AGENDA

A REGULAR MEETING
OF THE CUDAHY CITY COUNCIL
and JOINT MEETING of the
CITY OF CUDAHY AS SUCCESSOR AGENCY and HOUSING SUCCESSOR AGENCY
TO THE CUDAHY DEVELOPMENT COMMISSION
Tuesday, October 1, 2019 – 6:30 P.M.

Written materials distributed to the City Council within 72 hours of the City Council meeting shall be available for public inspection in the City Clerk’s Office at City Hall located at 5220 Santa Ana Street, Cudahy, CA 90201.

In compliance with the Americans with Disabilities Act (ADA) if you need special assistance to participate in this meeting, you should contact the City Clerk’s Office at (323) 773-5143 at least 72 hours in advance of the meeting.

Rules of Decorum

“Members of the Public are advised that all PAGERS, CELLULAR TELEPHONES and any OTHER COMMUNICATION DEVICES are to be turned off upon entering the City Council Chambers.” If you need to have a discussion with someone in the audience, kindly step out into the lobby.

Under the Government Code, the City Council may regulate disruptive behavior that impedes the City Council Meeting.

Disruptive conduct may include, but is not limited to:

- Screaming or yelling during another audience member’s public comments period;
- Profane language directed at individuals in the meeting room;
- Throwing objects at other individuals in the meeting room;
- Physical or verbal altercations with other individuals in the meeting room; and
- Going beyond the allotted two-minute public comment period granted.

When a person’s or group’s conduct disrupts the meeting, the Mayor or presiding officer will request that the person or group stop the disruptive behavior, and WARN the person or group that they will be asked to leave the meeting room if the behavior continues.

If the person or group refuses to stop the disruptive behavior, the Mayor or presiding officer may order the person or group to leave the meeting room, and may request that those persons be escorted from the meeting room. Any person who, without authority of law, willfully disturbs or breaks up a City Council meeting is guilty of a misdemeanor. (Pen. Code, § 403.)
It should also be noted that any person who WILLFULLY disturbs or breaks up the City Council meeting may be arrested for a misdemeanor offense. (Penal Code, § 403.)

1. CALL TO ORDER

2. ROLL CALL

Council / Agency Member Garcia
Council / Agency Member Guerrero
Council / Agency Member Lozoya
Vice Mayor / Vice Chair Alcantar
Mayor / Chair Gonzalez

3. PLEDGE OF ALLEGIANCE

4. PRESENTATIONS

5. PUBLIC COMMENTS

(Each member of the public may submit one comment card if he or she wishes to address the City Council. Only speakers that submit a comment card within the first 20 minutes of the meeting will be permitted to speak for two (2) minutes concerning items under the City Council’s jurisdiction, including items on the agenda and closed session items.)

(Any person who, without authority of law, willfully disturbs or breaks up a City Council meeting is guilty of a misdemeanor. (Pen. Code, § 403.)

6. CITY COUNCIL COMMENTS / REQUESTS FOR AGENDA ITEMS (Each Council Member is limited to three minutes.)

(This is the time for the City Council / Agency to comment on any topics related to “City Business,” including announcements, reflections on city / regional events, response to public comments, suggested discussion topics for future council meetings, general concerns about particular city matters, questions to the staff, and directives to the staff (subject to approval / consent of the City Council majority members present, regarding staff directives). Each Council / Agency Member will be allowed to speak for a period not to exceed three (3) minutes. Notwithstanding the foregoing, the City Council Members shall not use this comment period for serial discussions or debate between members on City business matters not properly agendized. The City Attorney shall be responsible for regulating this aspect of the proceeding.)

7. CITY MANAGER REPORT (information only)
8. REPORTS REGARDING AD HOC, ADVISORY, STANDING, OR OTHER COMMITTEE MEETINGS

9. WAIVER OF FULL READING OF RESOLUTIONS AND ORDINANCES

(Consideration to waive full text reading of all Resolutions and Ordinances by single motion made at the start of each meeting, subject to the ability of the City Council / Agency to read the full text of selected resolutions and ordinances when the item is addressed by subsequent motion.)

(COUNCIL / AGENCY)

Recommendation: Approve the Waiver of Full Reading of Resolutions and Ordinances.

10. CONSENT CALENDAR

(Items under the Consent Calendar are considered routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council / Agency Member so requests, in which event the item will be removed from the Consent Calendar and considered separately.)

A. Consideration to Review and Approve the Draft Minutes of September 17, 2019, for the Regular Meeting of the City Council and the Joint Meeting of the City of Cudahy as Successor Agency and Housing Successor Agency to the Cudahy Development Commission (page 7)

Presented by Assistant City Clerk

Recommendation: The City Council is requested to review and approve the City Council / Successor Agency Draft Minutes for September 17, 2019.

B. Adoption of a Proposed Resolution No. 19-28, Amending the Standard Order of Business of City Council Meetings concerning public comment speaking time (page 17)

Presented by Assistant City Clerk

Recommendation: The City Council is requested to adopt a proposed Resolution No. 19-28, amending the public comment speaking time from two minutes to three minutes. The proposed resolution is consistent with the laws of the State of California and both the United States and California Constitutions.

11. PUBLIC HEARING

A. Approving Go Green Consultants, LLC to prepare and implement an Energy Assets Management Program for the City of Cudahy and Authorizing the City Manager to Negotiate and Execute an Energy Services and Performance Agreement and possible Abatement Lease for Capital Improvements Citywide (page 27)
Presented by City Manager

Recommendation: The City Council is requested to approve the Selection of Go Green Consultants, LLC and Authorize the City Manager to Negotiate and Execute a Program Development Agreement to prepare an Integrated Energy Assessment for the City of Cudahy and Execute definitive Agreements for Work to be Completed.

12. BUSINESS SESSION

A. Approve First Reading of Ordinance No. 702 Amending Sections 2.04.070, 2.12.030, and 2.20.010 of the Cudahy Municipal Code Relating to the Authority of the City Manager to Appoint the City Clerk for the City of Cudahy (page 175)

Presented by City Attorney’s Office

 Recommendation: The City Council is requested to approve first reading of Ordinance No. 702 amending Sections 2.04.070, 2.12.030, and 2.20.010 of the Cudahy Municipal Code relating to the authority of the City Manager to appoint the City Clerk for the City of Cudahy.

13. COUNCIL DISCUSSION

A. Council Member Garcia

i. Cudahy Skate Park Renovation Project

RECESS TO CLOSED SESSION

This is the time at which the City Council will meet in closed session to go over items of business on the closed session agenda. It should be noted that Councilman Guerrero will be participating from Bedwell Hall via teleconference. At this time, all persons other than Councilman Guerrero and City personnel authorized by either the City Manager or the City Attorney will not be allowed to remain in Bedwell Hall. Once closed session is completed and the City Council returns from closed session into open session, members of the public may then reenter the Council Chamber to rejoin the proceedings.

14. CLOSED SESSION

A. Closed Session Pursuant to Government Code Section 54957 – Public Employee Performance Evaluation

Title of Employee: City Manager

B. Closed Session Pursuant to Government Code Section 54957.6 – Conference with Labor
Negotiators Agency designated representative: Victor Ponto, City Attorney Unrepresented employee: City Manager

C. Closed Session Pursuant to Government Code Section 54957.6(a) – Conference with Labor Negotiator Regarding Represented Employees
City’s Designated Representative(s) for Negotiations: City Manager Jose E. Pulido and Special Counsel Oliver Yee
Employee Organization: Cudahy Miscellaneous Employees Association (CMEA)

RECONVENE TO OPEN SESSION

15. ADJOURNMENT

I. Richard Iglesias, hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted at Cudahy City Hall, Bedwell Hall, Clara Park, Lugo Park, and the City’s Website not less than 72 hours prior to the meeting. A copy of said Agenda is on file in the City Clerk’s Office.

Dated this 26th day of September 2019

Richard Iglesias
Assistant City Clerk
STAFF REPORT

Date: October 1, 2019
To: Honorable Mayor/Chair and City Council/Agency Members
From: Jose E. Pulido, City Manager/Executive Director
By: Richard Iglesias, Assistant City Clerk

Subject: Consideration to Review and Approve the Draft Minutes of September 17, 2019, for the Regular Meeting of the City Council and the Joint Meeting of the City of Cudahy as Successor Agency and Housing Successor Agency to the Cudahy Development Commission

RECOMMENDATION

The City Council is requested to review and approve the City Council / Successor Agency Draft Minutes for September 17, 2019.

BACKGROUND / ANALYSIS

Historically

The Municipal Clerk is one of the oldest professions in government, dating back to 1272 A.D., originating in England. The record keeper then was called Remembrancer; an English official whose job was to remind the Lord Treasurer and Barons of Court, of business pending.

Years later in the 1600’s when early colonist came to America, the office of the Clerk was one of the first offices to be established. Over the years the City Clerk’s office has become the core for local government, and the liaison to the residents of the Community. The Municipal Clerk (City Clerk) is the record keeper of a City’s recorded History.

William Bennett Munro a Canadian historian and political scientist, who taught at Harvard University and the California Institute of Technology, stated in one of his first textbooks written: “No other office in municipal service has so many contacts. It serves the Mayor, the City Council, the City Manager (when there is one), and all administrative departments,
without exception. All of them call upon it, almost daily, for some service or information. Its work is not spectacular, but it demands versatility, alertness, accuracy, and no end of patience. The public does not realize how many loose ends of city administration this office pulls together.”

Moving forward to the present time, the City Clerk's office today is generally responsible for keeping record of City Council meetings; agreements; recordings of official documents; legal advertisements; municipal elections; commissions and committees current files; claims against the city; and other legal or official documents.

City Clerks in General Law cities are required to keep a record (minutes) of the proceedings of Council meetings (Government Code Sections 36814 and 40801). Minutes are the official record of a meeting which provides a record of the Council’s decisions and actions.

**CONCLUSION**

City Council is requested to approve the attached City Council / Agency Draft Minutes of the proceedings of September 17, 2019, City Council meeting.

**FINANCIAL IMPACT**

No Financial Impact.

**ATTACHMENT**

A. Draft Minutes September 17, 2019
B. Resolution No. 16-38, approving the City Clerk’s use of Summary Action Minutes as the Official Record of the City Council proceedings.
MINUTES
CUDAHY CITY COUNCIL REGULAR MEETING and
CITY OF CUDAHY AS SUCCESSOR AGENCY and
HOUSING SUCCESSOR AGENCY TO THE CUDAHY
DEVELOPMENT COMMISSION JOINT MEETING

September 17, 2019 6:30 P.M.

1. CALL TO ORDER

Mayor / Chair Gonzalez called the meeting to order at 6:35 p.m.

2. ROLL CALL

PRESENT: Council / Agency Member Garcia (Arrived at 6:57 p.m.)
Council / Agency Member Guerrero
Council / Agency Member Lozoya
Vice Mayor / Vice Chair Alcantar
Mayor / Chair Gonzalez

ABSENT:

ALSO PRESENT: City Manager Jose E. Pulido, City Attorney, Victor Ponto, Assistant City Clerk, Richard Iglesias, Finance Director, Steven Dobrenen, Assistant City Engineer, Aaron Torres-Hernandez, and Junior Deputy City Clerk, Andres Rangel.

3. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Vice Mayor Alcantar.

4. PRESENTATIONS

Anthony Rendon's Office, Adrian Landa, Water Resources Consultant (WRD), Maria Elena Kennedy, Planning Commissioner, Gustavo Mendez reporting on Tract 349 Water Company.

5. PUBLIC COMMENTS

Edin Enamorado, spoke against Council Member Guerrero for allegedly inciting his constituents to intimidate other commissioners to vote in a certain way.

Jack Guerrero, protested the City’s ineffective internal controls. He further cited the State auditor’s website update ranking it as the seventh worst city in the state of California, with a high potential of waste, fraud, abuse, and mismanagement. He went on to note that two council members received campaign contributions from the developer that had its multi-unit project approved by Council in the most recent meeting. He asked residents to be concerned about this breach in public trust. He urged residents that the time is now to call for a forensic audit in the City’s internal controls by an impartial third-party government authority which is not beholden to the City Manager, Council, nor does it give financial contributions to members of Council. He went on to renew his call for a complete and truthful information about the safekeeping and accounting practices regarding marijuana proceeds.
Naui H., spoke against Council Member Guerrero for his affiliation with right wing groups and remaining silent when those groups bad mouth City residents and the Council. He further spoke Council Member Guerrero for being a Trump supporter, as well as only using the Council seat as a political stepping stone.

COUNCIL MEMBER GARCIA ARRIVED AT 6:57 p.m.

Pamela Munguia, spoke against Council for removing planning commissioners that were speaking against a project in the last meeting. She went on to speak in favor of Council Member Guerrero and Lozoya for supporting a forensic audit on the City’s internal controls. She went on to speak against the Council for approving a multi-unit project from developers that contributed to Council Members’ campaigns. She went on to tell Vice Mayor Alcantar, she would tell the local high school what she is doing as Council Member. She went on to urge Council to remove the City Manager.

Ivan Uriel, spoke about the Cudahy skate park and its importance to his life. He went on to urge Council to renovate the skate park as it is in detrimental conditions and doing so would be beneficial to City residents and its youth.

Martin, asked the Council to renovate the park as it is a public good for the city, benefitting youth and opening opportunities to sponsorships.

Dawn Lowe, explained to Council that people from Orange County and South Bay have been coming to state racial slurs against Cudahy residents. She apologized on behalf of the South Bay, stating the importance of immigrants to the economy. She went on to speak against the alt right group that used to attend City Council meetings to intimidate its residents.

Marcos Oliva, spoke in favor of increasing public speaking time to three minutes. He went on to speak about items 10C and 10D, reminding Council that they are risking oversaturation of cannabis businesses. Specifically for item 10D, he reminded City Council that the Los Angeles Superior Court favored on behalf of the defendant regarding reimbursing litigation fees.

Gustavo Mendez, thanked the City for its recent successful events such as painting Lugo gym as well as the movie night. He went on to inform the Council that the state found high levels of lead in the soil next to the technology plant in Vernon. He further explained there would be lead testing and lead clean up pending application and qualification for the free services.

Patricia Covarrubias, She agrees with Mrs. Dawn that they shouldn’t allow people from other cities to come and instigate our city. She also supports Martin and Ivan with the rebuilding of the skate park. She went on to inform Council that on September 1st at approximately at 10:00 p.m. a local resident was attacked and almost killed by a person in the City. She urged the sheriff’s department to be more vigilant in the City rather than engaging in ineffective tactics that have made the City less safe.

Marcos Covarrubias, spoke in favor of previous speakers’ insistence to renovate the skate park at Cudahy Park. Secondly, he agreed with Mrs. Covarrubias urging for more police presence considering recent incidents that have made the City much less safe. He further asked Mayor Gonzalez where cannabis proceeds are being allocated. He concluded his comments by disagreeing with a prior comment denouncing Council Member Guerrero a racist.
6. CITY COUNCIL COMMENTS

Council Member Guerrero, reiterated comments made during public comment in Spanish.

Council Member Garcia, elaborated to residents that projects such as the skate park need fiscal planning and budgeting. He went on to encourage the youth for speaking about bettering the community, reminding residents in attendance that politicians have recently been instilling fear to further their agenda, rather than implement policies than better the community.

Vice Mayor Alcantar, highlighted several community events that happened in the last month. She went on to discuss several meetings that herself and the mayor attended. She announced the upcoming movie night event and mock election that will be happening in the City, as well as a legal fair for immigrant right issues. She also announced she will be taking a trip to El Paso, Texas to see firsthand the immigrant prisons. She concluded her comments by expressing her support to renovate the skate park in Cudahy Park.

Mayor Gonzalez, discussed a potential private public partnership with the Office of Hilda Solis to develop a civic center on Atlantic Avenue. He highlighted several burdens to developing the project. However, he is optimistic that with creative thinking it can become a reality. He went on to report from the recent economic development ad hoc committee with Council Member Garcia. He clarified that the city budget specifies there is approximately $1 million in revenues coming from cannabis proceeds, which was used to staff another dedicated sheriff deputy in the City. He concluded his comments by commending Mr. Mendez as well as Anthony Rendon’s office for taking the initiative to provide clean water to the City.

7. CITY MANAGER REPORT (information only)

8. REPORTS REGARDING AD HOC, ADVISORY, STANDING OR OTHER COMMITTEE MEETINGS

Mayor Gonzalez reported out on the Eco Rapid Transit Authority and the Economic Development Ad Hoc Committee.

9. WAIVER OF FULL READING OF RESOLUTIONS AND ORDINANCES - NONE

10. CONSENT CALENDAR (Items 10A-D were pulled by Council Member Guerrero)

(Items under the Consent Calendar are considered routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council / Agency Member so requests, in which event the item will be removed from the Consent Calendar and considered separately.)

A. Consideration to Review and Approve the Draft Minutes of August 20, 2019, for the Regular Meeting of the City Council and the Joint Meeting of the City of Cudahy as Successor Agency and Housing Successor Agency to the Cudahy Development Commission

Presented by the Assistant City Clerk

The City Council is requested to review and approve the City Council / Successor Agency Draft Minutes for August 20, 2019.
Motion: It was moved by Council Member Garcia and seconded by Vice Mayor Alcantar to review and approve the City Council / Successor Agency Draft Minutes for August 20, 2019. The motion carried (4-1-0) by the following roll call vote.

AYES: Garcia, Lozoya, Gonzalez and Alcantar  
NOES: Guerrero  
ABSENT: None  
ABSTAIN: None

B. Consideration to Approve Proposition A Exchange Agreement with Palos Verdes Peninsula Transit Authority

Presented by the Finance Director

The City Council is requested to approve the exchange of $449,000 in available Proposition A (Prop A) funds with the Palos Verdes Peninsula Transit Authority (PVPTA) which was included in the Fiscal Year (FY) 2019-20 City Budget.

Motion: It was moved by Council Member Garcia and seconded by Vice Mayor Alcantar to approve the exchange of $449,000 in available Proposition A (Prop A) funds with the Palos Verdes Peninsula Transit Authority (PVPTA) which was included in the Fiscal Year (FY) 2019-20 City Budget. The motion carried (3-2-0) by the following roll call vote.

AYES: Garcia, Alcantar, and Gonzalez  
NOES: Lozoya and Guerrero  
ABSENT: None  
ABSTAIN: None

C. Consider and Approval of a Proposed Second Amendment to the Professional Services Agreement (PSA) with ejma Planning + Development Services (ejma)

Presented by the City Manager

The City Council is requested to consider and approve a proposed Second Amendment to ejma Planning + Development Services (ejma) contract extending the term by one (1) years from September 26, 2019 to September 25, 2020 and increasing the original Professional Services Agreement (PSA) amount to $660,000.

Motion: It was moved by Council Member Garcia and seconded by Mayor Gonzalez to consider and approve a proposed Second Amendment to ejma Planning + Development Services (ejma) contract extending the term by one (1) years from September 26, 2019 to September 25, 2020 and increasing the original Professional Services Agreement (PSA) amount to $660,000. The motion carried (3-2-0) by the following roll call vote.

AYES: Garcia, Alcantar, and Gonzalez  
NOES: Guerrero and Lozoya  
ABSENT: None  
ABSTAIN: None

D. Consideration and Approval of a Proposed Second Amendment to the First Amended and Restated Professional Services Agreement (PSA) with the Law Office of Glenn Ward Calsada for Cannabis Regulation Consulting and Litigation Services
Presented by the City Manager

The City Council is requested to consider and approve a Proposed Second Amendment to the First Amended Restated Professional Services Agreement (PSA) with the Law Office of Glenn Ward Calsada for Cannabis Regulation Consulting and Litigation Services by one year from September 26, 2019 through September 25, 2020 for the new not to exceed PSA amount of $270,000.

Motion: It was moved by Council Member Garcia and seconded by Mayor Gonzalez to consider and approve a Proposed Second Amendment to the First Amended Restated Professional Services Agreement (PSA) with the Law Office of Glenn Ward Calsada for Cannabis Regulation Consulting and Litigation Services by one year from September 26, 2019 through September 25, 2020 for the new not to exceed PSA amount of $270,000. The motion carried (3-1-0) by the following roll call vote.

COUNCIL MEMBER GUERRERO RECUSED HIMSELF FROM VOTING ON THIS AGENDA ITEM

AYES: Garcia, Alcantar, and Gonzalez
NOES: Lozoya
ABSENT: None
ABSTAIN: None

11. PUBLIC HEARING - NONE

12. BUSINESS SESSION

A. Discuss and Consider Placing a Resolution on the Council Agenda, Amending the Rules Regarding Public Comment Speaking Time at City Council Meetings

The City Council is requested to discuss and consider placing a Resolution on the Council agenda amending the rules regarding public comment speaking time at City Council Meetings.

Motion: It was motioned by Council Member Garcia and Seconded by Vice Mayor Alcantar to discuss and consider placing a Resolution on the Council agenda amending the rules regarding public comment speaking time at City Council Meetings. The motion carried (5-0-0) by the following roll call vote.

AYES: Garcia, Guerrero, Lozoya, Alcantar, and Gonzalez
NOES: None
ABSENT: None
ABSTAIN: None

13. COUNCIL DISCUSSION

A. Council Member Guerrero
   i. Audit for the City’s internal controls

CITY COUNCIL RECESSSED TO CLOSED SESSION AT 8:08 P.M.

14. CLOSED SESSION
A. Closed Session Pursuant to Government Code Section 54957 – Public Employee Performance Evaluation
Title of Employee: City Manager

B. Closed Session Pursuant to Government Code Section 54957.6(a) – Conference with Labor Negotiator Regarding Represented Employees
City’s Designated Representative(s) for Negotiations: City Manager Jose E. Pulido and Special Counsel Oliver Yee
Employee Organization: Cudahy Miscellaneous Employees Association (CMEA)

CITY COUNCIL RECONVENED TO OPEN SESSION AT 8:44 P.M.

15. CLOSED SESSION ANNOUNCEMENT

Deputy City Attorney Victor Ponto announced there were two items that were read into the record considering closed session. Council was given, direction was received, and there was no reportable action.

16. ADJOURNMENT

The City Council / Agency meeting was adjourned at 8:44 p.m.

________________________________________________________
Jose R. Gonzalez
Mayor

ATTEST:

________________________________________________________
Richard Iglesias
Assistant City Clerk
RESOLUTION NO. 16-38


WHEREAS, pursuant to Section 2.20.010(1) of the Municipal Code of the City of Cudahy, the City clerk is required to perform such duties as are set forth in the Government Code and in the City’s Municipal Code and as the City Council from time to time shall direct or authorize; and

WHEREAS, under Government Code Section 40801, the City Clerk is tasked with keeping accurate records of the proceeding of the legislative body; and

WHEREAS, pursuant to Government Code Section 36814, the City Council shall cause the City Clerk to keep a correct record of its proceedings;

WHEREAS, the City Clerk currently prepares and keeps full written minutes of the City Council’s meetings and proceedings; and

WHEREAS, instead of summary minutes, the City Council now wishes for the City Clerk to prepare and keep summary action minutes as the official record of its meetings or proceedings; and

BASED UPON THE ABOVE RECITALS, THE CITY COUNCIL OF THE CITY OF CUDAHY, CALIFORNIA, DOES HEREBY FIND, DETERMINE AND RESOLVE AS FOLLOWS:

SECTION 1. The recitals set forth above are true and correct and incorporated herein by reference.

