construction and Services Contracts Requirements.pdf (50 KB)

Please see attached Addendum No. 1 to Request for Proposals for Floating Solar Photovoltaic (PV) Bulk Purchase. The changes are highlighted and only Exhibit C has changed.

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Sonoma County Water Agency



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Move Rules OneNote Actions Mark Unread Categorize Follow Up Translate Find Related Select Zoom

Delete Respond Quick Steps Move Tags Editing Zoom



Tue 11/10/2015 5:45 PM

Sonoma County Water Agency

FW: Sonoma County Water Agency - Addendum No. 1 to Request for Proposals for Floating Solar Photovoltaic (PV) Bulk Purchase

To

Bcc 'j.castillo@prismsolar.com'; 'jwhisman@verisolinc.com'; 'epauly@ciel-et-terre.net'; 'geoffrey@climateprotection.org'; 'david.fuller@edf-re.com'; 'mlanden@imsinfo.com'; 'palwitt@gmail.com'; 'jjacobus@esassoc.com'; 'pwisniewski@scsengineers.com'; 'dan@orourke-electric.com'; 'lucianolisi@yahoo.com'; 'jgray@capstoneinfra.com'; 'mchapin@capstoneinfra.com'; 'jandino@capstoneinfra.com'; 'mawhinney@sunedison.com'; 'jspinardi@sunedison.com'; 'mfrancis@sunedison.com'; 'dganske@sunedison.com'; 'john.larkey@recurrentenergy.com'; 'carolyn.campbell@recurrentenergy.com'; 'sgordon@heliopower.com'; 'al.whitecar@intres.com'; 's.decker@phoenixsolar.us'; 'dawn.gleiter@nrgenergy.com'; 'tmillhoff@heliopower.com'; 'viva99kim@naver.com'; 'ilan@sagerenew.com'; 'Rick.Whisman@SolPatchResources.com'; 'peter@westcoastsolarenergy.com'; 'fgobar@danlincorp.com'

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Sonoma County Water Agency



Rosario Williams

From: noreply+feedproxy@google.com
Sent: Tuesday, October 13, 2015 11:39 AM
To: Sonoma County Water Agency
Subject: Unsubscription notification for Sonoma County Water Agency - Press Releases

vsacksteder@sjwd.org has unsubscribed from Sonoma County Water Agency - Press Releases

Rosario Williams

From: MAILER-DAEMON
To: jjacobus@esassoc.com
Sent: Tuesday, November 10, 2015 5:47 PM
Subject: Undeliverable: Sonoma County Water Agency - Addendum No. 1 to Request for Proposals for Floating Solar Photovoltaic (PV) Bulk Purchase

Delivery has failed to these recipients or groups:

jjacobus@esassoc.com

A problem occurred during the delivery of this message to this e-mail address. Try sending this message again. If the problem continues, please contact your helpdesk.

The following organization rejected your message: exchange.esassoc.com.

Diagnostic information for administrators:

Generating server: mail.scwa.ca.gov

jjacobus@esassoc.com

exchange.esassoc.com # <exchange.esassoc.com #5.0.0 smtp; 552 Error: message too large> #SMTP#

Original message headers:

Return-Path: <DoNotReply@scwa.ca.gov>
X-ASG-Debug-ID: 1447206297-04298e0cf3243880001-aTqGud
Received: from cas1.scwa.loc (smtp.scwa.loc [172.30.5.11]) by mail.scwa.ca.gov with ESMTP id VaG6Lm9a5FCcFXtG; Tue, 10 Nov 2015 17:44:57 -0800 (EST)
X-Barracuda-Envelope-From: DoNotReply@scwa.ca.gov
Received: from CAS1.scwa.loc ([:11]) by cas1.scwa.loc ([:11]) with mapi id 14.03.0248.002; Tue, 10 Nov 2015 17:44:53 -0800
From: Sonoma County Water Agency <DoNotReply@scwa.ca.gov>
Subject: FW: Sonoma County Water Agency - Addendum No. 1 to Request for Proposals for Floating Solar Photovoltaic (PV) Bulk Purchase
Thread-Topic: Sonoma County Water Agency - Addendum No. 1 to Request for Proposals for Floating Solar Photovoltaic (PV) Bulk Purchase
X-ASG-Orig-Subj: FW: Sonoma County Water Agency - Addendum No. 1 to Request for Proposals for Floating Solar Photovoltaic (PV) Bulk Purchase
Thread-Index: AdEcGz/HEFC2mSLLRyGboTShkJEf7AARotLQ
Date: Wed, 11 Nov 2015 01:44:49 -0000
Message-ID: <877C762A2C5BBD4E87FFF3D53E61FA674257E2B2@cas1.scwa.loc>
Accept-Language: en-US
Content-Language: en-US
X-MS-Has-Attach: yes
X-MS-TNEF-Correlator:
x-originating-ip: [172.30.34.84]
Content-Type: text/plain
MIME-Version: 1.0

Rosario Williams

From: Bruce Berry <bruce@berrysmill.com>
Sent: Saturday, October 31, 2015 9:20 AM
To: Sonoma County Water Agency
Subject: RE: Sonoma County Water Agency - Request for Proposals for Procurement of Large Woody Debris for Dry Creek Habitat Enhancement Project

Thanks for the invitation to quote this but our harvest plan is still held up with spotted and barred owl issues with the state and feds. They don't seem too motivated with resolving it since they are still getting their paycheck while standing on our air hose.

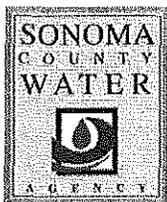
Thanks-Bruce

From: Sonoma County Water Agency [mailto:DoNotReply@scwa.ca.gov]
Sent: Wednesday, October 28, 2015 5:17 PM
Subject: Sonoma County Water Agency - Request for Proposals for Procurement of Large Woody Debris for Dry Creek Habitat Enhancement Project

Please see attached Request for Proposals for Procurement of Large Woody Debris for Dry Creek Habitat Enhancement Project.

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Sonoma County Water Agency



Rosario Williams

From: noreply+feedproxy@google.com
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vsacksteder@sjwd.org has unsubscribed from Sonoma County Water Agency - Press Releases