SECTION 2. The City Council hereby approves the use of summary action minutes as the official record of its meetings or proceedings in lieu of full form written minutes.

SECTION 3. This Resolution shall take effect immediately upon its adoption by the City Council and the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Cudahy at its regular meeting on this 12th day of December, 2016.
ATTEST:

Richard Iglesias
Deputy City Clerk

STATE OF CALIFORNIA  )
COUNTY OF LOS ANGELES  )   SS:
CITY OF CUDAHY        )

I, Richard Iglesias, Deputy City Clerk of the City of Cudahy, hereby certify that the foregoing Resolution No. 16-38 was passed and adopted by the City Council of the City of Cudahy, signed by the Mayor and attested by the Deputy City Clerk at a regular meeting of said Council held on the 12th day of December, 2016, and that said Resolution was adopted by the following vote, to-wit:

AYES: Garcia, Markovich, Hernandez, Sanchez

NOES: None

ABSENT: None

ABSTAIN: Guerrero

Richard Iglesias
Deputy City Clerk
STAFF REPORT

Date: October 1, 2019
To: Honorable Mayor/Chair and City Council/Agency Members
From: Jose E. Pulido, City Manager/Executive Director
City Clerk’s Office
Subject: Adoption of a Proposed Resolution No. 19-28, Amending the Standard Order of Business of City Council Meetings concerning public comment speaking time

RECOMMENDATION

The City Council is requested to adopt a proposed Resolution No. 19-28, amending the public comment speaking time from two minutes to three minutes. The proposed resolution is consistent with the laws of the State of California and both the United States and California Constitutions.

BACKGROUND

1. On May 19, 2015, the City Council adopted Resolution No. 15-18, establishing a Standard of Order of Business for its meetings.

2. On September 28, 2015, the City Council adopted Resolution No. 15-49, amending the rules to place items on City Council agendas and amending the Standard Order of Business by adding an agenda item devoted to Reports Regarding Ad Hoc, Advisory, Standing, or Other Committee Meetings.

3. On March 14, 2016, the City Council meeting, adopted Resolution No. 16-12, which repealed Resolution No. 15-18 and 15-49, and amended the Standard Order of Business concerning public comment speaking time.

4. On September 17, 2019, City Council voted to have staff formalize a resolution increasing public comment speaking time from two minutes to three minutes.
ANALYSIS

Members of the public have expressed concerns regarding not having sufficient speaking time to address their city concerns and issues. Currently, Resolution No. 16-12 states members of the public have two minutes of public comment on all Regular and Special Meetings. The Council has expressed a desire to address this issue raised by residents, and has therefore directed staff to amend the standard rules of business established by Resolution No. 16-12 and increase public speaking time to three minutes.

Generally, the Brown Act expressly authorizes the City to impose reasonable rules on the right to public comment (Government Code § 54954.3(b)(1)):

The legislative body of a local agency may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.

The “intent” referenced in the statute is to encourage public participation in government and to compel public entities to “conduct business and deliberate openly.” Coalition of Labor, Agriculture & Business v. County of Santa Barbara Bd. of Supervisors (2005) 129 Cal.App.4th 205, 207. The foregoing revisions to the rules governing the City’s meetings enhance participation and the ability of the government to conduct its business openly in its City Council meetings.

Adopting Resolution No. 19-28 would amend section 5 and section 6 of Resolution No. 16-12 to reflect the appetite of Council and the public by increasing public speaking time to three minutes. The rules established in section 5 and section 6 of Resolution No. 16-12 can be read on Attachment B.

These new regulations are lawful and are reasonable measures undertaken to ensure that the entire community has an opportunity to comment on matters on the City Council agenda as required by the Brown Act.

CONCLUSION

As indicated above, the staff endorses these regulations as lawful and reasonable measure undertaken to ensure the streamlined and efficient conduct of City business in Council meetings while preserving the right to public comment enshrined in both state and federal law. Therefore, the Council requested to pass this attached Proposed Resolution and Amend Resolution 16-12 in the manner discussed above.
FINANCIAL IMPACT

None.

ATTACHMENTS

A. Proposed Resolution No. 19-28
B. Resolution No. 16-12
RESOLUTION NO. 19-28

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CUDAHY AMENDING THE RULES TO PLACE ITEMS ON CITY COUNCIL AGENDAS AND THE STANDARD ORDER OF BUSINESS OF CITY COUNCIL MEETINGS

WHEREAS, on March 14, 2016, the City Council adopted Resolution 16-12, which repealed Resolution No. 15-18 and 15-49, and amended the Standard Order of Business concerning public comment speaking time; and

WHEREAS, the City Council currently conducts its regular meetings on the first and third Tuesday of each and every month, in accordance with Ordinance No. 674, and section 2.04.020 of Chapter 2.04 (City Council) of Title 2 (Administration and Personnel) of the Cudahy Municipal Code; and

WHEREAS, members of the public have expressed that the current time allocated for public comment is not sufficient enough to express City concerns; and

WHEREAS, the City wishes to continue to ensure that government is conducted in an orderly, fair, accessible and open way and that the rights of the people to speak and be heard on matters of public interest continue to be protected; and

WHEREAS, the City wishes to ensure that government business can be conducted efficiently in City Council meetings and the right of members of the public to speak and be heard on items which appear on the agenda is not unduly burdened; and

WHEREAS, the City finds that amendment and revision of the Standard Rules of Order as set forth in Resolution No. 19-28 can best accomplish the goals of efficient operation of City government and robust citizen input on matters the Council is scheduled to consider; and

WHEREAS, the City continues to recognize and honor its obligations under both the United States Constitution and the California Constitution, as well as the laws of the State of California, including the Ralph M. Brown Act.

BASED UPON THE ABOVE RECITALS, THE CITY COUNCIL OF THE CITY OF CUDAHY, CALIFORNIA, DOES HEREBY FIND, DETERMINE AND RESOLVE AS FOLLOWS:

1. SECTION 5 and 6 of Resolution No. 16-12 shall be amended to increase public comment time to three (3) minutes at all City Council Meetings including, but not limited to, general and special meetings.

2. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.
PASSED, APPROVED AND ADOPTED by the City Council of the City of Cudahy at its regular meeting on this 1st day of October 2019.

________________________________________
Jose R. Gonzalez  
Mayor

ATTEST:

______________________________
Richard Iglesias  
Assistant City Clerk

CERTIFICATION

STATE OF CALIFORNIA )
COUNTY OF LOS ANGELES ) SS:
CITY OF CUDAHY )

I, Richard Iglesias, Assistant City Clerk of the City of Cudahy, hereby certify that the foregoing Resolution No. 19-28 was passed and adopted by the City Council of the City of Cudahy, signed by the Mayor and attested by the City Clerk at a regular meeting of said Council held on the ___ day of ________, 2019, and that said Resolution was adopted by the following vote, to-wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

______________________________
Richard Iglesias  
Assistant City Clerk
RESOLUTION NO. 16-12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CUDAHY AMENDING THE RULES TO PLACE ITEMS ON CITY COUNCIL AGENDAS AND THE STANDARD ORDER OF BUSINESS OF CITY COUNCIL MEETINGS

WHEREAS, on May 19, 2015, the City Council adopted Resolution 15-18, establishing a Standard Order of Business for its meetings; and

WHEREAS, on September 28, 2015, the City Council adopted Resolution 15-49 amending the rules to place items on the City Council agendas and amending the Standard Order of Business by adding an agenda item devoted to: REPORTS REGARDING AD HOC, ADVISORY, STANDING, OR OTHER COMMITTEE MEETINGS; and

WHEREAS, the City Council currently conducts its regular meetings on the second and fourth Monday of each and every month, in accordance with Ordinance No. 645, and section 2.04.020 of Chapter 2.04 (City Council) of Title 2 (Administration and Personnel) of the Cudahy Municipal Code; and

WHEREAS, members of the public have expressed concerns that the late hour of the public comment for items not listed on the agenda, but within the City’s jurisdiction, is inhibiting public participation in the discussion of these items because many members of the public are not available to stay for the public comment that is currently held until after the Closed Session Announcement; and

WHEREAS, the City Council shares these concerns and values the participation of members of the public as an important aspect of a transparent government; and

WHEREAS, as a result of these concerns, the City Council seeks to amend the Standard Order of Business to enable more efficient City Council meetings and encourage participation of the public at such meetings.

BASED UPON THE ABOVE RECITALS, THE CITY COUNCIL OF THE CITY OF CUDAHY, CALIFORNIA, DOES HEREBY FIND, DETERMINE AND RESOLVE AS FOLLOWS:

SECTION 1. In order to keep the number of agenda items for each City Council meeting at a reasonable number and in the interest of preventing agenda items from being tabled due to time constraints, each City Council Member may only place two (2) items on a City Council agenda. Acknowledging that there may be a number of important or time-sensitive agenda items in excess of this restriction, the City Manager shall have the authority to place additional agenda items on an agenda
if, in his discretion, he deems it necessary for the continued operations of the City or to properly conduct City business.

SECTION 2. There shall be a section in each regular City Council meeting agenda entitled "Requests for Agenda Items." During a regular City Council meeting, each City Council Member may use this section as a time to propose one (1) or two (2) agenda items he/she wishes to place on the following regular City Council meeting agenda. If a City Council Member wishes to place a third agenda item on the following regular City Council meeting agenda, the proposal to add of such an item must be approved by a majority vote of the City Council Members present at the meeting. If, outside of a regular City Council meeting, a City Council Member wishes to place an agenda item on a future agenda, the City Council Member shall do so pursuant to the procedures established in Section 3 and 4 of this Resolution.

SECTION 3. City Council Members seeking to place items on a City Council agenda shall first present the items to the City Manager.

SECTION 4. Agenda items shall be presented to the City Manager at least fourteen (14) days prior to the City Council meeting, to allow the City Manager to work with the Office of the City Clerk and other City staff to make any applicable modifications to the agenda items and prepare the agenda.

SECTION 5. The order of business for all regular and adjourned regular meetings shall be as follows:

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

PRESENTATIONS

PUBLIC COMMENTS (Each member of the public may submit one comment card if he or she wishes to address the City Council. Only speakers that submit a comment card within the first 20 minutes of the meeting will be permitted to speak for two minutes concerning items under the City Council's jurisdiction, including items on the agenda and closed session items.)

CITY COUNCIL COMMENTS (Each Council Member is limited to two minutes)

CITY MANAGER REPORT (information only)

REPORTS REGARDING AD HOC, ADVISORY, STANDING, OR OTHER COMMITTEE MEETINGS

WAIVER OF FULL READING OF RESOLUTIONS AND ORDINANCES

2
CONSENT CALENDAR

PUBLIC HEARING (Each member of the public may submit an additional comment card for each agenda item that requires a public hearing and will be permitted to speak for two minutes on each agenda item that requires a public hearing)

CITY COUNCIL BUSINESS SESSION
COUNCIL DISCUSSION
CLOSED SESSION
CLOSED SESSION ANNOUNCEMENT
ADJOURNMENT

Except with majority consent of the Council, items may not be taken out of order. If there are no items to be considered in any section(s), that section(s) may be omitted from that agenda.

SECTION 6. The order of business at special meetings shall be as follows:

CALL TO ORDER
ROLL CALL
PUBLIC COMMENT
TRANSACTION OF BUSINESS FOR WHICH THE SPECIAL MEETING WAS CALLED
ADJOURNMENT

SECTION 7. This resolution repeals City Council Resolutions 15-18, 15-49 and 14-30. Further, to the extent that any provisions of any prior resolutions of the City Council of the City of Cudahy are inconsistent with the provisions of this resolution, they are hereby repealed.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Cudahy at its regular meeting on this 14th day of March, 2016.

[Signature]
Cristian Markovich
Mayor
CERTIFICATION

STATE OF CALIFORNIA )
COUNTY OF LOS ANGELES ) SS:
CITY OF CUDAHY )

I, Laura Valdivia, Interim City Clerk of the City of Cudahy, hereby certify that the foregoing Resolution No. 16-12 was passed and adopted by the City Council of the City of Cudahy, signed by the Mayor and attested by the City Clerk at a regular meeting of said Council held on the 14th day of March, 2016, and that said Resolution was adopted by the following vote, to-wit:

AYES: Garcia, Sanchez, Hernandez, Markovich
NOES: Guerrero
ABSTAIN: None
ABSENT: None

Laura Valdivia
Interim City Clerk
STAFF REPORT

Date: October 1, 2019
To: Honorable Mayor/Chair and City Council/Agency Members
From: Jose E. Pulido, City Manager/Executive Director
By: City Manager’s Office
Subject: Approving Go Green Consultants, LLC to prepare and implement an Energy Assets Management Program for the City of Cudahy and Authorizing the City Manager to Negotiate and Execute an Energy Services and Performance Agreement and possible Abatement Lease for Capital Improvements Citywide

RECOMMENDATION

The City Council is requested to approve the selection of Go Green Consultants, LLC and Authorize the City Manager to Negotiate and Execute a Program Development Agreement to prepare an Integrated Energy Assessment for the City of Cudahy and Execute definitive Agreements for Work to be Completed.

BACKGROUND

1. On June 19, 2019, the City Manager met with Go Green Consultants, LLC to discuss energy efficiency opportunities in our City.

2. Between July and August 2019, Go Green consultants performed a Preliminary Report based on site visits and utility information provided by Southern California Edison (SCE). Cost saving measures as well as Capital improvement opportunities were identified throughout the City and its facilities.

3. On September 12, 2019, Go Green Consultants, LLC prepared a preliminary feasibility assessment which recommended a scope of work estimated at $3.5 million in energy conservation measures and capital improvements on all three City facilities. (See
ANALYSIS

Over the past several years, the City has explored various opportunities to lower energy costs in our City’s municipal facilities. The City has completed several energy efficiency projects, resulting in lowered energy costs. The City currently participates in the Southern California Edison’s Energy Leader Partnership to take advantage of enhanced incentives and free technical assistance. However, to expand energy saving opportunities and further lower energy costs, the City sought to conduct an energy assessment analysis on its City facilities to identify how to meet energy saving objectives.

Go Green Consultants has the necessary qualifications and demonstrated experience to successfully enter into a performance contract to perform an investment grade audit of City facilities, project design, construction management of public projects, financing of public projects, staff training on operations and maintenance of the built facilities, and energy savings monitoring and documentation. It is recommended that staff initiate negotiations with Go Green a Program Development Agreement (PDA) to verify viable and sustainable energy conservation measures for implementation.

Go Green would perform an integrated energy assessment and validation including an Investment Grade Audit (IGA) of City facilities to identify top priority potential energy conservation measures. Go Green utilizes this IGA to also create a baseline for the guaranteed energy savings. During this process for establishing a baseline, Go Green would perform an SCE Rate Audit that evaluates the different rate schedule options and identify potential savings. Go Green provides a performance guarantee that energy efficiency improvements would generate energy cost savings equal to or greater than project costs. They would measure and verify the actual energy savings and if the actual energy savings are not realized as estimated, Go Green must reimburse the shortfall amount to the City.

Go Green would also identify necessary Capital Improvement projects for equipment or facilities that need replacement and repair. Go Green would assist the City in locating a financial solution that would enable the City to perform vital Capital Improvement projects. Go Green would also assess potential Waste to Energy solutions for municipal waste, as well as Street Light Acquisition and Traffic Light retrofits. All work included in the Energy Conservation Measures Scope would create a net benefit to the City, and the savings generated would be higher than the implementation cost.

This work would be performed by Go Green at no cost to the City. From this assessment, Go
Green would develop a scope of work and prioritize recommendations and identify energy efficiency improvements that would be implemented at City facilities. The assessment would include an engineering and financial analysis along with a financing plan for recommended improvements, including aid in any state funding options available. The California Energy Commission has a 1% loan program for Energy Conservation Measures that is paid back through savings from the project implementation. Go Green would assist City staff in preparation for the application, as well as provide all of the information from the IGA for the qualification.

If work performed under the PDA concludes that the cost to implement energy efficiency improvements can be entirely paid through energy cost savings, the City would utilize the provisions of Government Code Section 4217 to authorize the City Manager to enter into a single source contract with Go Green to implement improvements mutually determined and approved by the City to be viable on both a short and long-term basis.

The City Manager would negotiate an Energy Services and Performance Agreement, in accordance with Government Code Section 4217.12 with Go Green Consultants, LLC. With approval and authorization of the Cudahy City Council, Go Green would prepare design plans and specifications, identify financing options, bid the project and hire contractors to construct energy improvements for the City utilizing prevailing wage. All project design, construction, construction administration, and margin are built into the total project costs and paid for through energy cost savings.

California Government Code Section 4217 allows the City to forgo its standard low-bid public procurement processes to implement turn-key energy services projects when the City finds this procurement method in its best interest. This procurement model ensures that Go Green would implement the project for a Guarantee Maximum Price with no change orders, complete the project on-time, and ensure that the systems are performing as specified in the design-build contract.

Benefits to the City include:

- **Collaborative Project Development Process** - The design process enables the City to define project goals, participate in the project's design process, and select the subcontractors and equipment vendors that provide the best value solution;
- **Faster Project Delivery** - Since the design build procurement method integrates the project design and pricing/bidding process, this enables the City to significantly reduce the time it takes to move from design to construction;
- **Fixed Price Contract (with no change orders)** - The detailed design process would define the project's scope of work, develop engineering documentation and
specifications, and engage subcontractors and equipment vendors to verify project constructability and pricing; and

- Fewer Construction Issues & Cost Impact - The project team (Go Green and City) would work together for the term of the project development; together they would identify many of the probable construction issues and potential project pitfalls. This collaborative approach would not be possible as part of a normal design, bid, and build project.

The goals of this project include:

1. Reducing energy consumption and utility costs associate with energy consumption
2. Replacing or upgrading old and inefficient systems to help reduce energy consumption and energy costs, including Natatorium necessary retrofits
3. Identifying investments that generate electricity to offset energy consumption costs, such as solar generation installations
4. Aid in applying for any State Programs that offer an alternative beneficial financing option
5. Enhancing personnel knowledge and training with regards to energy efficiency and maintenance of energy efficient systems
6. Reduction of greenhouse gas emissions

**PROJECT SCHEDULE**

Upon approval from City Council and administrative authorization from the City Manager, Go Green would engage subcontractors for all the work required for the project. It is estimated that it would take four to six weeks to finalize the Investment Grade Audit to set a baseline for estimated savings for Measurement & Verification. Construction would then start (order of equipment, engineering, etc.) and take three to six months to complete this project.

Go Green Consultants, LLC has already prepared a preliminary feasibility assessment where it identifies a recommended scope of work for energy conservation measures and capital improvements. The total estimated cost for the recommended scope of work is $3.5 million. Below is a breakdown on the recommended scope of work. A more detailed assessment of each project along with financing options can be seen in Attachment B.
CITY OF CUDAHY SCOPE OF WORK

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<th>ECM</th>
<th>City Hall</th>
<th>Clara Park</th>
<th>Lugo Park</th>
<th>Streetlights</th>
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<td>Solar Photovoltaics</td>
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Additionally, the preliminary assessment concluded the City could get financed for a reduced amounts of $1.5 and $2.0 million. However, this would limit the recommended scope of work.

CONCLUSION

To continue with the City’s efforts to implement green solutions and reduce energy costs, the City Council is requested to approve the selection of Go Green Consultants, LLC and authorize the City Manager to negotiate and execute a program development agreement to prepare an Integrated Energy Assessment for the City of Cudahy and execute Form of Energy Savings Performance Agreement, and definitive agreements for scope of work to be completed.

FINANCIAL IMPACT

There is no financial impact to the City’s General Fund for the implementation of Energy Assets Management Program, which includes an Investment Grade Audit, and would be prepared by Go Green Consultants, LLC at no cost to the City. The execution of an Energy Services and Performance Agreement would result in a positive financial impact to the General Fund. This would include an estimated $1.5M in Energy Conservation Measures. If the City entered into an Abatement Lease to raise capital for the recommended capital improvements it would be seen as long term debt. The potential Capital Improvement Projects would require an approximate $2.0M to be financed. The total estimated loan amount would be $3.5M for this project.
ATTACHMENTS

A. Development Agreement between City of Cudahy, California and Go Green Consultants, LLC
B. Form of Energy Savings Performance Agreement
C. Preliminary Feasibility Assessment for Energy Assets Management Program
D. Go Green Consultants, LLC Statement of Qualifications
DEVELOPMENT AGREEMENT BETWEEN CITY OF CUADAHY, CALIFORNIA 
AND GO GREEN CONSULTANTS, LLC

THIS DEVELOPMENT AGREEMENT made the ___ day of __________, 2019
(“Effective Date”), pursuant to California Government Code §4217.10, et. seq. (“4217 Code”),
between the CITY OF CUADAHY (“City”) and GO GREEN CONSULTANTS, LLC, a California
limited liability company (“Go Green”), collectively the City and Go Green may be referred to as
the “Parties”.

RECITALS

Go Green submitted to the City a Preliminary Feasibility Assessment (the “Proposal”) which
details certain preliminary recommended Energy Conservation Measures (“ECMs”),
including certain proposed capital improvements, for the site locations described on Exhibit A (the
“Sites”).

The Proposal details an integrated financing solution for the City, with no upfront payment
by the City. The cost of ECMs, and certain capital improvements, will be funded out of the
anticipated costs savings to the City as a result of the ECMs. Financing for the ECMs will occur
through the combination of a power purchase agreement, a tax-exempt lease arrangement, an
abatement lease, and/or a low interest loan from the California Energy Commission;

The City is incorporated under the laws of the State of California, and is a Public Agency
within the meaning of the California Government Code 4217.10 et seq. (“4217 Code”). Go Green
is a California business company and is duly authorized to do business in the State of California,
and is a Qualified Provider within the meaning of the 4217 Code, engaged in the business of and
having experience and capabilities in providing energy efficiency services, including ECMs, as
defined in the 4217 Code; Go Green desires to conduct an Investment Grade Audit (“IGA”) to
confirm the findings in the Proposal and confirm the costs for the ECMs. The IGA will consist of
(i) an energy assessment at each Site; (ii) an analysis of ways the City may conserve energy and
generate renewable energy, including the use of LED lighting and solar photovoltaic systems at
certain Sites; and (iii) the preparation of a comprehensive engineering report and recommendations
to assist the City in reducing its energy costs and fund the recommended ECMs out of the
anticipated cost savings, as described in the Proposal;

The City desires to engage Go Green to conduct the IGA to finalize the terms surrounding
the recommended ECMs and the terms for finance, design, construction, operation and
maintenance thereof in accordance with the terms of this Agreement;

Should the City wish to undertake any or all of the recommendations made in the IGA (the
“Project”), Go Green will form a special purpose entity (“SPE”) and the City and the SPE will
thereafter enter into a comprehensive agreement to implement the IGA recommendations,
including the design, construction and installation, operation and maintenance costs for the Project
(the “Energy Service Contract”);

Should any of the ECMs or Capital Improvements proposed not fit within the scope of the
Project, they will be proposed to the City as a Phase 2 Project for Capital Improvements. Go Green
will negotiate its services to the City to advise and/or manage the process for getting these
improvements and deferred maintenance items installed, in a separate agreement to be determined. Go Green will also assist City with proposals for smart parks, EV charging stations, related cell towers, 5G networks, water conservation measures and other energy related deferred maintenance projects requested by City. Go Green will also assist in locating financing options for these improvements through the combination of a tax-exempt lease arrangement, an abatement lease arrangement, and/or a low interest loan.

The Energy Service Contract will provide for the execution of a power purchase agreement, including a license for the SPE to use the applicable City property for the solar photovoltaic system(s).

NOW, THEREFORE, in consideration of the foregoing, the parties agree as follows:

Section 1. IGA. The City hereby grants to Go Green, and Go Green hereby accepts from the City, the exclusive right to perform the IGA, in conformance with the purposes stated herein, and subject to all the terms and conditions of this Agreement. Go Green will conduct on site examinations of City property as part of their IGA to identify and describe the ECMs. The City acknowledges that Go Green intends to utilize the services of BioStar Renewables, LLC to assist with the IGA report.

1.1 IGA Deliverables. The final IGA will describe the proposed design, development and management of the ECMs, including an energy cost savings analysis over the life of the ECMs. The IGA will include a detailed funding report describing the recommended options for funding the cost of the ECMs. The report will detail the funding through anticipated utility savings to be realized as a result of the ECMs.

1.2 Delivery Date. Go Green will furnish the completed IGA to the City no later than 120 days of execution of this Development Agreement.

Section 2. Term. Unless terminated earlier, the Development Agreement will terminate on the earlier of: (a) the execution of the Energy Service Contract or (b) 180 days from the effective date of the Development Agreement, unless extended by mutual agreement of the parties.

Section 3. Comprehensive Agreement.

3.1 Exclusive Right to Negotiate. As long as the IGA reflects annual savings to the City is in excess of their total electricity bill with the implementation of the ECMs, Go Green or its SPE shall have the exclusive right to negotiate an Energy Service Contract with the City during the term of this Development Agreement.

3.2 Process. The parties shall negotiate in good faith an Energy Service Contract; provided, however, that neither party is obligated to execute an Energy Service Contract.

3.3 Project Funding. The financial terms of the Energy Service Contract will be determined following the IGA report. The Energy Services Contract will include an option for the City to purchase the solar photovoltaic system(s) periodically from the date the system(s) are placed in service.
3.4 Benefits Guarantee. The Energy Service Contract will include a guaranty from the SPE regarding the anticipated collective energy and operations savings to be achieved as a result of the installation and operation of the ECMs for the first five years and a guaranty from the SPE of at least a positive energy cost savings to the City in the first year, subject to modification based upon changes in the ECM work or services provided after the Energy Service Contract is executed.

Section 4. Responsibility for Development Costs. Go Green and the SPE will be responsible for their own costs for developing the Project from the Development Agreement to the Energy Service Contract. The City will be responsible for its legal costs.

Section 5. Independent Contractors. The City and Go Green recognize that in the performance of this Agreement, it shall be necessary for Go Green to retain qualified individuals to effectuate and optimize Go Green’s performance of the Services. Any such individuals, whether employees, agents, independent contractors, volunteers, and/or other, employed, retained, or otherwise engaged by Go Green (collectively, the “Personnel”) for such purpose(s) shall not be deemed to be agents, employees, partners, joint ventures, or associates of the City.

Section 6. Indemnification. Go Green shall indemnify, hold harmless and defend the City, its agents, servants and employees from and against any claim, demand or cause of action of whatsoever kind or nature arising out of misconduct, error, omission, or negligent act of Go Green, its sub-contractor(s), agents, servants or employees in the performance of services under this Agreement.

Section 7. Default and Termination. If either party fails to perform in accordance with any of the terms and conditions of this Agreement, and such default is not cured within thirty (30) days after written notice is given (or if not curable within thirty (30) days, the party has advised the other party in writing that cure cannot be completed within thirty (30) days and the reasons therefore, and as begun to take curative action within thirty (30) days and is continuing to diligently pursue such cure), the aggrieved party shall have the right to terminate this Agreement. At its option, either party may also pursue any and all legal and equitable remedies available to seek redress for such default.

Section 8. General.

8.1 Compliance. Go Green shall comply with all applicable City, County, State, and Federal ordinances, statutes, rules and regulations in the performance of its services under this Agreement.

8.2 No Partnership. Nothing contained in this Agreement shall constitute or be construed to be or create a partnership or joint venture between the City and Go Green.

8.3 Modifications. This Agreement cannot be changed or modified except by agreement in writing executed by the parties hereto.

8.4 Complete Agreement. This Agreement, together with all exhibits attached hereto, constitutes all the understandings and agreements of whatsoever nature or kind existing between the parties with respect to the matters as contemplated herein.
8.5 Headings. The section, subsection and paragraph headings contained herein are for convenience of reference only and are not intended to define, limit, or describe the scope or intent of any provision of this Agreement.

8.6 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

8.7 Severability. If any provision of this Agreement or any portion of such provision or the application thereof to any person or circumstance shall be held to be invalid or unenforceable, or shall become a violation of any local, state, or federal laws, then the same as so applied shall no longer be a part of this Agreement but the remainder of the Agreement shall not be affected thereby and this Agreement as so modified shall remain in full force and effect.

8.8 No Waiver. No waiver of any covenant or condition of this Agreement by either party shall be deemed to imply or constitute a waiver in the future of the same covenant or condition or of any other covenant or condition of this Agreement.

8.9 No Third Party Beneficiary. Nothing in this Agreement shall confer upon any person or entity other than the parties hereto and their respective successors and permitted assigns, any rights or remedies by reason of this Agreement.

8.10 Governing Law. The Development Agreement shall be governed by the laws of the State of California. The parties waive a trial by jury in any civil litigation relating to this Development Agreement.

8.11 Assignment. Go Green shall not assign, transfer or convey the Development Agreement to any other person, firm, association, or corporation, in whole or in part, without the prior written consent of the City. However, Go Green will be permitted to cause portions of the services to be performed by subconsultants.
IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized representatives as of the Effective Date.

CITY OF CUDAHY, CALIFORNIA

By: ______________________________
    Name: ________________________
    Title: _________________________

GO GREEN CONSULTANTS, LLC

By: ______________________________
    Name: ________________________
    Title: _________________________
EXHIBIT A

Site Locations of Proposed ECMs & Proposed Capital Improvements

Facility Improvement Measures
Based on Preliminary Audit

Phase 1
Retrofit:
Interior and Exterior Lighting (this is for lighting that is not already LED)
  • City Hall
  • Bedwell
  • Lugo Park
  • Clara Park

Transformer Replacement:
  • City Hall (located next to the SCE meter)

Roof Replacement
  • City Hall
    o This does include Skylight repair at City Hall.

Solar PV
  • City Hall
  • Clara Park
  • Lugo Park

Streetlights
  • Install new cobra head on existing City-owned streetlights. Estimated quantity (280)

Phase 2
Retrofit:
HVAC Replacement
  • City Hall
  • Bedwell
  • Lugo Park
  • Clara Park

Roof Replacement:
  • Lugo Park
  • Clara Park
FORM OF
ENERGY SAVINGS PERFORMANCE
AGREEMENT

This ENERGY SAVINGS PERFORMANCE AND POWER PURCHASE AGREEMENT, (the “Agreement”), dated as of the ___ day of __________, 20___, is by and between ____________________, a ___________________ Limited Liability Company (“Provider”) that is a Special Purpose Entity created by Go Green Consultants, LLC, and the [City], a California Municipal Corporation (the “City”).

RECITALS:

The City is a Public Agency within the meaning of the California Government Code 4217.10 et seq. (“4217 Code”);

Go Green Consultants, LLC and the City entered into that certain Development Agreement dated ________________, 20____ (the “Development Agreement”) pursuant to which, Go Green Consultants, LLC obtained an Investment Grade Audit (“IGA”) of certain facilities owned and operated by the City described on the attached Schedule 1 (the “Facilities”) in order to procure long-term energy cost savings and reduce related expenses in the operation of such Facilities, and Provider was created by Go Green Consultants, LLC to implement the IGA recommendations.

The IGA specifically identifies Energy Conservation Measures (“ECMs”), including certain proposed capital improvements, that are recommended to be installed and/or implemented at the City owned Facilities;

The City and Provider desire to enter into this Agreement to implement the IGA recommendations, including the design, construction and installation, operation and maintenance costs for those recommendations made in the IGA which have been confirmed and approved by the City;

Simultaneously with the execution of this Agreement, Provider and the City are entering into a Power Purchase Agreement (“PPA”) approved by the City and dated of even date herewith to detail the construction and maintenance of certain solar facilities by Provider, including the easements granted by the City to Provider for such solar facilities, and to provide for the payments by the City for the ECMs. The PPA is attached hereto as Exhibit A.

[The City has qualified for and will obtain a loan from the California Energy Commission to fund the cost of certain ECM’s (the “CEC Loan”) and desires for Provider to act as the City’s payment processor for the City’s required payments under the CEC Loan.]¹

¹ If CEC Loan will be utilized, ESA will be revised to include specific provisions related to the payment of the CEC Loan and the ECMs funded by the CEC Loan.
Provider is a “qualified provider” within the meaning of the 4217 Code, engaged in the business of and having experience and capabilities in providing energy efficiency services, including the ECMs, as defined in the 4217 Code.

The City has determined, in its lawful discretion, prior to approval or ratification of this Agreement, that this Agreement satisfies the goals and objectives of the Development Agreement and meets all criteria required pursuant to California Government Code 4217.10 et seq.

The City Council authorized the City Manager to enter into this Agreement with Provider as an Energy Services Performance Agreement for the installation and implementation of the ECMs at the Facilities (the “Project”) pursuant to an energy services contract.

NOW THEREFORE, in consideration of the mutual promises set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

AGREEMENT:

1. Definitions. Unless otherwise required by the context in which any term appears:
   (a) capitalized terms used in this Agreement shall have the respective meanings set forth in this Section 1;
   (b) the singular shall include the plural and vice versa;
   (c) the word “including” shall mean “including, without limitation”,
   (d) references to “Sections” and “Exhibits” shall be to sections and exhibits hereof;
   (e) the words “herein,” “hereof” and “hereunder” shall refer to this Agreement as a whole and not to any particular section or subsection hereof; and
   (f) references to this Agreement shall include a reference to all exhibits hereto, as the same may be amended, modified, supplemented or replaced from time to time.

   “Acceptance Date” The date the Owner accepts the Project for beneficial occupancy.

   “Agreement” has the meaning set forth in the preamble.

   “Annual Benefits Reconciliation Report” has the meaning set forth in Section 10.

   “Applicable Law” shall mean, with respect to any governmental authority, any constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding, injunction, registration, license, franchise, permit, authorization, guideline, governmental approval, consent or requirement of such governmental authority, enforceable at law or in equity, along with the interpretation and administration thereof by any governmental authority.

   “Change Order” shall have the meaning set forth in Section 14.

   “Construction Period” The period from contract signing until the Guarantee Period Start Date.

   “ECM Work” Collectively, the Equipment, professional services and project construction related to all ECMs, including the Roof Replacement.
“ECM Scope of Work” has the meaning set forth in Section 3.

“Equipment” The goods enumerated on the ECM Scope of Work, together and with any and all additions, modifications, attachments, replacements and parts thereof.

“Event of Default” Those events described in Section 9 hereof.

“Facilities” has the meaning set forth in the Recitals.

“Final Completion” means the point when all of the ECM Work is fully and finally complete in accordance with the requirements of this Agreement, and the City has accepted the ECM Work, which acceptance shall not be unreasonably delayed or conditioned.

“Guaranteed Benefits” has the meaning set forth in Section 11.

“Guarantee Period End Date” means the date that is five years following the Guarantee Period Start Date.

“Guarantee Period Start Date” The Acceptance Date or the end of the Construction Period, whichever comes first.

“Hazardous Material” is any substance or material identified now or in the future as hazardous under any federal, state or local law or regulation, or any other substance or material that may be considered hazardous or otherwise subject to statutory or regulatory requirements governing handling, disposal and/or clean-up.

“IGA” has the meaning set forth in the Recitals.

“Material Changes” has the meaning set forth in Section 14.

“M&V Scope of Work” has the meaning set forth in Section 3.

“M&V Services” has the meaning set forth in Section 3.

“M&V Services Commencement Date” has the meaning set forth in Section 10.

“PPA” has the meaning set forth in the Recitals.

“Project Site(s)” The facilities of the City in need of the more efficient energy, demand, and operating equipment and services designed to reduce consumption and associated costs at said Project Site(s).

“Roof Replacement” shall mean those ECMs described on Schedule D.

“Solar System” shall mean the solar photovoltaic generating system designed and installed pursuant to the PPA.

“Substantial Completion” means that stage in the progress of the ECM Work when the ECM Work, or designated portion thereof, is sufficiently complete in accordance with this
Agreement so that the City can use or occupy the Facilities and utilize the ECM Work or designated portion thereof for its intended use.

2. **IGA.** A copy of the IGA is attached as Schedule A. The City acknowledges that it has approved and accepted the IGA which identifies all ECMs to be performed under this Agreement.

3. **Scope of the Project.** The Project shall consist of two phases: (a) the “Construction & Installation Phase”, which includes the ECM Work, the full scope of which is described on Schedule E (“ECM Scope of Work”), and the design, construction and installation of the Solar System as described in the PPA, and (b) the “M&V Services Phase”, in which Provider will provide ongoing energy savings monitoring and reporting services, and management and/or modification of the Equipment (the “M&V Services”), the full scope of which is described on Schedule F (the “M&V Scope of Work”). Provider shall be responsible for the professional and technical accuracy of the ECM Work and the M&V Services, whether performed by Provider or by subcontractors or others on its behalf.

4. **ECM Work.** Subject to the other provisions of this Agreement, Provider will act as the lead contractor assuming total responsibility for a turn-key design, procurement of prevailing wage labor and materials for the improvements to the Facilities, and the installation and start-up of the Equipment as set forth in and in accordance with the Scope of ECM Work.

   a. **Construction Schedule for ECM Work.** The Construction and Installation Phase will commence upon either the issuance by the City of a written notice to proceed or the written agreement of the Parties fixing such commencement date. The performance of the ECM Work shall be carried out and proceed in accordance with the construction schedule approved by the City and Provider which will follow the milestones set forth in Schedule H. This schedule may be reviewed monthly and amended from time to time by mutual written agreement of the Parties.

   b. **Performance.** At all times during performance of construction services under this Agreement, Provider shall be duly licensed and in good standing by the California Contractors State License Board. In the performance of the ECM Work, including the installation of the Equipment, Provider shall, and shall require all of its subcontractors, and all subcontractors under them to, as applicable, comply with the requirements of all Applicable Law. Without limiting the foregoing, Provider shall otherwise give all notices and comply with all laws and ordinances legally enacted at the date of execution of the Agreement that govern the proper performance of the ECM Work. Provider shall endeavor to avoid injury, loss or damage to persons or property by taking reasonable steps to protect its employees and other persons at the worksite, and materials, supplies and equipment stored at the worksite for use in performance of the ECM Work.

   c. **Safety Program.** Provider shall also oversee the safety precautions and programs of its subcontractors and suppliers at the worksite. Provider will adopt a site specific safety plan which will include all actions and programs necessary for compliance with California or federally statutorily mandated workplace safety programs and will provide a copy of such plan to the City.
d. **Permits and Approvals.** Provider shall be responsible for obtaining all necessary permits and approvals for the ECM Work, including the installation of the Equipment. The City shall use its best efforts to assist Provider in obtaining all such necessary permits and approvals. The City has also agreed to streamline any permitting and inspections required and pertinent to this project. The Equipment and the operation of the Equipment by Provider shall conform to all federal, state and local code requirements in effect at the time of installation. Before Provider commences any portion of the ECM Work that requires a permit or license, Provider shall furnish copies of each such permit or license to the City.

e. **Prevailing Wage.** Provider and all of Provider’s subcontractors must comply with the requirements of the California Labor Code regarding the payment of applicable prevailing wage rates for the Project.

f. **Coordination.** The City and Provider shall coordinate the activities associated with the installation of the Equipment by Provider with any ECM Work or installations of the City, or their employees and agents. Provider shall not commit or permit any act that will materially interfere with the performance of business activities conducted by the City, or its employees and agents without the prior mutual agreement and written approval of the City, which shall not be unreasonably withheld, and provided that the ECM Work schedule shall be modified if the City requires Provider to delay or re-sequence the ECM Work in order to accommodate the City’s operations. Provider shall perform all of the ECM Work in such a manner so as not to harm the structural integrity of the Facilities or their operating systems. Provider shall repair and restore to its original condition any area of damage caused by Provider’s performance under this Agreement. The City reserves the right to review the ECM Work and to direct Provider to take corrective action if, in the reasonable opinion of the City, the structural integrity of the Facilities or its systems is or will be harmed. All costs associated with such corrective action to damage caused by Provider’s performance of the ECM Work shall be borne by Provider. In addition, Provider shall be responsible for the professional and technical accuracy of all ECM Work performed, whether by its own forces or by its subcontractors or others on its behalf. Provider is responsible for general broom cleaning, and shall, to the fullest extent practicable, at all times keep the Facilities clean and free of debris, rubbish and dust. At the completion of the ECM Work, Provider shall remove from the worksite all construction equipment, tools, surplus materials, waste materials and debris.

g. **Storage of Materials.** The City shall provide during construction adequate storage space on its property convenient to the applicable project site for materials and tools used for the ECM Work if such storage space is available. Provider shall be responsible for storing any such materials or tools in a safe manner.

5. **Warranties.**

   a. Provider warrants that all materials and equipment furnished under the Construction and Installation Phase of this Agreement will be new unless otherwise specified and reasonably agreed to in writing by City, of good quality, in conformance with the ECM Scope of Work and all documents associated therewith, and free from defective
workmanship and materials. Warranties with respect to the ECM Work, or applicable portion of the ECM Work, as the case may be, shall commence on the date of Final Completion thereof. Provider agrees to correct all ECM Work that is defective in workmanship or materials within a period of one (1) year from the date of Final Completion, or such longer periods of time as may be set forth with respect to specific warranties required hereunder. Provider consents to the assignment of the Provider warranties provided hereunder to the City.

b. Provider shall collect, deliver, and, to the extent permissible, assign all manufacturers’ warranties and Equipment manuals to the City. There are no warranties that extend beyond the description on the face of any such warranty. Provider will develop a tracking spreadsheet or other tool deemed pertinent to provide documentation of all major milestones required to ensure operational maintenance and provide continuity for all products with a warranty.

c. EXCEPT AS SET FORTH IN SECTIONS 5.a and 5.b, ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, ARE EXPRESSLY DISCLAIMED. In addition, the warranties under this Section 5.c shall be void and do not extend to any ECM Work that has been abused, altered, or misused, or that has been repaired by the City or third parties without the supervisions or prior written approval of Provider.

6. Hazardous Materials. Provider shall not be obligated to commence or continue the ECM Work until all Hazardous Material discovered at the project site has been removed, rendered or determined to be harmless by the City as certified by an independent testing laboratory approved by the appropriate government agency. If after the commencement of the ECM Work, Hazardous Material is discovered at the project site, Provider shall be entitled to immediately stop ECM Work in the affected area. Provider shall report the condition to the City and, if required, the government agency with jurisdiction. The City shall retain, at its expense, an independent testing laboratory to determine the nature of the materials encountered and whether it is a Hazardous Material requiring corrective measures and/or remedial action. Such measures shall be the sole responsibility of the City, and shall be performed in a manner minimizing any adverse effects upon the ECM Work. Provider shall resume ECM Work in the area affected by any Hazardous Material only upon written agreement between the Parties after the Hazardous Material has been removed or rendered harmless and only after approval, if necessary, of the governmental agency or agencies with jurisdiction. If Provider incurs additional costs and/or is delayed due to the presence or remediation of Hazardous Material, Provider shall be entitled to an equitable adjustment in compensation and/or the ECM Work construction schedule as approved in writing by the Parties. During the performance of the ECM Work or M&V Services, Provider shall be responsible for the proper handling of all materials brought by it to the worksite.

7. Substantial Completion. Upon Substantial Completion, the Parties shall execute a Certificate of Substantial Completion fixing the date of Substantial Completion and listing all unfinished items of ECM Work, in substantially the form attached hereto as Schedule G.

8. Payment.
a. The combined agreed price for the Roof Replacement and the Solar System is included in the amounts due from the City under the PPA, and the City shall make all required payments under the terms of the PPA.

9. [RESERVED FOR CEC LOAN PROVISIONS, IF APPLICABLE].

10. M&V Services. The date of the commencement of Provider’s obligations under the M&V Services Phase (the “M&V Services Commencement Date”) shall be the date that: (i) Substantial Completion has been achieved for all portions of the ECM Work, and (ii) the systems start-up and training obligations under Section 16 have been completed. Provider’s obligations under the M&V Services Phase shall thereafter continue until the conclusion of the Term or any earlier termination of this Agreement.

a. For the first five (5) years of the Term of the PPA after the M&V Services Commencement Date, within sixty (60) days of the anniversary date of the M&V Services Commencement Date, Provider shall provide the City with an annual energy savings guarantee reconciliation report (the “Annual Benefits Reconciliation Report”) in substantially the form included in Schedule F, that calculates the total annual energy savings according to the methodologies outlined in Schedule F, and during the entire Term of the PPA, Provider shall provide the City with the monthly reports described in Section 4.1.1 of the PPA. The Annual Benefits Reconciliation Report will include an explanation as to any variations between the total annual energy savings and the Guaranteed Benefits shown in the Annual Benefits Reconciliation Report. The Annual Benefits Reconciliation Report shall initially be submitted by Provider to the City in draft form whereupon Provider and the City shall use their best efforts to resolve any discrepancies in the draft Annual Benefits Reconciliation Report as soon as possible so as to arrive at mutually acceptable Annual Benefits Reconciliation Report. Provider and the City will indicate their acceptance of the Annual Benefits Reconciliation Report by signing at the end thereof.


a. Provider has formulated, and, subject to any adjustments as set forth in herein, and hereby guarantees the collective energy and operations savings (the “Guaranteed Benefits”) to be achieved as a result of the installation and operation of the ECM Work, as set forth in the Benefits Schedule attached hereto as Schedule B, including the operations and deferred maintenance savings set forth therein, beginning with the Guarantee Period Start Date and ending on the Guarantee Period End Date. For the sake of clarity, Provider is not providing a guarantee as to the energy savings for any individual ECM, but for the ECM Work as a whole. The amount of the Guaranteed Benefits is subject to modification based upon (a) changes in the ECM Work after the Effective Date, (b) changes in the M&V services after the Effective Date, and (c) Material Changes, and the Parties shall reflect all such modifications by revising accordingly the Guaranteed Benefits and any other applicable portions of the Benefits Schedule.

b. Commencing with the first twelve (12) month period following the M&V Services Commencement Date, and for each twelve (12) month period until the Guarantee Period End Date, where the energy savings, as calculated using the method defined in the
Benefits Guaranty set forth on Schedule C, are less than the Guaranteed Benefits, Provider agrees to pay to the City the difference between the Guaranteed Benefits and the sum of the actual energy savings as calculated. Provider will make any such Guaranteed Benefits payment within ninety (90) days of the date of the City’s acceptance of the Annual Benefits Reconciliation Report pursuant to Section 10.

12. **Equipment Service and Modification.**

   a. The City shall not move, remove, modify, alter, or change the Equipment or any part thereof (“Alterations”) in any way without the prior written approval of Provider, except in the event of a bona fide emergency where it is not reasonably possible to notify Provider before carrying out Alterations. In the event of such an emergency, the City shall take reasonable steps to protect the Equipment from damage or injury, shall follow any instructions for emergency action provided in advance by Provider, and shall notify Provider within three (3) business days of such emergency. Any telephonic notice of such emergency shall be followed within one (1) business day by written (including electronic) notice to Provider from the City. In such instance the City agrees to maintain the Facilities in good repair and to protect and preserve all portions thereof that may in any way affect the operation or maintenance of the Equipment.

   b. In the event that any actions of the City, including but not limited to the carrying out of Alterations, affect the performance of the Equipment, the Guaranteed Benefits shall be adjusted to reflect the impact of such actions. If the City unreasonably delays in notifying Provider of changes resulting from an emergency and/or the City does not receive written approval to carry out Alterations, the Guaranteed Benefits shall be adjusted to reflect the impact of such unreasonable delays or unapproved Alterations.

   c. At all times during the Term, Provider shall have the right to change the Equipment or any related energy automation management systems, revise any procedures for the operation thereof, and/or implement other energy saving actions in the Facilities, provided that: (i) such modifications are necessary, in Provider reasonable judgment, to enable Provider to achieve the Guaranteed Benefits at the Facilities, and (ii) any cost incurred relative to such modifications, additions or replacement of the Equipment, or operational changes or new procedures shall be the responsibility of Provider. All such modifications, additions or replacements of the Equipment or revisions to operating or other procedures shall be described in a supplemental schedule to be provided to the City.

13. **City Responsibilities.** Upon request of Provider, the City shall:

   a. provide all available information in a timely manner regarding requirements for the Project, including all existing reports or studies regarding the physical characteristics of the site (such as surveys, site evaluations and existing conditions reports), legal descriptions, plans and drawings, building controls, systems, apparatus, equipment and machinery;
b. promptly notify Provider of all known unusual or materially change operating conditions that affect any Facilities, or any condition that may affect the ECM Work or the M&V Services;

c. appoint an authorized representative to facilitate Provider’s performance of the ECM Work and the M&V Services. The representative shall:

   i. be acquainted with the ECM Work and the M&V Services, provided Provider has provided adequate information to allow City to be acquainted with the ECM Work and the M& V Services;

   ii. agree to furnish the information and M&V Services required of the City so as not to delay Provider’s performance of its obligations under this Agreement; and

   iii. shall have authority to bind the City in all matters requiring the City’s approval, authorization or written notice as set forth herein, including Change Orders. If the City changes its representative or the representative’s authority as listed above, the City shall notify Provider in advance.

d. during the M&V Services Phase, provide Provider with complete energy usage information and energy-using equipment information, as requested by Provider. This information will include, but not be limited to:

   i. Copies of all utility and fuel bills for the Facilities; for the two years prior to the M&V Services Commencement Date and ongoing throughout the Term.

   ii. Direct access, by telephone modem or other reasonable means installed at Provider’s expense, to any and all energy management systems or building automation systems installed in or used in connection with the Facilities, with permission granted to Provider to download any and all information from these systems and to store such information for the Term;

   iii. Permission to install, at Provider’s expense, add-on devices to any and all utility and energy use meters, to enable Provider to directly observe Facility utility usage, with permission granted to Provider to download any and all information from these systems and to store such information for the Term subject to any required permission from the appropriate utility company;

   iv. Permission, as an agent of the City, to obtain and utilize any and all energy usage information from any and all utilities or energy suppliers providing service to the Facilities, with permission granted to Provider to download any and all information from these systems and to store such information for the Term. In connection herewith, the City agrees to execute such permission or authorization forms, which utilities or energy suppliers may from time to time require to release such information to Provider; and
v. Copies of any and all energy-using equipment repair orders or invoices for repairs or maintenance ECM Work not subject to the direct control of Provider.

Failure by the City to provide the information required in this Section 13 or otherwise comply with its obligations under this Agreement in timely fashion, will suspend the Benefits Guarantee described in Schedule C until the information is provided or other obligation is met.

14. Change Orders. Changes in the ECM Work or M&V Services that are within the general scope of this Agreement, and that are not minor changes in the ECM Work or M&V Services, shall be accomplished without invalidating this Agreement by a written instrument executed by both Parties in accordance with this Section 14 (a “Change Order”). Provider or the City may request changes in the ECM Work or M&V Services within the general scope of this Agreement, and the PPA rate or the ECM Work Schedule will be adjusted accordingly as provided herein. All such mutually agreed upon changes in the ECM Work shall be authorized by applicable written Change Order.

a. Provider and the City shall negotiate in good faith an appropriate adjustment, as applicable, to the PPA rate and/or the ECM Work Schedule, and shall conclude these negotiations as expeditiously as possible. Acceptance of the Change Order and any adjustment in the PPA rate and/or ECM Work schedule shall not be unreasonably withheld. An increase or decrease in the PPA rate resulting from a change in the scope of the ECM Work or M&V Services shall be determined by one or more of the following methods:

i. unit prices set forth in this Agreement or as subsequently agreed;

ii. a mutually accepted, itemized lump sum; or

iii. if an increase or decrease cannot be agreed upon as set forth in this Section 14, the adjustment in the PPA rate shall be determined by the reasonable expense and/or savings of the performance of the ECM Work resulting from the change.

b. Provider may make minor changes in the design and construction of the ECM Work consistent with the intent of this Agreement that do not involve an adjustment in the PPA rate or the ECM Work Schedule, so long as such changes do not materially and adversely affect the ECM Work, the quality of the materials or equipment specified herein, the performance of any materials, equipment or systems specified herein, or the quality of the workmanship required by this Agreement.

c. The Parties acknowledge that changes that negatively or positively affect the scope of the ECM Work will necessarily affect the Guaranteed Benefits. Change Order documents containing such scope changes shall also delineate the corollary Guaranteed Benefits adjustments.
d. If in the performance of the ECM Work or the M&V Services Provider finds latent, concealed or other conditions that materially differ from the conditions Provider reasonably anticipated, or if the physical conditions are different from those normally encountered and generally recognized as inherent in the kind of ECM Work or M&V Services provided for in this Agreement, then the PPA rate shall be equitably adjusted, and, as applicable, the ECM Work schedule and Guaranteed Benefits shall be appropriately modified, by a mutually agreed upon Change Order within a reasonable time after the conditions are first observed. Provider shall provide the City with written notice of its discovery of any of the foregoing conditions as soon as practicable after such discovery.

e. In any emergency affecting the safety of persons or property, Provider shall act, at its discretion, to prevent threatened damage, injury or loss. Any change in the PPA rate or ECM Work schedule on account of such emergency ECM Work shall be determined as provided in this Section.

f. In the event any changes in laws or regulations affecting the performance of the ECM Work are enacted after the date of this Agreement, the PPA rate and/or the ECM Work schedule or Guaranteed Benefits shall be equitably adjusted by Change Order.

g. For purposes of this Section a “Material Change” is any change in or to the Facilities, whether structural, operational or otherwise in nature that reasonably can be expected, in the judgment of Provider to decrease annual energy savings in accordance with the provisions and procedures set forth in the Benefits Schedule after adjustments for climatic variations. Actions by Provider or the City, as applicable, that may result in a Material Change include, but are not limited to the following:

i. The manner of use of the Facilities by Provider or the City, as applicable;

ii. The hours of operation for the Facilities or for any Equipment or energy using systems operating at the Facilities;

iii. Permanent changes in the comfort and service parameters set forth in ECM Scope of Work;

iv. Occupancy of the Facilities;

v. The structure of the Facilities;

vi. The types and quantities of equipment used at the Facilities;

vii. The modification, renovation or construction at the Facilities (other than the ECM Work);

viii. Provider’s or the City’s failure to provide maintenance of and repairs to the Equipment or the City’s failure to replace damaged Equipment; or
ix. Any other conditions other than climate affecting energy use at the Facilities.

h. Provider shall use best efforts to deliver to the City a written notice describing all actual or proposed Material Changes at least thirty (30) days prior to the implementation of such Material Change, or as soon as is practicable after an emergency or other unplanned event. After Provider’s review of the notice, the Parties shall meet as soon as practicable to agree upon adjustments to the Benefits Schedule and the PPA rate, which adjustments shall be set forth in a Change Order.

15. Insurance.

a. During the term of this Agreement, Provider, directly or through its subcontractors, as applicable, shall carry, maintain, and keep in full force and effect insurance against claims for death or injuries to persons or damages to property that may arise from or in connection with Provider’s performance of this Agreement. Such insurance shall be of the types and in the amounts as set forth below:

i. Comprehensive general liability, and Umbrella or Excess Liability Insurance covering all operations by or on behalf of Provider providing insurance for bodily injury liability and property damage liability for the following and including coverage for:

   ii. Premises, operations, and mobile equipment

   iii. Products and completed operations

   iv. Broad form property damage (including completed operations)

   v. Personal Injury

   vi. Contractual liability in the amount of One Million Dollars ($1,000,000) per occurrence combined single limit; Two Million Dollars ($2,000,000) aggregate for products/completed operation; Two Million Dollars ($2,000,000) general aggregate (General aggregate must apply separately to Provider’s work under this Agreement.); and Five Million Dollars ($5,000,000) umbrella or excess liability.

   vii. Automobile Liability Insurance for owned, hired and non-owned vehicles utilized by Provider, its employees or subcontractors, in the amount of One Million Dollars ($1,000,000) per accident for bodily injury and property damage.

   viii. Worker’s Compensation Insurance as required by the laws of the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than One Million Dollars ($1,000,000) per accident for bodily injury or disease.
ix. Professional Liability Insurance against errors and omissions in the performance of the work under this Agreement with coverage limits of not less than One Million Dollars ($1,000,000) per occurrence of claim/ Two Million Dollars ($2,000,000) in the aggregate.

b. The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least A-:VII in the latest edition of Best’s Insurance Guide.

c. Provider agrees that if it does not keep the aforesaid insurance in full force and effect City may take out the necessary insurance and pay, at Provider’s expense, the premium thereon.

d. At all times during the term of this Agreement, Provider shall maintain on file with the City a certificate or certificates of insurance showing that the aforesaid policies are in effect in the required amounts and, for the general liability and automobile liability policies, naming the City as an additional insured.

e. Provider shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage.

f. The general liability and automobile policies of insurance required by this Agreement shall contain an endorsement naming City, its officers, employees, agents and volunteers as additional insureds. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty days’ prior written notice to City.

g. The general liability and automobile policies of insurance provided by Provider shall be primary to any coverage available to City. Any insurance or self-insurance maintained by City, its officers, employees, agents or volunteers, shall be in excess of Provider’s insurance and shall not contribute with it.

h. All insurance coverage provided pursuant to this Agreement shall not prohibit Provider, and Provider’s employees, agents or subcontractors, from waiving the right of subrogation prior to a loss. Provider hereby waives all rights of subrogation against the City.

i. Procurement of insurance by Provider shall not be construed as a limitation of Provider’s liability or as full performance of Provider’s duties to indemnify, hold harmless and defend under Section this Agreement.

j. If Provider maintains broader coverage and/or higher limits than the minimums shown above, the City requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Provider. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.
16. **Training.** Provider shall provide the City with training regarding the operation of the ECMs prior to Final Completion of the ECM Work.

17. **Term.** The term of this Agreement (the “Term”) shall commence on the Effective Date, and, unless sooner terminated in accordance with the terms hereof, shall continue for a period of _____________ (___) years from the M&V Services Commencement Date, but subject to the termination rights provided in Section 18.

18. **Termination.**

   a. **Termination by the City.** If the City desires to seek termination of this Agreement for Cause (as hereinafter defined) the City shall provide written notice to Provider setting forth the details of the Cause, and Provider shall thereafter have the right, but not the obligation for ninety (90) days following receipt of such notice to cure the event of failure, or, if such cure cannot reasonably be effected within ninety (90) days, such cure is undertaken within such time period and is thereafter continued diligently until completion. If, following such cure period, Provider fails to cure the same, the City may thereafter terminate this Agreement upon approval from the City Council by majority vote approval. The City shall notify Provider by written notice of such City Council termination, and termination of this Agreement will take effect on the third business day following such notice. For purposes of this Agreement, “Cause” shall mean the occurrence of any of the following:

   i. Any material failure on the part of Provider to perform or comply with the terms and conditions of this Agreement; or

   ii. The commencement by or on behalf of Provider of any voluntary or involuntary case or matter relating to or associated with the U.S. Bankruptcy Code, or for liquidation, reorganization, or an arrangement pursuant to any other U.S. or state bankruptcy Laws, or Provider being adjudicated a debtor or declared bankrupt or insolvent under the U.S. Bankruptcy Code, or any other U.S. Federal or state laws relating to bankruptcy, insolvency, winding-up, or adjustment of debts, or Provider making a general assignment for the benefit of creditors, or admitting in writing its inability to pay its debts generally as they become due, and/or if a custodian, receiver, trustee or liquidator of Provider, all or substantially all of the assets or business of Provider or of Provider’s interest in this Agreement, is appointed in any proceeding.

   iii. Upon such termination, the City shall be responsible for paying for all ECM Work and M&V Services through the effective date of termination, and the City may deduct from the amount due to Provider the reasonable cost to the City of any necessary remediation required with respect to the matters resulting in such termination. In the event that Provider is terminated by the City under this provision and it is later determined that such termination was improper, Provider shall be entitled to the remedies set forth in Section 18.c below.
b. **Termination by Provider.** Upon thirty (30) days’ advance written notice to the City, Provider may, in addition to any other rights or remedies, terminate this Agreement for any of the following reasons:

   i. If the ECM Work has been stopped for at least thirty-day period under court order or order of other governmental authorities having jurisdiction, or as a result of the declaration of a national emergency or other governmental act during which, through no fault of Provider, materials, supplies, tools, and construction equipment and machinery for the ECM Work are not available;

   ii. If the City has failed to pay any compensation due to Provider in accordance with this Agreement, including the PPA, for a period of thirty (30) days or more;

   iii. If the ECM Work has been suspended for any reason by the City for a continuous period exceeding sixty (60) days;

   iv. If the City has materially hindered or delayed Provider in the performance of any of its obligations, or the City has otherwise materially breached any covenant, agreement, warranty or representation set forth in this Agreement, and if after giving the City written notice of thereof the City fails to cure the same within thirty (30) days following receipt of such notice or, if such cure cannot reasonably be effected within thirty (30) days, such cure is undertaken within such time period and is thereafter continued diligently until completion.

c. If the City terminates this Agreement other than pursuant to Section 18.a, or if Provider terminates this Agreement pursuant to Section 18.b Provider shall be entitled to recover from the City as follows:

   i. If termination occurs during the Construction and Installation Phase, the City shall be responsible for paying for all ECM Work performed by Provider through the effective date of termination;

   ii. If termination occurs during the M&V Services Phase, the City shall be responsible for paying for all reasonable costs and expenses incurred by Provider prior to the effective date of termination;

   iii. The City shall pay for all demobilization costs incurred by Provider, and purchase or rental costs incurred by Provider, for any equipment acquired by Provider in connection with the ECM Work and M&V Services;

   iv. The City shall not be responsible to Provider for lost profits, overhead, loss of benefits of bargain or any other damages other than actual out-of-pocket costs incurred by Provider to the extent such costs conferred benefit on City.

   v. In addition to the foregoing, the City shall further assume and become liable for obligations, commitments, and unsettled claims that Provider has
previously undertaken or incurred in good faith on behalf of and with the written consent of the City in connection with the Project.

d. Upon the termination of this Agreement pursuant to either Section 18.a or Section 18.b, all Guaranteed Benefits obligations of Provider under this Agreement shall automatically cease and be of no further force or effect.

e. This Agreement will automatically terminate in the event the PPA is terminated in accordance with the terms of the PPA 2.

19. Indemnification.

a. Provider shall indemnify and hold the City and its employees harmless from and against all claims, losses, or damages arising from the performance of the ECM Work or the M&V Services provided that the same are attributable to bodily injury, death and/or damage to property, but only to the extent caused by the negligent, reckless or wrongful acts or omissions of Provider or anyone for whose acts Provider is liable. In no event shall this indemnification apply to liability to the extent caused by the negligence or willful misconduct of the party to be indemnified or held harmless. This indemnification shall not be limited to damages, compensation or benefits payable under insurance policies, any worker’s compensation act, or other employee benefit acts.

b. The City shall indemnify and hold Provider and its employees and subcontractors and agents harmless from and against all claims for bodily injury, death, and/or damage to property (excluding damage for which the City assumes the risk of loss) that may arise in connection with the Project but only to the extent caused by the negligent, reckless or wrongful acts or omissions of the City or anyone for whose acts the City is liable. In no event shall this indemnification apply to liability to the extent caused by the negligence or willful misconduct of the party to be indemnified or held harmless. This indemnification shall not be limited to damages, compensation or benefits payable under insurance policies, any worker’s compensation act, or other employee benefit acts.

20. Bonding. Provider will obtain such bonds only as required by law or by Provider’s financing provider.

21. Ownership of Equipment. The Facilities shall remain the property of the City. The Roof Replacement and ECMs other than the Solar PV Systems will be owned by the City upon completion.

22. Casualty. After the M&V Services Commencement Date, the City assumes and shall bear the risk of damage, loss, theft, or destruction, partial or complete, of the Equipment and the Facilities owned or leased by the City (a “Casualty Loss”), however arising, except to the extent that the same may be caused by the negligent or willful acts or omissions of Provider that are not covered by insurance to be procured pursuant to this Agreement. If the City fails to repair or

2 City will also assume the payment obligations under the CEC Loan, if applicable.
replace any Casualty Loss within a reasonable time, and in no event more than one hundred twenty (120) days from its occurrence (except to the extent that the same is the responsibility of Provider in accordance with the foregoing), Provider may, at its option: (i) terminate this Agreement by delivery of a written notice to the City, and such termination shall be deemed a termination without Cause and will be subject to the provisions of Section 18 hereof, or (ii) require the City to amend this Agreement in a manner that equitably accounts for the loss of such Equipment and/or Facilities. In the event of a Casualty Loss caused by the negligent or willful acts or omissions of Provider that is not covered by insurance to be procured pursuant to this Agreement, the City may require Provider to promptly repair or replace the damaged or destroyed Equipment and/or Facilities, and in the event of Provider’s failure to do so, the City may, at its option: (i) repair or replace such items and recover the reasonable cost thereof from Provider, or (ii) terminate this Agreement for Cause pursuant to Section 18 hereof.

23. **Condemnation.** In the event of the condemnation resulting in a taking of substantially all of the Facilities, this Agreement shall terminate upon the effective date of such taking, and such termination shall be deemed a termination without Cause in accordance with Section 18 hereof, provided, however, that the proceeds of such condemnation shall belong to Provider or the City, as applicable. In the event of a condemnation resulting in a taking of less than substantially all of the Facilities, the Parties shall amend this Agreement in a manner that equitably accounts for such taking.

24. **Force Majeure.** If causes beyond a Party’s reasonable control delay, impair or prevent the performance of any of such Party’s obligations hereunder, expressly excepting, however, the payment of money, the time for such performance shall be extended for a reasonable period of time commensurate with the time and nature of the cause. Such causes shall include, but not be limited to (i) natural phenomena, such as storms, hurricanes, floods, lightning and earthquakes; (ii) explosions or fires arising from lightning or other causes unrelated to the acts or omissions of the Party seeking to be excused from performance; (iii) acts of war or public disorders, civil disturbances, riots, insurrection, sabotage, epidemic, terrorist acts, or rebellion; (iv) strikes or labor disputes; (v) action by an unrelated governmental authority; (vi) the impossibility for one of the Parties, despite its reasonable efforts, to obtain, in a timely manner, any approval by a governmental authority necessary to enable the affected Party to fulfill its obligations in accordance with this Agreement, provided that the delay or non-obtaining of such approval by a governmental authority is not attributable to the Party in question and that such Party has exercised its reasonable efforts to obtain such approval, (vii) unusual transportation delays, general labor disputes impacting the ECM Work, acts of governmental agencies, or unavoidable accidents or circumstances or (viii) Hazardous Materials or differing site conditions.

25. **Further Assurances.** The Parties agree to execute and deliver all further documents and perform all further acts that may be reasonably necessary to effectuate the provisions of this Agreement.

26. **No Partnership.** Nothing contained in this Agreement shall constitute or be construed to be or create a partnership or joint venture between the City and Provider.

27. **Modifications.** This Agreement cannot be changed or modified except by agreement in writing executed by the parties hereto.
28. **Complete Agreement.** This Agreement, together with all schedules and exhibits attached hereto, which are incorporated into the body of this Agreement and made a binding part hereof, constitutes all the understandings and agreements of whatsoever nature or kind existing between the parties with respect to the matters as contemplated herein and supersedes all prior and contemporaneous oral and prior written agreements, including the Development Agreement. The Development Agreement is terminated in all respects.

29. **No Pledge City.** City acknowledges and agrees that the Guaranteed Benefits may not be sold, assigned, or pledged without the prior consent of Provider.

30. **Headings.** The section, subsection and paragraph headings contained herein are for convenience of reference only and are not intended to define, limit, or describe the scope or intent of any provision of this Agreement.

31. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

32. **Severability.** If any provision of this Agreement or any portion of such provision or the application thereof to any person or circumstance shall be held to be invalid or unenforceable, or shall become a violation of any local, state, or federal laws, then the same as so applied shall no longer be a part of this Agreement but the remainder of the Agreement shall not be affected thereby and this Agreement as so modified shall remain in full force and effect.

33. **No Waiver.** No waiver of any covenant or condition of this Agreement by either party shall be deemed to imply or constitute a waiver in the future of the same covenant or condition or of any other covenant or condition of this Agreement.

34. **No Third Party Beneficiary.** Nothing in this Agreement shall confer upon any person or entity other than the parties hereto and their respective successors and permitted assigns, any rights or remedies by reason of this Agreement.

35. **Governing Law.** The Agreement shall be governed by the laws of the State of California. The parties waive a trial by jury in any civil litigation relating to this Agreement.

36. **Assignment.** Provider shall not assign, transfer or convey this Agreement to any other person, firm, association, or corporation, in whole or in part, without the prior written consent of the City. However, Provider will be permitted to cause portions of the ECM Work or M&V Services to be performed by subconsultants or subcontractors.

   a. Provider may make any collateral assignments of this Agreement necessary to obtain financing of the ECM’s. The financing parties, their agents, successors or assigns may acquire the rights of Provider under this Agreement, including the PPA and the Solar License and Easement Agreement, under the financing parties’ remedies contained in the agreements with the financing parties (the “Financing Agreements”) in the event of Provider’s default under the Financing Agreements. Upon any such acquisition of Provider’s rights by the financing parties and compliance by the financing parties with all of their obligations under the Financing Agreements and agreement by the financing parties to assume the obligations of Provider under this Agreement, the City shall accept the
financing parties or any nominee in place of Provider for all purposes under or in connection with this Agreement and the PPA and Solar License and Easement Agreement for the remainder of its term, and the City shall provide assignments and consents, acknowledgments, estoppel certificates, and such other closing documents as are customary in such transactions and in form and substance reasonably acceptable to the City. Except as otherwise provided in this Agreement, the City shall look only to Provider to satisfy Provider’s obligations hereunder unless, in the event of a default by Provider under the Financing Agreements, the financing parties have taken possession of the Facility leased or owned by Provider. Upon the financing parties taking actual possession of the Facility, after such event, if any, the financing parties in possession of the Facility shall assume all rights and responsibilities of Provider under this Agreement.

37. Notices. Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand, facsimile, email or overnight courier service during Provider’s and City’s regular business hours; or (ii) on the third business day following deposit in the United States mail if delivered by mail, postage prepaid, to the addresses listed below (or to such other addresses as the Parties may, from time to time, designate in writing).

If To Provider:

_____________________, LLC
5050 Laguna Blvd 112-460
Elk Grove, California 95757
(916) 826-7030

With a copy to:

Go Green Consultants, LLC
5050 Laguna Blvd 112-460
Elk Grove, California 95757

If to City:

38. Counterparts. This Agreement may be signed in any one or more counterparts all of which taken together shall be but one and the same Agreement. Any signed copy of this Agreement or of any other document or agreement referred to herein, or copy or counterpart thereof, delivered by facsimile or email transmission, shall for all purposes be treated as if it were delivered containing an original manual signature of the Party whose signature appears in the facsimile or email and shall be binding upon such Party in the same manner as though an originally signed copy had been delivered.
(Signatures Appear on Next Page)
IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized representatives as of the Effective Date.

[CITY]

By: ________________________________
    Name: ________________________
    Title: _________________________

_____________________, LLC

By: ________________________________
    Name: ________________________
    Title: _________________________
List of Schedules and Exhibits:

Schedule A: Investment Grade Audit
Schedule B: Benefits Schedule
Schedule C: Benefits Guaranty
Schedule D: Roof Replacement
Schedule E: ECM Scope of Work
Schedule F: M&V Services Scope of Work
   (includes Form of Annual Benefits Reconciliation Report)
Schedule G: Forms of Certificates of Completion
Schedule H: Project Schedule

Exhibit A: Power Purchase Agreement
Schedule A

Investment Grade Audit

[To be attached]
Schedule B

Benefits Schedule
Schedule C

Benefits Guarantee
Schedule D

Roof Replacement
Schedule E

ECM Scope of Work
Schedule F

M&V Services Scope of Work

Baseline Calculations

The Baseline Summary (Section _____ of the IGA) serves as the baseline calculation for the energy usage prior to installation of the project.

Post Installation Verification

Post-installation M&V activities are conducted to ensure that proper equipment/systems were installed, are operating correctly, and have the potential to generate the predicted savings. Verification methods include surveys, inspections, spot measurements, or short-term metering. The post-installation report includes the following:

- Project description
- Detailed list of installed equipment
- Details of any changes between the final proposal and as-built conditions, including any changes to the estimated energy savings
- Documentation of all post-installation verification activities and performance measurements conducted
- Performance verification—how performance criteria were met
- Documentation of construction-period savings (if any)
- Status of rebates or incentives (if any)
- Expected savings for the first year

Annual Benefits Reconciliation Report Outline

The Annual Benefits Reconciliation Report will consist of the following items:

1. Executive Summary
   a. Project background
      i. Project acceptance date
      ii. Date of any contract modifications
   b. Brief Project and ECM Description
      i. What was done and how savings are generated
   c. Summary of Proposed Savings (Table 1)
### Table 1

<table>
<thead>
<tr>
<th>ECM</th>
<th>Total energy savings (Mbtu/yr)</th>
<th>Electric energy savings (kWh/yr)</th>
<th>Electric demand savings (kW/yr)*</th>
<th>Natural gas savings (Mbtu/yr)**</th>
<th>Water savings (gallons/yr)</th>
<th>Other energy savings (Mbtu/yr)</th>
<th>Total energy and water cost savings, Year # ($/yr)</th>
<th>Other energy-related O&amp;M cost savings, Year # ($/yr)</th>
<th>Total cost savings, Year # ($/yr)</th>
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**Notes**

Mbtu = 10^6 Btu.

*Annual electric demand savings (kW/yr) is the sum of the monthly demand savings.

d. Summary of Verified Savings (Table 2)

### Table 2

<table>
<thead>
<tr>
<th>ECM</th>
<th>Total energy savings (Mbtu/yr)</th>
<th>Electric energy savings (kWh/yr)</th>
<th>Electric demand savings (kW/yr)*</th>
<th>Natural gas savings (Mbtu/yr)**</th>
<th>Water savings (gallons/yr)</th>
<th>Other energy savings (Mbtu/yr)</th>
<th>Total energy and water cost savings, Year # ($/yr)</th>
<th>Other energy-related O&amp;M cost savings, Year # ($/yr)</th>
<th>Total cost savings, Year # ($/yr)</th>
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**Notes**

Mbtu = 10^6 Btu.

*Annual electric demand savings (kW/yr) is the sum of the monthly demand savings.

e. Savings Adjustments
   i. Summary of any energy or cost savings adjustments used in calculations

f. Performance and O&M Issues
   i. Impact of operating deficiencies or enhancements on generation of savings.
   ii. Impact of maintenance deficiencies on generation of savings.
   iii. Any deficiencies needed to be addressed by contractor or agency.

g. Energy and O&M Rate Data
   i. Detail energy rates used to calculate cost savings for this period.
   ii. Provide post-acceptance performance period rate adjustment factors for energy and O&M, if used.

h. Summary of Verified Savings to Date (Table 3)
Table 3

<table>
<thead>
<tr>
<th>Year #</th>
<th>Total energy savings (Mbtu/yr)</th>
<th>Electric energy savings (kWh/yr)</th>
<th>Electric demand savings (kW/yr)*</th>
<th>Natural gas savings (Mbtu/yr)**</th>
<th>Water savings (gallons/yr)</th>
<th>Other energy savings (Mbtu/yr)</th>
<th>Total energy cost savings, Year # ($/yr)</th>
<th>Other energy-related O&amp;M cost savings, Year # ($/yr)</th>
<th>Total cost savings, Year # ($/yr)</th>
<th>Guarantee cost savings for year</th>
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</table>

**Notes**

- Mbtu = 10^6 Btu.
- *Annual electric demand savings (kW/yr) is the sum of the monthly demand savings.*

2. Details for each ECM
   a. Overview of ECM, M&V Plan, and Savings Calculations
      i. Summarize the scope of work, location, and how cost savings are generated. Describe source of all savings including energy, water, O&M, and other (if applicable).
      ii. Provide an overview of M&V Activities for ECM. Explain the intent of M&V plan, including what is being verified.
      iii. Provide an overview of savings calculation methods for ECM. Provide a general description of analysis methods used for savings calculations.
   b. M&V Activities Conducted This Period
      i. Measurement equipment used.
      ii. Dates/times of data collection
      iii. Include all measured values for this period
      iv. Describe how performance criteria have been met.
      v. Detail any performance deficiencies that need to be addressed by Company or Agency
      vi. Note impact of performance deficiencies or enhancements on generation of savings.
   c. Verified Savings Calculations and Methodology
      i. Provide detailed description of analysis methodology used.
      ii. Detail all assumptions and sources of data, including all stipulated values used in calculations.
      iii. Details of any baseline or savings adjustments made.
      iv. Detail energy and water rates used to calculate cost savings.
         1. Provide post-acceptance performance period energy and water rate adjustment factors, if used.
      v. Detail verified savings for this energy conservation measure for performance year in Table 4.
<table>
<thead>
<tr>
<th>Year</th>
<th>Total energy use (Mbtu/yr)</th>
<th>Electric energy use (kWh/yr)</th>
<th>Electric energy cost, Year # ($/yr)</th>
<th>Electric demand * (kW/yr)</th>
<th>Electric demand cost, Year # ($/yr)</th>
<th>Natural gas use (Mbtu/yr)**</th>
<th>Natural gas cost, Year # ($/yr)</th>
<th>Water use (gallons/yr)</th>
<th>Water cost, Year # ($/yr)</th>
<th>Other energy use (Mbtu/yr)</th>
<th>Other energy cost, Year # ($/yr)</th>
<th>Other energy-related O&amp;M costs, Year # ($/yr)</th>
<th>Total costs, Year # ($/yr)</th>
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<td>Baseline use</td>
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<td>Performance Year # use</td>
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**Notes**

Mbtu = 10^6 Btu.

*Annual electric demand savings (kW/yr) is the sum of the monthly demand savings.

d. Details of O&M Savings
e. Details of other savings (if applicable)
f. O&M Activities
   i. Operating Requirements
      1. Organization responsible for operation
      2. Any deficiencies found
         a. If so, what impacts on operation did they have.
   ii. Preventative Maintenance Requirements
   iii. Scheduled Maintenance Requirements
   iv. Repair and Replacement Requirements
Schedule G-1

Form of Substantial Completion

DATE: ______________

1. Unless otherwise defined herein, the capitalized terms used throughout this certificate shall have the meanings ascribed to same in the Agreement.

2. Subcontractor certifies and represents that the following statements are true as of the date of delivery hereof to Contractor:

   a) The Subcontractor has satisfied all of the requirements for the achievement of Substantial Completion in accordance with the Agreement.

   b) Subcontractor has delivered this form, completed except for signature by Contractor, to Contractor’s duly authorized representative on the above date.

   c) Punch List Items not completed to date are listed below or on the attached sheet:

   d) The following are the assigned responsibilities for security, maintenance, utilities, damage to the Work, and insurance.

   __________________________________________________________
   __________________________________________________________

3. The person signing below is authorized to submit this form to Contractor for and on behalf of Subcontractor.

   [Name of Subcontractor]:
   
   By: ____________________________
   Name: ____________________________
   Title: ____________________________
Schedule G-2

Form of Final Completion

DATE: ______________

1. Unless otherwise defined herein, the capitalized terms used throughout this certificate shall have the meanings ascribed to same in the Agreement.

2. Subcontractor certifies and represents that the following statements are true as of the date of delivery hereof to Contractor:

   a) The Subcontractor has satisfied all of the requirements for the achievement of Final Completion in accordance with the Agreement.

   b) Subcontractor has delivered this form, completed except for signature by Contractor, to Contractor’s duly authorized representative on the above date.

   c) No Punch list items remain

3. The person signing below is authorized to submit this form to Contractor for and on behalf of Subcontractor.

   [Name of Subcontractor]:

   By: ____________________________
   Name: ____________________________
   Title: ____________________________
Schedule H

Construction Schedule Milestones
EXHIBIT A

POWER PURCHASE AGREEMENT

This POWER PURCHASE AGREEMENT, (the “PPA”), dated as of ________________, 2019, is by and between ___________________, LLC, a California Limited Liability Company (“Provider”) that is a Special Purpose Entity created by Go Green Consultants, LLC, and the [City], a California Municipal Corporation (the “City”).

WHEREAS, the City and Provider have entered into that certain Energy Savings Performance Agreement dated of even date herewith for the installation and implementation of certain energy conservation measures (the “ESPA”);

WHEREAS, City owns, directly or indirectly, facilities in a certain location in the State of California (the “State”) as more fully described in Schedule A hereto (the “Site”);

WHEREAS, City desires that Provider install, maintain and operate, and Provider desires to install, maintain and operate the System (as hereinafter defined) to be located on the Site; and

WHEREAS, Provider desires to sell, and City desires to purchase, the Solar Services (as hereinafter defined), consisting of the delivery of electrical energy (the “Energy”) generated by the System to the Site and other services pursuant to the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the mutual promises set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

AGREEMENT:

1. Definitions. Unless otherwise required by the context in which any term appears: (a) capitalized terms used in this PPA shall have the respective meanings set forth in this Section 1; (b) the singular shall include the plural and vice versa; (c) the word “including” shall mean “including, without limitation”, (d) references to “Sections” and “Exhibits” shall be to sections and exhibits hereof; (e) the words “herein,” “hereof” and “hereunder” shall refer to this PPA as a whole and not to any particular section or subsection hereof; and (f) references to this PPA shall include a reference to all exhibits hereto, as the same may be amended, modified, supplemented or replaced from time to time.

“Budget Non-Appropriation Event” shall have the meaning set forth in Section 7.2.

“City” shall have the meaning set forth in the preamble.

“Commercial Operation Date” shall have the meaning set forth in Section 3.5.
“Completion Notice” shall have the meaning set forth in Section 3.6.2.

“Contractor” shall mean Provider and any third party contractor, subcontractor, or assignee.

“Discount Rate” shall equal to an annual rate of five percent (5%) compounded monthly.

“Energy” shall have the meaning set forth in the preamble.

“Environmental Attributes” means the characteristics of electric power generation of the System that have intrinsic value, separate and apart from the Energy, arising from the perceived environmental benefits of the System or the Energy, including but not limited to all environmental and other attributes that differentiate the System or the Energy from energy generated by fossil-fuel based generation units, fuels or resources, characteristics of the System that may result in the avoidance of environmental impacts on air, soil or water, such as the absence of emission of any oxides of nitrogen, sulfur or carbon or of mercury, or other gas or chemical, soot, particulate matter or other substances attributable to the System or the compliance of laws or regulations involving or administered by the Environmental Protection Agency or successor administrator or any state or federal entity given jurisdiction over a program involving transferability of rights arising from Environmental Attributes and Reporting Rights.

“Environmental Incentives” shall mean all existing and future rights, credits (including tax credits), tax depreciation, rebates, benefits, reductions, offsets, and allowances and entitlements of any kind, howsoever entitled or named (including carbon credits and allowances), whether arising under federal, state or local law, international treaty, trade association membership or the like, arising from the Environmental Attributes of the System or the Energy generated thereby or otherwise from the development or installation of the System or the production, sale, purchase, consumption or use of the Energy generated thereby. Without limiting the forgoing, “Environmental Incentives” includes green tags, renewable energy credits, tradable renewable certificates, portfolio energy credits, the right to apply for (and entitlement to receive) incentives under incentive programs offered by the State and the right to claim federal income tax credits under Sections 45 and/or 48 of the Internal Revenue Code.

“ESPA” shall have the meaning set forth in the Recitals.

“Estimated Annual Production” shall mean the annual estimate of Solar Power with respect to the System for any given year as determined pursuant to this Section and shall be the “Estimated Annual Production” as set forth in Schedule 1 to Exhibit B hereto.

“Expiration Date” shall have the meaning set forth in Section 8.1.

“Fair Market Value” shall have the meaning set forth in Section 8.2.3(ii).

“Final Agreed Sites” means those Sites for which Provider and the City have approved for the location of Systems and have approved permits, interconnection approval and approved final engineering by the parties. Exhibit B will be updated to reflect the Final Agreed Sites.
“Force Majeure Event” shall have the meaning set forth in Section 7.1.

“Governmental Authority” shall mean any federal, state, regional, county, town, city, or municipal government, whether domestic or foreign, or any department, agency, bureau, or other administrative, regulatory or judicial body of any such government.

“Hazardous Materials” shall have the meaning set forth in Section 11.20.

“Host Utility” means ________________________.

“Installation Work” shall mean all work performed by Provider in connection with the furnishing, installation, testing and commissioning of the System.

“kWh” shall have the meaning set forth in Section 4.3.1.

“kWh Rates” shall have the meaning set forth in Section 5.1.

“Meter” shall have the meaning set forth in Section 4.3.1.

“Monthly Period” shall mean the period commencing on the Commercial Operation Date and ending on the last day of the calendar month in which the Commercial Operation Date occurs, and, thereafter, all subsequent one (1)-month periods during the Term.

“Monthly Production” shall mean, for each Monthly Period, the amount of Energy delivered during such Monthly Period.

“O&M Work” shall have the meaning set forth in Section 4.1.1.

“Party” shall mean each of City and Provider.

“Person” shall mean any individual, corporation, partnership, company, joint venture, association, trust, unincorporated organization or Governmental Authority.

“Provider” shall have the meaning set forth in the preamble. For purposes of access rights and other rights necessary for Provider to perform its obligations hereunder, the term “Provider” shall include Provider’s authorized agents, contractors and subcontractors.

“Provider Default” shall have the meaning set forth in Section 9.

“PUC” shall mean the Public Utilities Commission.

“Rejection Notice” shall have the meaning set forth in Section 3.6.2.

“Reporting Rights” means the right of Provider to report to any federal, state, or local agency, authority or other party, including without limitation under Section 1605(b) of the Energy Policy Act of 1992 and provisions of the Energy Policy Act of 2005, or under any present or future domestic, international or foreign emissions trading program, that Provider owns the Environmental Attributes and the Environmental Incentives associated with the Energy.
“Scheduled Outage” shall have the meaning set forth in Section 4.5.

“Solar Services” shall mean all services provided to City by Provider hereunder, including the furnishing and installation of the System, O&M Work and the provision of Energy.

“Site” shall have the meaning set forth in the first recital.

“Solar License and Easement Agreement” shall mean the agreement by which the City grants Provider the non-exclusive right to use and occupy the Sites for the purpose of installing, maintaining, operating, and removing the System in respect of the Site entered into by Provider and City as of the date hereof in the form attached as Exhibit G.

“State” shall mean the State of California.

“System Acceptance Testing” shall have the meaning set forth in Section 3.6.1.

“System” shall mean the solar photovoltaic generating system designed and installed pursuant to this PPA at the Site and more fully described in Exhibit B hereto.

“System Test Requirements” shall have the meaning set forth in Section 3.6.1.

“Term” shall have the meaning set forth in Section 8.1.

“Termination Date” shall have the meaning set forth in Section 8.1.

“Termination Value” shall mean the amounts payable by City as an early termination Payment for a particular time period as set forth on Exhibit F.

2. Purchase and Sale of Solar Services. City engages Provider to provide the Solar Services to City at the Site, and Provider agrees to provide the Solar Services to City at the Site, all in accordance with the terms and conditions set forth herein. City shall provide Provider with access to the Sites in accordance with the terms of the Solar License and Easement Agreement. Provider may retain one or more contractors or subcontractors to fulfill its obligations hereunder with the prior written consent of City; provided that Provider shall remain liable for performance hereunder.

2.1 Amendment to Solar License and Easement for Use. City agrees that the Solar License and Easement Agreement shall be modified to identify with specificity such portion of the Premises, as agreed between the Parties, acting reasonably and in good faith, as (i) is necessary to permit Provider to interconnect the System with the Host Utility's distribution system on the Premises so as to permit delivery of electricity produced by the System to the Host Utility's distribution system, (ii) is necessary to permit Power Provider to access, operate and maintain the equipment needed to effect such interconnection, and (iii) will not unreasonably interfere with the use by City of the premises under the circumstances then existing.
3. **Construction, Installation and Testing of System.** With respect to the Site on which the System is to be installed:

3.1 **Detailed Engineering.** Provider shall prepare and submit for approval to City and the local electric utility detailed engineering drawings showing the plan and array configuration for the Site, detailed plans of all structures, electrical systems, interfaces with the grid electricity supply and any necessary facility or utility infrastructure improvements and/or modifications in two phases in accordance with a schedule to be agreed upon with City. All major components must be new and not previously used in any other applications. The array wiring routes and the location of the inverter shall be approved by the local City’s building division. All equipment shall be labeled as required by the National Electrical Code with special “High Voltage” warning labels where applicable.

3.2 **Installation.** Subject to Section 3.3, Provider will cause the System to be designed, engineered, installed and constructed substantially in accordance with the terms of this PPA and the Solar License and Easement Agreement and in compliance with local utility and Public Utility Commission standards. City shall have the right to review and approve, such approval not to be unreasonably withheld or delayed, all construction plans, including engineering evaluations of the impact of the System on (i) the structural integrity and strength of the locations where the System is installed on or near City’s buildings, and (ii) the local electric utility. Provider shall organize the procurement of all materials and equipment for the Installation Work and maintain the same at the Site. Subject to the terms of the Solar License and Easement Agreement, Provider shall perform Installation Work at the Site on a schedule approved by City in accordance with Exhibit I and in a manner that minimizes inconvenience to and interference with City’s and City’s invitees’ use of the Site to the extent commercially practical. A licensed structural engineer retained by Provider shall ensure that the System installation and means of attachment is sufficient to satisfy, as applicable, the wind design requirements as required by the local City building code. Provider shall be responsible for all roof penetrations and to repair any leakage occurring from System installation.

3.3 **Conditions Precedent to Commencement of Construction and Installation.** Commencement by the Provider of construction and installation activities with respect to the Site shall be subject to the satisfaction of the following conditions precedent (in addition to the condition set forth in Section 3.4):

3.3.1 Provider shall have closed full financing for the Solar Services performed at the Site or, to the extent required pursuant to the applicable financing documentation, Provider shall have reached agreement with a third party financing institution, pursuant to which Provider may assign some or all of its rights hereunder to such third party (or its designated corporate affiliate) under an assignment agreement between Provider and the financing institution to be negotiated prior to consummation of the financing for the Solar Services;

3.3.2 City and the local electric utility shall have approved Provider’s detailed engineering drawings pursuant to Section 3.1, and the local utility shall have issued any applicable permits, licenses or approvals;
3.3.3 Provider shall have entered into the applicable contract(s) for construction and installation of the System, subject to the terms of the applicable financing, if any; and

3.3.4 Prior to such commencement, Provider shall have applied for and received a building permit from the local City in which the Site is located. After application submission, the Provider shall perform tasks necessary for building permit processing, pay required building permit fees, pick up the permit for construction, and arrange for any required inspections.

provided, however, if the foregoing conditions precedent are not completed within 360 calendar days from the date of contract execution (or such later date due to an extension caused by a Force Majeure event) either party shall have the option to terminate the PPA without triggering the default provisions of this PPA or any liability under this PPA; provided that the City shall pay the amount owed to Provider as required under Section 18 of the ESPA. Alternatively, in the event that such conditions precedent are not satisfied by such date, the Parties may mutually agree to amend this PPA to revise the Commercial Operation Date and Term of this PPA. The construction shall be carried out and proceed in accordance with the construction schedule approved by the City and Provider which will follow the milestones set forth in Schedule I. This schedule may be reviewed monthly and amended from time to time by mutual written agreement of the Parties.

3.4 Utility Approvals. Provider shall have the primary responsibility for preparing applications and obtaining all permits, licenses and approvals required for the performance of work under this PPA, provided however, that City shall provide reasonable assistance to Provider in obtaining such permits, licenses and approvals. Should the local electric utility fail to approve the interconnection of the System with respect to the Site or require equipment in addition to the equipment set forth in Exhibit B and the upgrades as contemplated by Section 3.1 hereof in connection with the Site, Provider may, at Provider’s option, terminate this PPA with respect to the Site immediately subsequent to notification from the local electric utility. The Parties shall not be obligated to go forward with installation of the System at the Site if the applicable utility approvals are conditioned upon material upgrades to the existing electrical infrastructure beyond what is contemplated by Section 3.1 hereof and neither Party elects to provide for such upgrades. The System shall comply with the applicable rules for interconnected distributed generation systems and shall be compliant with the relevant State and local building codes. System interconnection with the local electric utility grid must comply with the interconnection protocols of the local electric utility. Provider will be responsible to have current licenses and all permits to do the work indicated and must provide these licenses and permits before a notice to proceed is issued. Provider shall be responsible for any taxes or fees involved in constructing this project. After Provider installs the approved interconnection City shall be responsible for maintaining utility interconnection eligibility at the Site.

3.5 Energy Delivery. The date on which the deliveries of Energy to a Site commence (the “Commercial Operation Date”) shall be the date on which all of the following shall have occurred: (a) Provider shall have provided to City a Completion Notice pursuant to Section 3.6.2, (absent Provider’s receipt of a timely Rejection Notice or a written letter of acceptance from City pursuant to Section 3.6.2), (b) Provider shall have submitted a certificate of an officer of Provider familiar with the Site after due inquiry stating that all permits and licenses required to be
obtained under Applicable Law in connection with the operation of the System have been obtained and are in full force and effect, (c) certificates of insurance evidencing coverages required by this PPA, (d) Provider shall have submitted to City copies of the as-built construction drawings, O&M Work manuals and equipment and System warranties, and (e) Provider shall have entered into an interconnection agreement with the local electric utility. Time is of the essence on this PPA.

3.6 System Acceptance Testing.

3.6.1 Provider shall conduct testing of the System ("System Acceptance Testing"). Provider shall notify City not less than three (3) days prior to the anticipated date of System Acceptance Testing. City shall have the right, but not the obligation, to be present at and observe the System Acceptance Testing. Required commissioning and acceptance testing ("System Test Requirements") shall include:

(a) System is capable of generating electric energy for four (4) continuous hours, using instruments and meters installed for such purposes; and

(b) Repeating the generating capability of the System for a second four (4) hour period the following day; or

(c) Such other commissioning or testing procedures as, at Provider’s determination, will provide information equivalent to that produced by the commissioning or testing procedures set forth in Section 3.6.1(a) and Section 3.6.1(b).

3.6.2 If the results of the System Acceptance Testing indicate that the System is capable of generating electricity for commercial use by City as designed and the System has been approved for interconnected operation by the local electric utility, then Provider shall send a written notice to that effect to City (a "Completion Notice") accompanied by a copy of the results of the System Acceptance Testing. If the System Acceptance Testing indicates that the System fails to meet the System Test Requirements and City provides Provider with a detailed notice of such failure (a "Rejection Notice") within five (5) business days of City’s receipt of the Completion Notice and System Acceptance Testing data, then Provider shall promptly remedy at Provider’s cost the relevant specified failure and conduct new System Acceptance Testing until the System Acceptance Testing indicates that the System meets the System Test Requirements. In each such case, Provider shall send a new Completion Notice to City with a copy of the results of the new System Acceptance Testing as provided above and the foregoing procedures shall be repeated until the System functions as designed. At such time, City shall issue to Provider a written letter of acceptance upon receipt of the Completion Notice.

4. Operation and Maintenance of System.

4.1 O&M Work; Phone/Data Line; Internet Connection.

4.1.1 O&M Work. Provider, at its sole cost and expense, shall provide all spare parts, System operation, repair, monitoring and maintenance services and any
initial training required for City staff for Provider-installed equipment for the Term of this PPA, including the monitoring and maintenance of metering equipment determining the quantity of electricity produced by the System and reporting such operating information on a monthly basis to City (collectively, the “O&M Work”). Although the System will be owned or leased by Provider and operated and maintained by or for Provider, Provider shall provide an electronic copy of Site-specific operation, maintenance, and parts manuals for the photovoltaic system. Provider shall provide a manual specifically describing scheduled maintenance requirements, trouble-shooting, and safety precautions specific to the supplied equipment, operations in emergency conditions and any other pertinent information for City personnel. Provider shall also provide an electronic set of as-built drawings. These requirements shall be delivered prior to acceptance of the System. The City acknowledges that Provider’s provision of the documents and information detailed in this Section 4.1.1 in no way authorizes City or any of its agents to operate, maintain, or in any way interfere with the System in the absence of Provider’s prior consent or an emergency which threatens property damage and/or bodily injury. Provider shall perform the O&M Work to ensure that the System is capable of delivering Energy in accordance with the specifications set forth in Exhibit B.

4.1.2 Phone/Data Line. City shall properly maintain and pay for the necessary phone, computer, or other communication lines to the extent necessary to permit Provider to record the electrical output of the System for the entire Term.

4.1.3 Internet Connection. City will allow Provider to connect the System monitoring equipment to the necessary intranet and/or internet networks so that it is possible for Provider to remotely monitor the production by the System. The monitoring system shall also allow City to monitor, analyze and display historical and live solar electricity generation data for the Sites. Provider shall make the monitoring system available to allow City to share photovoltaic generation information and statistics with the public. Provider will, to the extent possible, provide an interconnection point to the local grid, ability to connect an irradiance sensor from the array to the data logger; a 120 VAC standard outlet for 5V plug-in transformer; and an Ethernet connection. Provider shall ensure that its interconnection does not interfere with or impair City’s networks.

4.2 Malfunctions and Emergencies.

4.2.1 Notice. Each of City and Provider shall notify the other within twenty-four (24) hours following the discovery by it of (a) any material malfunction in the operation of the System or (b) an interruption in the supply of Solar Services. Provider and City shall each designate personnel and establish procedures such that each Party may provide notice of such conditions requiring Provider’s repair or alteration at all times, twenty-four (24) hours per day, including weekends and holidays. Provider and City each shall notify the other Party immediately upon the discovery of an emergency condition in a System.

4.2.2 Repairs. Provider shall commence repairs to any malfunction in the System and restore the supply of Energy as soon as reasonably possible after notice or upon its own discovery of any of the conditions specified in Section 4.2.1 during normal
business hours and, subject to Section 2, take steps to mobilize personnel to commence repairs after notice or discovery of a condition requiring repair or other corrective action. If an emergency condition exists, Provider shall promptly dispatch the appropriate personnel upon becoming aware thereof to perform the necessary repairs or corrective action in an expeditious and safe manner.

4.3 Metering.

4.3.1 Maintenance and Testing. Provider shall install and maintain a utility-grade kilowatt-hour (“kWh”) meter (“Meter”) on the Site for the measurement of Energy provided to City at the Site, which shall measure the kWh output of the System on a continuous basis. Upon City’s written request, Provider shall furnish a copy of all technical specifications and accuracy calibrations for each Meter, as well as all metering data and energy production calculations. Provider shall have the Meter tested once during the System Acceptance Testing period and then every three (3) years thereafter at Provider’s expense by a certified, independent, third party approved by City. City shall be allowed to observe the Meter test, and Provider shall provide notice of the testing to City at least ten (10) business days prior to the test date. Provider shall provide signed copies of the results of the Meter test to City. In addition to the initial and triennial tests, Provider shall test the Meter at any reasonable time upon the request of City. City shall reimburse Provider for the cost of the additional tests requested by City, unless such testing demonstrates that the Meter was operating outside of industry standard tolerance allowances or outside of standards defined by the PUC for meter calibration and operation.

4.3.2 City Audits and Inspections. Once per calendar year, City shall have the right to audit all such Meter data upon reasonable notice, and any such audit shall be at City’s sole cost. City shall have the right of access to all meters at reasonable times for the purpose of verifying readings and calibrations.

4.3.3 Adjustments. If testing of a Meter pursuant to Section 4.3.1 indicates that such Meter is in error by more than two percent (2%), then Provider shall promptly repair or replace such Meter. Provider shall make a corresponding adjustment to the records of the amount of Energy based on such test results for (a) the actual period of time when such error caused inaccurate meter recordings, if such period can be determined to the mutual satisfaction of the Parties, or (b) if such period cannot be so determined, then a period equal to one-half ($1/2$) of the period from the later of (i) the date of the last previous test confirming accurate metering and (ii) the date the Meter was placed into service; provided, however, that such period shall in no case exceed two (2) years. The resulting adjustments shall also be used to calculate an adjustment to payments for energy purchased pursuant to Section 6.1. Such adjustments shall be applied as a debit or credit to the next Monthly Period after the adjustment has been determined.

4.4 Title to System. Provider, or Provider’s permitted assigns, shall at all time retain title to and be the legal and beneficial owner of the System, including the right to any tax credits available under federal or state law, and the System shall remain the property of Provider or Provider’s assigns, unless and until City exercises its purchase option pursuant to Section 8.2.2.
Provider shall not transfer title to another entity without prior written notification to City, except as provided in Section 11.3.

4.5 Outages. For all outages requested by City ("Scheduled Outages") or unscheduled outages not due to Provider, and other than a Force Majeure Event, Provider shall reasonably estimate the amount of Energy that would have been delivered to City during each hour of such Scheduled Outage or unscheduled outage and shall invoice City for such amount, which shall be payable in accordance with Section 6.

4.6 Compliance with Utility Specifications. Provider shall ensure that all Energy generated by the System conforms to applicable utility specifications for energy being generated and delivered to the Site’s electric distribution system, which shall include the installation of proper power conditioning and safety equipment, submittal of necessary specifications, coordination of utility testing and verification, and all related costs. The Provider agrees to furnish, install, operate and maintain its interconnection as required by the interconnection policies and procedures of the appropriate utility, attached hereto as Exhibit D and agrees to meet the requirements of such policies and procedures.

4.7 Roof Maintenance and Replacement.

4.7.1 Following the Commercial Operation Date, City shall be permitted to perform scheduled roof maintenance, elective roof maintenance or replacements of all or substantial portions of a roof on a Site, if applicable, (each a "Repair Event"); provided, however, that: (i) City shall provide Provider at least thirty (30) days’ prior written notice of each Repair Event, such notice to (i) set forth in reasonable detail the scope of the maintenance or replacement as well as the first date on which such maintenance or replacement will begin, which shall be no later than fifty (50) days after the date of such notice (the "Repair Start Date") and (ii) have attached thereto a detailed schedule setting forth the timing, nature, scope and extent of each stage of such maintenance or replacement;(ii) each Repair Event shall be completed within thirty (30) days after the Repair Start Date; (iii) the Repair Event shall not cause the displacement of more than ten percent (10%) of the System size as measured in kilowatt hours; and (iv) City shall be permitted no more than one (1) Roof Event during any twelve (12)-month period during the Term per Site, except in the case of an emergency requiring repairs to protect the integrity of the roof or to protect the contents of the structure. City shall be responsible for the payment of all costs associated with any Repair Event, including the amount of: (i) estimated Energy that would have been delivered to City for the entire duration of the roof maintenance or replacement as provided in Section 4.5, and (ii) Power Provider's costs incurred to displace and replace the System, as billed by Provider and paid by City in accordance with the provisions of Section 6.

4.7.2 Notwithstanding anything in this section to the contrary, in the event of an emergency situation (e.g. active roof leak), City shall perform the roof maintenance and/or repair and shall notify Provider of such event within twenty-four hours. City shall complete such maintenance or replacement as expeditiously as possible. City shall be responsible for the payment of all costs associated with any roof maintenance or replacement pursuant to this Section 4.7.2, including the amount of: (i) estimated Energy
that would have been delivered to City for the entire duration of the roof maintenance or replacement as provided in Section 4.5, and (ii) Power Provider's costs incurred to displace and replace the System, as billed by Provider and paid by City in accordance with the provisions of Section 6.

4.7.3 Notwithstanding any provision in this PPA to the contrary, City and its contractors shall retain the unrestricted right upon reasonable notice to Provider to access, maintain, service and repair any portion of the roof or other parts of the Site that do not implicate or involve the System as necessary to keep the Site in proper repair and compliance with all applicable laws, rules and regulations relating to the operation of the System, and City shall inform Provider of all such work that needs to be done, in order to avoid damage or disruption to the System.

5. **Purchase of Solar Services.** With respect to the System installed on the Site pursuant to this PPA:

5.1 **Purchase Requirement.** City shall be responsible for purchasing 100% of the electricity generated by the System. Electrical production shall be metered and verifiable by City’s personnel. The System shall be designed so the Site will use System-produced power first and utility power second. If the photovoltaic power system is unable to function, the System shall be designed to allow utility power to make up for the lost power production with no interruption in service to City. Power quality shall be better than or equal to utility-provided power. While the Solar Services are calculated and billed on a per kWh basis (the “kWh Rates”) as set forth in Exhibit C, they represent a package of services as described in the definition herein. The payment for Solar Services is calculated to include all of the defined services in the kWh rate. Neither City nor Provider may claim that by this PPA, Provider is an electric utility subject to regulation as an electric utility or subject to regulated electricity rates. Provider shall not claim to be providing electric utility services to City.

5.2 **Purchase Rate.** The fee structure and method of compensation shall be as shown in Exhibit C.

5.3 **Demand Savings.** City retains 100% of any peak demand savings that are the result of the System.

5.3.1 City’s purchase of Solar Services does not include Environmental Attributes, Environmental Incentives or Reporting Rights, all of which shall be retained and owned by Provider. At Provider’s request and expense, City shall execute all such documents and instruments reasonably necessary or desirable to effect or evidence Provider’s right, title and interest in and to the Environmental Attributes. If the standards used to qualify the Environmental Attributes to which Provider is entitled under this PPA are changed or modified, City shall, at Provider’s request and expense, use all reasonable efforts to cause the Environmental Attributes to comply with new standards as changed or modified.
5.3.2 To avoid any conflicts with fair trade rules regarding claims of solar or renewable energy use, City, if engaged in commerce or trade, shall submit to Provider for approval any press releases regarding City’s use of solar or renewable energy and shall not submit for publication any such releases without the written approval of Provider, which approval shall not be unreasonably withheld or delayed. City and Provider may by mutual written agreement set forth specific statements that may be used by City in any press releases that addresses City’s use of solar or renewable energy.

5.3.3 Provider will at all times retain all tax credits and depreciation associated with the System.

6. Billing and Payment. Billing and payment for the Solar Services sold and purchased under this PPA and any other amounts due and payable hereunder shall be as follows:

6.1 Payments. City shall pay to Provider for each Monthly Period during the Term within fifteen (15) days after receipt of any invoice a payment for the Energy delivered by the System during each such Monthly Period equal to the product of (a) Monthly Production for the System for the relevant month multiplied by (b) the relevant kWh Rate for Energy relating to the System, which payment shall be made by check or by wire transfer of immediately available funds to Provider or to such assignee as Provider shall designate in writing to City.

6.2 Original Invoices Required. All payments under this PPA shall be made upon submission by Provider of original invoices specifying the amount due.

6.3 Federal Funds. This PPA is not payable in whole or in part from federal funds.

7. Force Majeure Events.

7.1 Definition of Force Majeure Event. For the PPA, an act or event is a “Force Majeure Event” if such act or event is beyond the reasonable control, and not the result of the fault or negligence, of the affected Party and such Party had been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums). Subject to the foregoing conditions, “Force Majeure Event” shall include the following acts or events: (i) natural phenomena, such as storms, hurricanes, floods, lightning and earthquakes; (ii) explosions or fires arising from lightning or other causes unrelated to the acts or omissions of the Party seeking to be excused from performance; (iii) acts of war or public disorders, civil disturbances, riots, insurrection, sabotage, epidemic, terrorist acts, or rebellion; (iv) strikes or labor disputes; (v) action by an unrelated Governmental Authority; (vi) the impossibility for one of the Parties, despite its reasonable efforts, to obtain, in a timely manner, any approval by a Governmental Authority or utility necessary to enable the affected Party to fulfill its obligations in accordance with this PPA, provided that the delay or non-obtaining of such approval by a Governmental Authority or utility is not attributable to the Party in question and that such Party has exercised its reasonable efforts to obtain such Permit, interconnection agreement or approval; (vii) unusual transportation delays, general labor disputes impacting the ECM Work, acts of governmental agencies, or unavoidable accidents or circumstances (viii) Hazardous Materials or differing site conditions. and (ix) a Budget Non-Appropriation Event as described in Section 7.2.
7.2 **Appropriation of Funds.** City agrees that it shall seek appropriation for utility services and all payments under this Agreement during the term of this PPA. The City acknowledges and will provide proof to Provider prior to the first payment under this PPA that they have established an account that includes appropriated funds for the required payments under this PPA for such year. City will notify Provider no later than thirty days following the beginning of the fiscal year if a Budget Non-Appropriation Event has occurred. A non-appropriation event shall occur when the City budget for any year covered by this PPA does not include appropriated funds for the procurement of any utility services for the City (a “Budget Non-Appropriation Event”). A Budget Non-Appropriation Event shall be a Force Majeure under this PPA. Upon the occurrence of a Budget Non-Appropriation Event, the obligation of City to pay for the electricity generated by the System in accordance with Section 5.1 shall be suspended for the Force Majeure period.

7.3 **Procedure for Claiming Force Majeure.** Any party claiming Force Majeure shall advise the other party as soon as possible of the occurrence of the Force Majeure Event and shall provide the other party with the basis of the claim, in writing, within ten (10) days of the occurrence of the Force Majeure Event. Parties shall make reasonable efforts to avoid the adverse impacts of a Force Majeure Event and to resolve the event or occurrence once it has occurred in order to resume performance.

7.4 **Termination in Consequence of Force Majeure Event.** If a Force Majeure Event, other than a Budget Non-Appropriation Event, shall have occurred that has affected a Party’s performance of its obligations hereunder, the affected obligations of such Party shall be suspended for the Force Majeure period. If City experiences a Budget Non-Appropriation Event and the same shall continue for a period of three hundred sixty (360) days, then Provider shall be entitled to terminate this PPA upon thirty (30) days’ prior notice to City. By mutual agreement of the Parties, the System damaged or destroyed by a Force Majeure Event may be replaced by Provider within the time frames set forth above and subsequent to replacement and upon commencement of operation of the replacement System all terms and conditions of this PPA will remain in effect. Notwithstanding any other provision hereunder, following the conclusion or resolution of any Force Majeure Event, the Parties agree that to the extent possible, the Term of this PPA shall be extended as necessary to preserve the rights, obligations and economic benefits of Provider and City hereunder. If during a Budget Non-Appropriation Event, City continues to receive Solar Services from Provider, then upon the conclusion or resolution of such event, City shall pay for such Solar Services.

8. **Term; City Options; Termination.**

8.1 **Term.** The term of this PPA shall commence on the Commercial Operation Date and shall expire on the date (the “Expiration Date”) that is ________________ (__) years after the Commercial Operation Date (the “Term”), unless and until terminated earlier with respect to the Site pursuant to Sections 3.3, 3.4, 3.5, 8.2.1(iii), 8.2.2, 8.3, 9.1.2 or 9.2.2 or terminated under Section 9.6 (the date of any such termination, the “Termination Date”) of the Power Purchase Agreement or unless extended pursuant to Section 7.4.

8.2 **City Options Upon Cessation of Business Operations at Site, Prior to Expiration Date (Purchase Option) and Upon Expiration of Term.**
8.2.1 **Upon Cessation of Business Operations at Site.** If, prior to the end of the Term, City ceases to conduct business operations at the Site, vacates the Site, or is prevented from allowing operation of the System on the Site:

(i) **Substitute Site.** City shall have the right to provide Provider with a mutually agreeable substitute Site located within the same utility district to relocate the System, which agreement shall not be unreasonably withheld, or, if not available, in a location with similar solar irradiance and utility rates. If such alternate Site is available and is acceptable to Provider, the definition of Site set forth herein shall thereafter be deemed amended to delete the prior Site and add the new Site, but otherwise this PPA shall remain in full force in accordance with its terms and shall not be deemed otherwise amended. City shall, to the extent permitted by Applicable Law, pay the reasonable costs arising in connection with the relocation of the System, including removal costs, installation costs, any applicable interconnection fees, other costs of deployment at the substitute Site, and lost revenue to Provider based on delivered Energy averaged over the prior twelve months.

(ii) **“Keep and Pay” Option.** City may, to the extent permitted by Applicable Law, elect to pay or guarantee the payment of the remaining monthly amounts due under this PPA to Provider, and cause the System to be kept in operation at the Site, in each case through the remainder of the Term.

(iii) **Termination of Site and Payment of Termination Value.** If (a) a substitute Site cannot be located in accordance with Section 8.2.1(i) and (b) City elects not to avail itself of the provisions of Section 8.2.1(ii), then City shall so notify Provider, Provider shall remove the System and City shall pay to Provider the then-applicable Termination Value in respect of the System as liquidated damages, whereupon this PPA shall terminate. The Parties agree that actual damages to Provider if this PPA is terminated as contemplated in this Section 8.2 would be difficult to ascertain, and the applicable Termination Value is a reasonable approximation of the damages suffered by Provider as a result of early termination of this PPA.

8.2.2 **Prior to Expiration Date (Purchase Option).** Following the first anniversary of the date that the last solar PV installation for an intended Site attains a Commercial Operation Date, provided no City Default shall have occurred and be continuing, City may elect to purchase the System. The City and Provider may enter into a separate operations and maintenance agreement following the purchase if the City desires to retain Provider’s O&M services with respect to the System. If City elects to so purchase the System, the

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3 City will also assume the payment obligations under the CEC Loan, if applicable.
purchase price shall be the greater of the then Fair Market Value (calculated in accordance with the definition of Fair Market Value set forth in Section 8.2.3(ii)) or the Termination Value⁴. Not less than one-hundred-and-eighty (180) days prior to the exercise of the purchase option, City shall provide written notice to Provider of City’s exercise thereof. Upon the exercise of the foregoing purchase option plus receipt of the Fair Market Value or Termination Value, as applicable, and all other amounts then owing by City to Provider, the Parties will execute all documents necessary to cause title to the System to pass to City as-is, where-is; provided, however, that Provider shall remove any encumbrances placed on the System by Provider.

8.2.3 Upon Expiration of Term.

(i) Extension of Term. Upon prior written notice to Provider at least one-hundred eighty (180) days prior to the Expiration Date, City shall have the option to renew the Term of this PPA for ____ (___) additional five (5)-year period(s) under terms and conditions acceptable to the Parties.

(ii) Removal or Purchase of System. Upon the Expiration Date, if City has not elected to renew the Term of this PPA in accordance with Section 8.2.3(i), City shall have the option to purchase the System by paying Provider the Fair Market Value thereof no later than one-hundred and eighty (180) days prior to the Expiration Date. The “Fair Market Value” of the System shall be the value determined by the mutual agreement of City and Provider within ten (10) days after receipt by Provider of City’s notice of its election to purchase the System. If City and Provider cannot mutually agree to a Fair Market Value, then the Parties shall select a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry to value such equipment. Such appraiser shall act reasonably and in good faith to determine the Fair Market Value and shall set forth such determination in a written opinion delivered to the Parties. The valuation made by the appraiser shall be binding on the Parties in the absence of fraud or manifest error. The costs of the appraisal shall be borne by the Parties equally. To the extent transferable, the remaining period, if any, on all warranties for the System will be transferred from Provider to City at City’s sole expense. If the Parties are unable to agree on the selection of an appraiser, such appraiser shall be jointly selected by the appraiser firm proposed by City and the appraiser firm proposed by the Provider. Upon receipt by Provider of payment of the Fair Market Value, title to the System as well as Environmental Attributes and Incentives shall transfer to City as-is, where-is. Provider shall

⁴ City shall assume all payment obligations under the CEC Loan, if applicable.
remove any encumbrances placed on the System by Provider. If
City does not exercise such option to purchase the System, at a cost
that is borne by the Parties equally, Provider shall remove all of its
tangible property comprising the System from the Site by a mutually
convenient date but in no case later than one hundred eighty (180)
days after the Expiration Date. City’s Site shall be returned to a
condition that includes any and all roofing improvements, except for
ordinary wear and tear, and Provider shall leave the Site in neat and
clean order.

8.3 City Termination.

8.3.1 City Termination for Failure to Achieve Commercial Operations.
City shall have the right to terminate this PPA, in whole or in part, at any time on ten (10)
days written notice to Provider, without further liability to City, if Provider fails to achieve
a Commercial Operation Date for any of the Final Agreed Sites as contemplated by this
PPA by December 31, 2021, as may be extended by an Force Majeure Event.

Such notice of termination shall inform the Provider that upon the expiration of the notice
period, Provider is to stop or terminate all or a specified portion of the work or performance
under this PPA. After receipt of a notice of termination, and except as otherwise directed
by the City, the Provider shall stop work under this PPA on the date and to the extent
specified in the notice of termination. In the event that City elects to terminate this PPA
pursuant to this Section 8.3.1, City shall pay or reimburse Provider on the termination date,
an amount to reimburse Provider for all time and material expenses actually incurred by
Provider subsequent to execution of this PPA, unless City purchases the System pursuant
to Section 8.3.2.

8.3.2 City Termination. If the City terminates this PPA under Section 9.1,
City shall be required to pay to Provider the then-applicable Termination Value as
liquidated damages. The Parties agree that actual damages to Provider in the event the
Termination Date occurs pursuant to this Section 8.3.2 would be difficult to ascertain, and
the applicable Termination Value is a reasonable approximation of the damages suffered
by Provider as a result of early termination of this PPA. Following such payment, Provider
shall transfer the ownership of the System to the City free and clear of all liens.


9.1 Provider Defaults and City Remedies.

9.1.1 Provider Defaults. The following events shall constitute events of
defaults with respect to Provider (each, a “Provider Default”):

5 City will also assume the payment obligations under the CEC Loan.
(a) Provider shall (A) apply for or consent to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or of all or a substantial part of its property; (B) admit in writing its inability, or be generally unable, to pay its debts as such debts become due; (C) make a general assignment for the benefit of its creditors; (D) commence a voluntary case under any bankruptcy law; (E) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; (F) fail to controvert in a timely and appropriate manner, or acquiesce in writing to, any petition filed against Provider in an involuntary case under any bankruptcy law; or (G) take any corporate or other action for the purpose of effecting any of the foregoing;

(b) A proceeding or case shall be commenced without the application or consent of Provider in any court of competent jurisdiction seeking (A) its liquidation, reorganization, dissolution or winding-up or the composition or readjustment of debts or, (B) the appointment of a trustee, receiver, custodian, or liquidator of Provider under any bankruptcy law, and such proceeding or case shall continue undefended, or any order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect for a period of one hundred eighty (180) days;

(c) Provider fails to pay City any undisputed amount owed under this PPA within thirty (30) days from receipt of notice from City of such past due amount; or

(d) Provider breaches any material term of this PPA and (A) if such breach can be cured within ninety (90) days after City’s notice of such breach and Provider fails to so cure, or (B) Provider fails to commence and pursue said cure within such ninety (90) day period if a longer cure period is needed; provided that the Provider provides the City with notice of the expected time it will take to cure the breach and such timeframe is not greater than three hundred sixty (360) days.

9.1.2 City’s Remedies. If the City desires to seek termination of this Agreement following a Provider Default the City shall provide written notice to Provider setting forth the details of the Provider Default, and Provider shall thereafter have the right, but not the obligation for ninety (90) days following receipt of such notice to cure the event of failure, or, if such cure cannot reasonably be effected within ninety (90) days, such cure is undertaken within such time period and is thereafter continued diligently until completion. If, following such cure period, Provider fails to cure the same, the City may thereafter terminate this PPA upon approval from the City Council by majority vote approval. The City shall notify Provider by written notice of such City Council termination and termination of this Agreement will take effect on the payment in full of the Termination Value as set forth in Section 8.3.2.
(a) If a Provider Default described in Section 9.1.1 has occurred and is continuing, City may exercise any other remedy it may have at law or equity or under this PPA.

(b) City hereby expressly agrees that each of its remedies under this Section 9.1.2 of the PPA are subject to Financing Institution’s cure rights under Section 11.3.

9.1.3 Actions to Prevent Injury. If any Provider Default creates an imminent risk of damage or injury to any Person or the City’s property, then, in addition to any other right or remedy that City may have, City may (but shall not be obligated to) take such action as City deems appropriate to prevent such damage or injury; including disconnecting and removing all or a portion of the System.

9.2 City Defaults and Provider’s Remedies.

9.2.1 City Default. The following events shall constitute events of defaults with respect to City (each, a “City Default”):

(a) City shall (A) apply for or consent to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or of all or a substantial part of its property; (B) admit in writing its inability, or be generally unable, to pay its debts as such debts become due; (C) make a general assignment for the benefit of its creditors; (D) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; (E) fail to controvert in a timely and appropriate manner, or acquiesce in writing to, any petition filed against City in an involuntary case under any bankruptcy law; or (F) take any corporate or other action for the purpose of effecting any of the foregoing;

(b) A proceeding or case shall be commenced without the application or consent of City in any court of competent jurisdiction seeking (A) its liquidation, reorganization, dissolution or winding-up or the composition or readjustment of debts or (B) the appointment of a trustee, receiver, custodian or liquidator of City under any bankruptcy law, and such proceeding or case shall continue undefended, or any order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect for a period of one hundred eighty (180) or more days;

(c) City breaches any material term of this PPA if (A) such breach can be cured within thirty (30) days after Provider’s notice of such breach and City fails to so cure, or (B) City fails to commence and pursue said cure within such thirty (30) day period if a longer cure period is needed; provided that the City provides the Provider with notice of the expected time it will take to cure the breach and such timeframe is not greater than 180 days;
(d) City fails to pay Provider any amount due Provider under this PPA within thirty (30) days from receipt of notice from Provider of such past due amount;

(e) City refuses to sign documents needed to obtain any federal, state or utility incentives or refuses to sign or intentionally breaches any term of the interconnection agreement required by the Utility for interconnection of the System; or

(f) City gives notice that a Budget Non-Appropriation Event has occurred and the Event continues for three hundred sixty (360) days.

9.2.2 Provider’s Remedies.

(a) If a City Default described in Section 9.2.1(a) or 9.2.1(b) has occurred, Provider may terminate this PPA upon fifteen (15) days’ prior written notice to City.

(b) If a City Default described in Section 9.2.1(c), 9.2.1(d) or 9.2.1(e) has occurred and is continuing, Provider may terminate this PPA immediately upon the expiration of the respective grace periods set forth in such provisions;

(c) If a City Default described in Section 9.2.1 has occurred and continues beyond the expiration of grace periods hereunder, in addition to any other remedy hereunder, (A) Provider may remove the System from the Site, (B) City shall pay the Termination Value due as of the date of the City Default plus any interest that may accrue on the unpaid Termination Value during any force majeure or grace period, and (C) Provider may exercise any other remedy it may have at law or equity or under this PPA.

9.2.3 Actions to Prevent Injury. If any City Default creates an imminent risk of damage or injury to any Person or any Person’s property, then in any such case, in addition to any other right or remedy that Provider may have, Provider may (but shall not be obligated to) take such action as Provider deems appropriate which may include disconnecting and removing all or a portion of the System, or suspending the supply of Solar Power to City.

9.3 No Consequential Damages. Nothing in this PPA is intended to cause either Party to be, and neither Party shall be, liable to the other Party for any lost business, lost profits or revenues from others or other special or consequential damages, all claims for which are hereby irrevocably waived by City and Provider. Notwithstanding the foregoing, none of the payments for Energy

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6 City will also assume the payment obligations under the CEC Loan, if applicable.
previously provided or any other amount previously due from one Party to the other Party under the terms of this PPA upon the termination of this PPA shall be deemed consequential damages.

9.4 Effect of Termination of PPA. Upon the Termination Date or the Expiration Date, as applicable, any amounts then owing by a Party to the other Party shall become immediately due and payable and the then future obligations of City and Provider under this PPA shall be terminated (other than the indemnity and responsibility obligations set forth in Section 10). Such termination shall not relieve either Party from obligations accrued prior to the effective date of termination or expiration.

9.5 Limitation on Remedies. For purposes of this PPA, Provider hereby accepts the area of the Site in an “As-Is” condition and acknowledges that City has not made any statements or representations or warranties regarding the area of the Site, and Provider is not relying upon any statement or representation or warranty of City, the State or any third party regarding the area of the Site as to the fitness of the area of the Site for any particular use of Provider or any other matter. City hereby expressly disclaims and Provider hereby waives all implied warranties, including, without limitation, any warranty of merchantability or warranty of fitness for a particular use or purpose. For breach of any provision for which an express remedy or measure of damages is provided, such express remedy or measure of damages shall be the sole and exclusive remedy, the obligator’s liability shall be limited as set forth in such provision and all other remedies or damages at law or in equity are waived. If no remedy or measure of damages is expressly provided in the PPA or in a transaction, the obligator’s liability shall be limited to direct actual damages only; such direct actual damages shall be the sole and exclusive remedy; and all other remedies or damages at law or in equity are waived. Unless expressly provided in the PPA, neither party shall be liable for consequential, incidental, punitive, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or in contract or otherwise.

9.6 Termination Due to System Non-Performance. Following the Commercial Operation Date, if Provider fails during any calendar year to deliver to the point of interconnection an amount of production from the System that is equal to at least Threshold Production, then City may, as its sole and exclusive remedy for such failure, terminate this PPA by giving ninety(90) days' prior written notice of such termination to Provider, which notice shall include a reasonably detailed statement of the calculations relevant to such termination ("Threshold Production Notice"). For purposes of this PPA, the term "Threshold Production" means a number of kilowatt hours equal to seventy-five percent (75%) of the System's Estimated Annual Production as set forth in Exhibit B to this PPA (the "Threshold Production"), provided that (a) the number of kilowatt hours comprising Threshold Production shall be equitably reduced for any calendar year to give effect to non-operation of the System for the duration of any Force Majeure Event or for any period during which City is in default hereunder or during which City otherwise cannot accept delivery of production; (b) the number of kilowatt hours comprising Threshold Production shall be equitably decreased to give effect to unusual and adverse climate variations due to a Force Majeure Event; and (c) the number of kilowatt hours comprising Threshold Production shall be reduced annually on each anniversary of the Commercial Operation Date in proportion to the greater of: (i) the annual decrease of the amount of electric energy that is subject to the warranty provided by manufacturers of solar modules included in the System, or(ii) the annual decrease of the System's Estimated Annual Production of one percent (1%) per year as set forth in Exhibit B.
Notwithstanding the foregoing, City shall have no right to terminate the PPA pursuant to this Section 9.6 if; during the ninety (90) day period following Power Provider's receipt of the Threshold Production Notice, Power Provider either (i) takes such corrective actions, including the repair or replacement of the System, as may be necessary to cause the System to be able to deliver an amount of production from the System equal to at least Threshold Production or (ii) elects, in its sole discretion and in writing to grant City a credit against future bills in the amount of the Threshold Production Payment (as hereinafter defined). If Provider takes corrective actions to cause the System to be able to deliver an amount of production from the System equal to at least the Threshold Production as set forth in clause(i), whether during the ninety (90) day period following Provider's receipt of the Threshold Production Notice or during the period for which it assumes the obligation to pay the Threshold Production Payment, then all prior Threshold Production Notices shall be deemed void and of no further force or effect and this PPA shall continue in full force and effect. As used in this PPA, the term "Threshold Production Payment", with respect to any month during the Term following receipt by Power Provider of the Threshold Production Notice, means an amount equal to a multiplied by b, where:

\[ a = \text{the amount, if any, by which the average price per kilowatt hour paid by City to the utility and/or any third-party supplier with respect to electric energy supply and delivery during such month exceeds the applicable kWh Rates during such month; provided that for purposes of this calculation, Price Per Kilowatt Hour does not include any amount paid to the utility and/or any third-party supplier that is not determined by reference to the number of kilowatt hours consumed during the relevant period; and} \]

\[ b = \text{the number of kilowatt hours by which } \frac{1}{12}\text{th of Threshold Production exceeds production delivered to the point of interconnection during such month.} \]

City acknowledges and agrees that Provider's failure during any calendar year to deliver to the City an amount of production from the System that is equal to at least Threshold Production does not constitute an Event of Default under, or a breach by Provider of its obligations pursuant to, this PPA, and that City’s sole and exclusive recourse in the event of such failure shall be to terminate the PPA subject to and in accordance with the terms and conditions of this Section 9.6.

10. Indemnification and Defense.

10.1 Provider Indemnity. Provider agrees that it shall indemnify and hold harmless City, its permitted successors and assigns and their respective directors, officers, members, shareholders and employees (collectively, the “City Indemnified Parties”) from and against any and all Losses incurred by the City Indemnified Parties to the extent arising from or out of the following: (a) any claim for or arising out of any injury to or death of any Person or loss or damage to property of any Person to the extent arising out of Provider’s acts or omissions or (b) any infringement of patents or the improper use of other proprietary rights by Provider or its employees or representatives that may occur in connection with the performance of this PPA. Provider shall not, however, be required to reimburse or indemnify any City Indemnified Party for any Loss to the extent such Loss is due to the negligence or willful misconduct of any City Indemnified Party.
10.2 **City Indemnity.** City agrees that it shall indemnify and hold harmless Provider, their permitted successors and assigns and their respective directors, officers, members, shareholders and employees (collectively, the “Provider Indemnified Parties”) from and against any and all Losses incurred by the Provider Indemnified Parties to the extent arising from or out of any claim for or arising out of any injury to or death of any Person or loss or damage to property of any Person to the extent arising out of City’s acts or omissions. City shall not, however, be required to reimburse or indemnify any Provider Indemnified Party for any Loss to the extent such Loss is due to the negligence or willful misconduct of any Provider Indemnified Party.

10.3 **Cost of Litigation.** In case the City shall, without any fault on its part, be made a party to any litigation commenced by or against the Provider in connection with this PPA, the Provider shall pay all costs and expenses incurred by or imposed on the City, including attorney’s fees.

10.4 **Survival of Provisions.** The provisions of this Section 10 shall survive the expiration or termination of this PPA.

11. **Miscellaneous Provisions.**

11.1 **Provider Insurance.** Provider shall maintain, with an insurer admitted and licensed to issue said policies of insurance as required in the ESPA. At the City’s request and at the City’s cost and expense, Provider will take reasonable efforts to obtain a production insurance policy insuring the amount of production available from the System.

Provider shall furnish Host Customer with a certificate of such insurances and all endorsements that shall contain a provision that coverage afforded under such policies will not be canceled or allowed to expire until at least thirty (30) days prior written notice has been given to City. Provider shall name City as an additional insured under its commercial general liability policy. If for any reason Provider changes insurance companies during the Term, Provider shall give City thirty (30) days written notice of the proposed change and thereafter, but prior to the expiration of the policy, obtain full coverage from another such insurance company and provide City with evidence of such coverage prior to the effective date thereof.

11.2 **Notices.** All notices, communications and waivers under this PPA shall be in writing and shall be (a) delivered in person or (b) mailed, postage prepaid, either by registered or certified mail, return receipt requested or (c) sent by reputable overnight express courier, addressed in each case to the addresses set forth below, or to any other address either of the parties to this PPA shall designate in a written notice to the other Party:

If to Provider:

__________________, LLC
5050 Laguna Blvd 112-460
Elk Grove, California 95757
(916) 826-7030

With a copy to:
Go Green Consultants, LLC  
5050 Laguna Blvd 112-460  
Elk Grove, California 95757

If to City:

All notices, communications and waivers under this PPA, if applicable, to any Person who has or will make a loan to Provider or otherwise acquires Provider’s right, interest, or title to the System and this PPA to help finance the System shall be to the name and address specified in a notice from Provider to City. All notices sent pursuant to the terms of this Section 11.2 shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by reputable overnight, express courier, then on the next business day immediately following the day sent, or (iii) if sent by registered or certified mail, then on the earlier of the third (3rd) business day following the day sent or when actually received.

11.3 Authority.

11.3.1 Provider Representations. Provider hereby represents and warrants that:

(i) It is a limited liability company duly organized, validly existing and in good standing under the laws of the state of its formation and has all requisite limited liability company power and authority to enter into this PPA, to perform its obligations hereunder and to consummate the transactions contemplated hereby;

(ii) The execution and delivery of this PPA and the performance of its obligations hereunder have been duly authorized by all necessary limited liability company action;

(iii) This PPA is a legal, valid and binding obligation of Provider enforceable against Provider in accordance with its terms, subject to the qualification, however, that the enforcement of the rights and remedies herein is subject to (i) bankruptcy and other similar laws of general application affecting rights and remedies of creditors and (ii) the application of general principles of equity (regardless of whether considered in a proceeding in equity or at law);

(iv) To the best knowledge of Provider, as of the date of execution hereof, no approval of a Governmental Authority (other than any approvals that have been previously obtained or disclosed in writing to City) is required in connection with the due authorization, execution and delivery of this PPA by
Provider or the performance by Provider of its obligations hereunder which Provider has reason to believe that it will be unable to obtain in due course on or before the date required for Provider to perform such obligations;

(v) As of the date of execution hereof, Provider (a) has taken all required actions, if any, necessary to comply with the Public Utility Holding Company Act of 2005, as amended, (b) is not intending to dedicate its property to public use, (c) is not a “public utility” and (d) is not an electric utility subject to rate regulation by any Governmental Authority;

(vi) Neither the execution and delivery of this PPA by Provider nor compliance by Provider with any of the terms and provisions hereof (i) conflicts with, breaches or contravenes the provisions of the Articles of Organization or any operating agreement of Provider or any contractual obligation of Provider or (ii) results in a condition or event that constitutes (or that, upon notice or lapse of time or both, would constitute) an event of default under any material contractual obligation of Provider.

11.3.2 City Representations. City hereby represents and warrants that:

(i) It is a legally and regularly created, established, organized and existing California municipal corporation, duly existing under the laws of the State of California, and has all requisite power and authority to enter into this PPA, to perform its obligations hereunder and to consummate the transactions contemplated hereby;

(ii) The execution and delivery of this PPA and the performance of its obligations hereunder have been duly authorized by all necessary action;

(iii) This PPA is a legal, valid and binding obligation of City enforceable against City in accordance with its terms, subject to the qualification, however, that the enforcement of the rights and remedies herein is subject to bankruptcy, reorganization, insolvency, moratorium or other laws of equitable principles affecting the enforcement of creditors’ rights;

(iv) No approval by a Governmental Authority (other than any approvals which have been previously obtained or disclosed in writing to Provider) is required in connection with the due authorization, execution and delivery of this PPA by City or
the performance by City of its obligations hereunder which City has reason to believe that it will be unable to obtain in due course;

(v) Neither the execution and delivery of this PPA by City nor compliance by City with any of the terms and provisions of this PPA (i) conflicts with, breaches or contravenes any contractual obligation of City, or (ii) results in a condition or event that constitutes (or that, upon notice or lapse of time or both, would constitute) an event of default under any contractual obligation of City;

(vi) City has not entered into any contracts or agreements with any other person regarding the provision of the services contemplated to be provided by Provider under this PPA;

(vii) City shall provide and take reasonable measures for security of the System; and

(viii) City shall not directly or indirectly cause, create, incur, assume or suffer to exist any liens on or with respect to the System or any interest therein. If City becomes aware of any such lien, it shall immediately notify Provider in writing, shall promptly cause such lien to be discharged and released of record without cost to Provider, and shall indemnify Provider against all costs and expenses (including reasonable attorneys’ fees and court costs at trial and on appeal) incurred in discharging and releasing such lien.

11.4 Provider Assignment. Provider shall not sell, transfer or assign (collectively, an “Assignment”) this PPA or any interest therein, without the prior written consent of City; provided, however, that, without the prior consent of City, Provider may (i) make an Assignment to an Affiliate of Provider in which Provider owns a controlling interest (provided that such Assignment shall not release Provider from its obligations hereunder without the consent of City, (ii) make an Assignment through merger, consolidation or sale of all or substantially all of Provider’s stock or assets, or (iii) sell, transfer, assign or pledge its interest in the System or any monies due under this PPA to a financial institution (“Financial Institution”) (provided that City will not pay to a third party any monies owed hereunder without the advance written direction of Provider), provided that any such assignment is subject to the requirements set forth in this Section 11.4. City’s consent to any other Assignment shall not be unreasonably withheld if City 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 the Solar Services; and (y) has the financial capability to maintain the System and provide the Solar Services in the manner required by this PPA. A direct assignee from Provider of this PPA (that is not a Financial Institution acquiring an interest pursuant to (iii), above) shall assume in writing, in form and content reasonably satisfactory to City, the due performance of all Provider’s obligations under this PPA, including any accrued obligations at the time of the
Assignment and including the obligation to sell the System to the City under this PPA. A copy of such Assignment agreement, fully executed and acknowledged by the assignee, together with a certified copy of a properly executed corporate resolution (if the assignee be a corporation) authorizing such Assignment agreement shall be sent to City not less than ten (10) days before the Contract Date of such Assignment.

11.4.1 City Assignment. City shall not assign its interests in this PPA, nor any part thereof, without Provider’s prior written, which consent shall not be unreasonably withheld.

11.4.2 Financing Accommodations. City acknowledges that upon Provider’s financing the acquisition and installation of the System with a Financial Institution, that Provider’s obligations under the financing will be secured by, among other collateral, a pledge or collateral assignment of this PPA and a transfer of an ownership interest in the System (subject to a leaseback from the Financial Institution, if applicable). City agrees to execute and deliver an acknowledgement of assignment, substantially in the form of Exhibit E, upon execution and delivery of this PPA. In order to facilitate such necessary financing, City agrees as follows:

(a) Consent to Collateral Assignment. City consents to the security assignment by Provider to the Financing Institution of this PPA, and a transfer of the Provider’s right, title and interest in and to the System to the Financing Institution, provided that such assignment shall not relieve the Provider of its obligations hereunder. Provided further that the security assignment of the PPA and the System must contain provisions that the Financing Institution shall be obligated to acknowledge the City’s right to acquire the System in accordance with Section 8 and all of its subsections, and agree that the Financing Provider will not undertake any action that would adversely affect such right.

(b) Financing Institution’s Default Rights. Notwithstanding any contrary term of this PPA:

i. The Financing Institution, as collateral assignee, shall be entitled to exercise, in the place and stead of Provider, any and all rights and remedies of Provider under this PPA in accordance with the terms of this PPA. Financing Institution shall also be entitled to exercise all rights and remedies of secured parties generally with respect to this PPA and the System, subject to the terms of this Agreement.

ii. The Financing Institution shall have the right, but not the obligation, to pay all sums due under this PPA and to perform any other act, duty or obligation required of Provider hereunder or cause to be cured any default of Provider hereunder in the time and manner provided by the terms of this PPA. Nothing herein requires the Financing Institution to cure any default of Provider under this PPA or (unless the Financing Institution has succeeded to Provider’s interests under this PPA) to perform any act, duty or obligation of
iii. Upon the exercise of remedies under its security interest in the System, including any sale thereof by the Financing Institution, whether by judicial proceeding or under any power of sale contained therein, or any conveyance from Provider to the Financing Institution (or any Qualified Assignee of the Financing Institution as defined below) in lieu thereof, the Financing Institution shall give notice to City of the transferee or assignee of this PPA. Any such transfer will be subject to the City’s purchase rights under Section 8.2 of this PPA. Any such exercise of remedies shall not constitute a default under this PPA.

iv. Upon any rejection or other termination of this PPA pursuant to any process undertaken with respect to Provider under the United States Bankruptcy Code, at the request of Financing Institution made within ninety (90) days of such termination or rejection, City shall enter into a new agreement with Financing Institution or its Qualified Assignee having substantially the same terms and conditions as this PPA.

v. For purposes of this section, a “Qualified Assignee” must be a business organization with at least three (3) years’ experience in the operation and management of commercial solar generating systems.

(c) Acknowledgement and Confirmation. City shall provide an Acknowledgement and Confirmation substantially in the form of Exhibit E hereto that the ownership of the System will vest in the Financing Institution and further acknowledging that the System is personal property of the Financing Institution, subject to a leaseback to the Provider, if applicable.

(d) Right to Cure.

i. City will not exercise any right to terminate or suspend this PPA unless it shall have given the Financing Institution prior written notice of its intent to terminate or suspend this PPA, as required by this PPA, specifying the condition giving rise to such right, and the Financing Institution shall not have caused to be cured the condition giving rise to the right of termination or suspension within thirty (30) days after such notice or (if longer) the periods provided for in this PPA; provided that if such Provider default reasonably cannot be cured by the Financing Institution within such period and the Financing Institution commences and continuously pursues cure of such default within such period, such period for cure will be extended for a reasonable period of time under the circumstances,
such period not to exceed an additional thirty (30) days. The Parties’
respective obligations will otherwise remain in effect during any
cure period.

ii. If the Financing Institution or its Qualified Assignee (including any
purchaser or transferee), pursuant to an exercise of remedies by the
Financing Institution, shall acquire control of Provider’s assets and
shall, within the time periods described in Section 11.3.2(d)I, above,
cure all defaults under this PPA existing as of the date of such
change in control in the manner required by this PPA and which are
capable of cure by a third person or entity, then such person or entity
shall no longer be in default under this PPA, and this PPA shall
continue in full force and effect.

11.4.3 Further Assignment Provisions. All assignment contracts and amendments
to this PPA effecting changes of Provider’s name or novations hereunder
shall be reported to the City as set forth in Section 11.3.

11.5 Successors and Assigns. The rights, powers and remedies of each Party
shall inure to the benefit of such party and its successors and permitted assigns.

11.6 Entire Agreement. This PPA (including all schedules and exhibits attached
hereof which incorporated into the body of this Agreement and made a binding part
hereof)and the Solar License and Easement Agreement represent the entire agreement
between the parties to this PPA with respect to the subject matter hereof and thereof and
supersede all prior and contemporaneous oral and prior written agreements. This PPA may
be executed in one or more counterparts, all of which taken together shall constitute one
and the same instrument.

11.7 Amendments to Agreement.

(a) In writing. Any modification, alteration, amendment, change or
extension of any term, provision or condition of this PPA permitted by
this PPA shall be made by written amendment to this PPA, signed by
Provider and City.

(b) No oral modification. No oral modification, alteration, amendment,
change or extension of any term, provision or condition of this PPA shall
be permitted.

(c) Changes or modification required by PUC. Notwithstanding any other
provision, this PPA shall, at all times, be subject to such changes or
modifications by the PUC as it may, from time to time, direct in the
exercise of its jurisdiction, provided that no such changes or
modifications shall affect the rights, obligations and economic benefits
of the Parties hereto.
(d) **Agency procurement officer.** The Agency procurement officer may not unilaterally order of Provider:

(i) Changes in the work of this PPA; and

(ii) Changes in the time of performance of this PPA that alter the scope of work or economic benefits under this PPA.

(e) **Adjustments of price or time for performance.** If any modification to this PPA increases or decreases Provider’s cost of, or the time required for, performance of any part of the work under this PPA, an adjustment shall be made and this PPA modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be as negotiated.

(f) **Claim barred after final payment.** No claim by Provider for an adjustment hereunder shall be allowed if written modification of this PPA is not made prior to final payment under this PPA.

(g) **Claims not barred.** In the absence of a written contract modification, nothing in this clause shall be deemed to restrict Provider’s right to pursue a claim under this PPA or for a breach of contract.

11.8 **Waiver.** The failure by either Party to insist upon the strict compliance with any term, provision or condition of this PPA shall not constitute or be deemed to constitute a waiver or relinquishment of that Party’s right to enforce the same in accordance with this PPA.

11.9 **Partial Invalidity.** In the event that any provision of this PPA is deemed to be invalid by reason of the operation of Applicable Law, Provider and City shall negotiate an equitable adjustment in the provisions of the same in order to effect, to the maximum extent permitted by law, the purpose of this PPA (and in the event that Provider and City cannot agree, then such provisions shall be severed from this PPA) and the validity and enforceability of the remaining provisions, or portions or applications thereof, shall not be affected by such adjustment and shall remain in full force and effect.

11.10 **Disputes; Governing Law; Venue.** Disputes shall be resolved in accordance with the laws of the State of California, as the same may be amended from time to time. The validity of this PPA and any of its terms or provisions, as well as the rights and duties of the parties to this PPA, shall be governed by the laws of the State of California. Any action at law or in equity to enforce or interpret the provisions of this PPA shall be brought in a state court of competent jurisdiction in California.

11.11 **No Third Party Rights.** This PPA is only for the benefit of the parties to this PPA, their successors and permitted assigns and Persons expressly benefited by the indemnity provisions of this PPA. No other Person (including, without limitation, tenants of the Site) shall
be entitled to rely on any matter set forth in, or shall have any rights on account of the performance or non-performance by any Party of its obligations under, this PPA.

11.12 Treatment of Additional Amounts. The Parties acknowledge and agree that any amounts payable by one Party to the other as a result of the payor’s default shall constitute liquidated damages and not penalties. The Parties further acknowledge that in each case (a) the amount of loss or damages likely to be incurred is incapable or is difficult to precisely estimate, (b) the amounts specified hereunder bear a reasonable proportion and are not plainly or grossly disproportionate to the probable loss likely to be incurred by City or Provider as the case may be and (c) the Parties are sophisticated business Parties and have been represented by sophisticated and able legal and financial counsel and negotiated this PPA at arm’s length.


a. In the performance of services required under this PPA, Provider is an “independent contractor,” with the authority and responsibility to control and direct the performance and details of the work and services required under this PPA; however, City shall have a general right to inspect work in progress to determine whether, in City’s opinion, the services are being performed by Provider in compliance with this PPA. Unless otherwise provided by special condition, it is understood that City does not agree to use Provider exclusively, and that Provider is free to contract to provide services to other individuals or entities while under contract with City.

b. Provider and Provider’s employees and agents are not by reason of this PPA, agents or employees of City for any purpose.

c. Provider shall be responsible for the accuracy, completeness, and adequacy of Provider’s performance under this PPA. Furthermore, Provider intentionally, voluntarily, and knowingly assumes the sole and entire liability to Provider’s employees and agents, and to any individual not a party to this PPA, for all loss, damage or injury caused by Provider, or Provider’s employees or agents in the course of their employment.

d. Provider shall be responsible for payment of all applicable federal, state, and county taxes and fees which may become due and owing by Provider by reason of this PPA, including but not limited to (i) income taxes, (ii) employment related fees, assessments, and taxes, and (iii) general excise taxes; provided, however, that City shall be responsible for paying property tax, if any, associated with the equipment or sales tax or other taxes associated with the purchase of the Solar Services from Provider. Provider also is responsible for obtaining all licenses, permits, and certificates that may be required in order to perform this PPA.
e. Provider is responsible for securing all employee-related insurance coverage for Provider and Provider’s employees and agents that is or may be required by law, and for payment of all premiums, costs, and other liabilities associated with securing the insurance coverage.

f. Provider shall obtain a certificate of good standing issued by the Secretary of State, State of California.

11.14 No Public Utility. Nothing contained in this PPA shall be construed as an intent by Provider to dedicate its property to public use or subject itself to regulation as a “public utility” (as defined by Applicable Law).

11.15 No Recourse to Affiliates. This PPA is solely and exclusively between the Parties, and any obligations created herein on the part of either Party shall be the obligations solely of such Party. No Party shall have recourse to any parent, subsidiary, partner, member, Affiliate, lender, director, officer or employee of the other Party for performance or non-performance of any obligation hereunder, unless such obligations were assumed in writing by the Person against whom recourse is sought.

11.16 Cooperation with Financing. City acknowledges that Provider may be financing the Solar Services and the System and City agrees that it shall reasonably and promptly cooperate with Provider and its financing parties in connection with such financing, including (a) the furnishing of such information, (b) the giving of such certificates, and (c) providing such opinions of counsel, substantially in the form of Exhibit H, and other matters as Provider and its financing parties may reasonably request; provided, that the foregoing undertaking shall not obligate City to materially change any rights or benefits, or materially increase any burdens, liabilities or obligations of City, under this PPA (except for providing notices and additional cure periods to the financing parties with respect to Events of Defaults with respect to Provider as a financing party may reasonably request).

11.17 Rights and Remedies. Except as otherwise set forth herein, each Party reserves to itself all rights, counterclaims and other remedies and/or defenses to which it is or may be entitled, arising from or out of this PPA.

11.18 Precedence. The provisions of this PPA and the Solar License and Easement Agreement shall take precedence over any other document and shall govern the agreement between the Provider and City.

11.19 Timely Submission of all Certificates. All required certificates should be applied for and submitted to City as soon as possible. If a valid certificate is not submitted on a timely basis for award of a contract, an offer otherwise responsive and responsible may not receive the award.

11.20 Confidentiality of Material.
(i) All material given to or made available to Provider by virtue of this PPA, which is identified as proprietary or confidential information, will be safeguarded by Provider and shall not be disclosed to any individual or organization without the prior written approval of City.

(ii) All information, data or other material provided by Provider to City shall be subject to the City’s information regulations.

11.21 Hazardous Materials. Hazardous Materials shall include, without limitation, substances defined or classified as “hazardous substances”, “hazardous waste”, or “toxic substances” under federal, state, or local law, statute, regulation, or ordinance (collectively “Hazardous Materials”). Provider shall fully comply with all federal, state, and local laws, statutes, regulations, and ordinances in effect or which shall come into effect during the Term of this PPA regarding the generation, use, storage, handling, transportation, and disposal of Hazardous Materials it has introduced onto the site. Provider shall not be responsible for Hazardous Materials already existing on the Site or introduced onto the Site by third parties not affiliated with Provider. Provider shall exercise due diligence in identifying any unsafe working conditions and/or the presence of hazardous materials and shall set forth its findings with respect to Hazardous Materials to City.

If, during the performance of this PPA, Provider encounters a “release” or a “threatened release” of a reportable quantity of a “hazardous substance,” “pollutant” or “contaminant” as those terms are defined in applicable law, Provider shall immediately notify City and all other appropriate state, county or federal agencies as required by law. Provider shall take all necessary actions, including stopping work, to avoid causing, contributing to, or making worse a release of a hazardous substance, pollutant or contaminant. In the event there is an ensuing cease-work period, and City determines that this PPA requires an adjustment of time for performance, this PPA shall be modified in writing accordingly.

11.22 Laws and Regulations. Provider shall comply with existing laws, ordinances, codes, rules, regulations, design standards and criteria, governmental general and development plans, setback limitations, rights-of-way, including the giving of all notices necessary and incident to proper and lawful prosecution of the work, and all changes thereto. If any discrepancy or inconsistency is discovered between this PPA and any such law, ordinance, code, rule, regulation, design standard, design criterion, governmental general and development plans, setback limitation, or rights-of-way, Provider shall forthwith report the same in writing to City.

11.23 Requisite Standards. The System shall be installed with due care by qualified employees, representatives, agents or contractors of Provider and shall conform to applicable industry standards and practices, Applicable Law, and the Solar License and Easement Agreement.
IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Power Purchase Agreement as of the date set forth above.

PROVIDER:
__________________, LLC

By: __________________________
   Name: ______________________
   Title: ________________________

CITY:
______________________________

By: __________________________
   Name: ______________________
   Title: ________________________
EXHIBIT A
DESCRIPTION OF SITE

To be finalized upon completion of Engineering and Survey
EXHIBIT B
DESCRIPTION OF SYSTEM; SPECIFICATIONS; MAINTENANCE

Note: Exhibit to be finalized upon completion of Permitting, Engineering and Interconnection approval
## Schedule 1  
### to Exhibit B  
### Estimated Annual Production

<table>
<thead>
<tr>
<th>Period</th>
<th>Solar Production (kWh)</th>
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<tr>
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### PRICE SCHEDULE

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<tr>
<td>Commercial Operation Year 25</td>
<td>$_______/kWh</td>
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</table>

Commercial Operation Year shall mean the period commencing on the Commercial Operation Date and ending on the last day of the calendar year in which the Commercial Operation Date occurs, and, thereafter, all subsequent one (1)-year periods during the Term.
EXHIBIT D

UTILITY INTERCONNECTION POLICIES AND PROCEDURES

Final Interconnect Agreements to Be Attached

EXHIBIT E
REFERENCE SAMPLE
ACKNOWLEDGEMENT AND CONFIRMATION

[This Acknowledgement and Confirmation notifies the Parties that Provider has assigned the Agreement to a Financial Institution. This protects the City and the Financial Institution by assuring that the City acknowledges the assignment, that there is only one assignment, and that payments will be sent directly from the City to the Financial Institution. It avoids assignment errors and protects the interests of the parties.]

This Acknowledgement and Confirmation, dated as of _____________, 201__ (this “Acknowledgement”), is made by _________________________________, a _______________ ________________, the “City” under that certain (a) Power Purchase Agreement dated as of __________ (as amended from time to time, the “PPA”) and (b) Solar License and Easement Agreement, dated as of (as amended from time to time, the “Easement Agreement” and, together with the PPA, the “Agreements”) in each case with _______________, a _______________ limited liability company (“Provider”). This Acknowledgement is provided pursuant to Section 11.4.2(c) of the PPA to _______________, (the “Financing Institution”), which is [entering into a sale/leaseback transaction with][providing construction financing to] Provider with respect to the System (as defined below) (the “Sale/Leaseback”).

The solar photovoltaic system (the “System”) to be installed, operated and maintained by Provider pursuant to the Agreements is located at City’s facility at __________ (the “Site”).

1. Acknowledgement of Agreement.

(a) City acknowledges the collateral assignment by Provider to the Financing Institution, of Provider’s right, title and interest in, to and under each Agreement, each made in accordance with Section 11.4 of the PPA and Section 9.8 of the Easement Agreement.

(b) In connection with the Sale/Leaseback, Provider intends to sell the System to the Financing Institution and simultaneously lease it back for the duration of the Sale/Leaseback term. At the end of such term, Provider will have an option to return the System to Financing Institution and will be required to directly assign and transfer all of its right, title and interest in and to the Agreements to Financing Institution. City acknowledges that such assignment is permitted pursuant to Section 11.4 of the PPA, provided further that the security assignment of the PPA and the System must contain provisions that the Financing Institution shall be obligated to acknowledge the City’s right to acquire the System in accordance with Section 8 and all of its subsections, and agree that the Financing Provider will not undertake any action that would adversely affect such right.
(c) The Financing Institution as such collateral assignee shall be entitled to exercise any and all rights of Financing Institutions generally with respect to the Provider’s interests in the Agreements, including those rights provided to Financing Institutions in Section 11.4 of the PPA and Section 9.8 of the Easement Agreement, which rights shall be deemed to apply to each Agreement.

(d) City acknowledges that it has been advised that Provider has assigned a security interest in and transferred ownership of the System to the Financing Institution (subject to a Master Lease Agreement) and that the Financing Institution has relied upon the characterization of the System as personal property, as agreed in the Agreements in purchasing the System from the Provider.

(e) Until further written notice from the Financing Institution, City agrees to make all payments due to Provider under the Agreements to Financing Institution at the following account, or such other account as Financing Institution may from time to time specify in writing:

(Financing Institution Account information)

(f) City agrees that it will promptly notify Financing Institution of any breach by Provider of any of the terms of the Agreements, and deliver to Financing Institution simultaneously with the delivery thereof to Provider any notices, invoices and reports delivered pursuant to the Agreements.

(g) City covenants and agrees that, without the prior written consent of Financing Institution, City will not amend, modify, or terminate (prior to the expiration of the cure period in Section 11.4.2(d) of the PPA) either of the Agreements or this Acknowledgement.

(h) City hereby represents and warrants that the representations and warranties set forth in Section 11.2.2 of the PPA are true and correct as of the date hereof and that all references to the "Agreement" shall be deemed to include the PPA, the Easement Agreement and this Acknowledgement.

2. **Confirmation.** City confirms the following matters for the benefit of the Financing Institution and Provider:

(a) To City’s knowledge, there exists no event or condition which constitutes a default, or that would, with the giving of notice or lapse of time, constitute a default, under the Agreements as of the date of execution of this Acknowledgement.

(b) City is aware of no existing lease, mortgage, security interest or other interest in or lien upon the Site which could attach to the System as an interest adverse to
Financing Institution’s security interest therein. If City becomes aware of such lien, it shall immediately notify Financing Institution in writing, shall promptly cause such lien to be discharged and released of record without cost to Financing Institution, and shall indemnify Financing Institution against all costs and expenses (including reasonable attorneys’ fees and court costs at trial and on appeal) incurred in discharging and releasing such lien.

3. **Agreement Clarification**

   (a) City agrees that each of its remedies under Section 8.3.1 of the PPA are subject to Financing Institution’s cure rights under Section 11.4 of the PPA and this Acknowledgement.

   (b) Notwithstanding any provision of the Easement Agreement to the contrary, (i) the term of the Easement Agreement shall equal the term of the PPA and any extensions thereto, and (ii) each of the rights afforded to a Financing Institution in Section 11.4 of the PPA shall be deemed to also apply to the Easement Agreement.

   (c) The PPA is intended to be a service contract under section 7701(e) of the Internal Revenue Code of 1986, as amended.

4. **Third Party Beneficiary.** City agrees that Financing Institution and Provider are third party beneficiaries to this Acknowledgement and the Agreements with full right to enforce the provisions hereof and thereof.

5. **Notices.** All communications between the parties hereto or notices provided herein to be given may be given to the addresses below and shall be subject to the notice requirements set forth in Section 11.1 of the PPA.

[Add Notice Addresses]

6. **Miscellaneous.** The provisions set forth in Sections 11.4, 11.8 and 11.9 shall apply to this Acknowledgement as if set forth herein.
### EXHIBIT F

**TERMINATION VALUES**

<table>
<thead>
<tr>
<th>Early Termination Occurs in Year</th>
<th>Termination Value</th>
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Termination Value is calculated based on all tax benefits, financing costs, transaction costs, legal fees, and other costs of the project, and final Solar PV design and expected production.
SOLAR EASEMENT AND LICENSE AGREEMENT

This SOLAR EASEMENT AND LICENSE AGREEMENT (this "Easement Agreement"), is effective as of ____________, 20___ ("Effective Date") by and between ____________, LLC, a California limited liability company, its successors and assigns ("Provider"), and the __________________, a California Municipal Corporation ("City"). Provider and City are sometimes individually referred to as "Party" and collectively as the "Parties."

RECITALS

WHEREAS, City is the owner of certain real property commonly known as ____________________________ located at ____________________________________________________________, as more particularly described on Easement Exhibit A attached hereto (the "Property").

WHEREAS, City desires to implement systems which will help control energy consumption and costs on its properties;

WHEREAS, California Government Code §§ 4217.10 et seq. authorize City to enter into agreements and contracts with private sector entities for developing energy conservation and production projects;

WHEREAS, subject to the terms and conditions of that certain Power Purchase Agreement effective as of ____________, 20___, by and between Provider and City (as amended, modified and in effect from time to time, the "Power Purchase Agreement" or "PPA"), whereby City has engaged Provider to install, operate and maintain certain energy producing systems (the "System") on a portion of the Property depicted on Easement Exhibit B attached hereto (the "Premises");
WHEREAS, Provider desires to sell to City and City desires to purchase from Provider, the Energy generated by the System in accordance with the terms and conditions of the PPA;

WHEREAS, Provider desires an easement and license from City in order to install, operate and maintain the System in furtherance of Provider's obligations under the PPA and City is willing to grant such an easement and license to Provider;

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained herein, the sufficiency of which is acknowledged by both Parties, the Parties agree as follows:

ARTICLE 1.
DEFINED TERMS

Capitalized terms used but not defined herein shall have the same meanings given such terms in the Power Purchase Agreement.

ARTICLE 2.
GRANT

(a) For good and valuable consideration, the receipt of which is hereby acknowledged, City hereby grants to Provider

   (i) a license and an easement on, over and across the Premises to install, operate, maintain, repair and replace the System under the terms of the Power Purchase Agreement. City reserves the right to grant other licenses and/or easements on, over and across the Premises, provided such other licenses and/or easements do not unreasonably interfere with Provider’s use of the license or easement.

   (ii) a non-exclusive license and a non-exclusive easement on, over and across portions of the Property to use such other areas of the Property from time to time as are reasonably necessary for Provider (including Provider’s affiliates and subcontractors, if any) to provide City with energy generated by the System under the terms of the Power Purchase Agreement;

   (iii) a contractual right of access to, on, over and through the Property and the Premises and such other areas immediately proximate to the Premises, at such times and under such circumstances as are reasonable for Provider to perform its obligations and to exercise its rights under the Power Purchase Agreement.

(b) Such rights include, without limitation:

   (i) reasonable vehicular and pedestrian access across the Property to the Premises for purposes of conducting inspections, designing, installing, operating, maintaining, repairing and removing the System;
(ii) the right to locate transmission lines and communications cables across the Property subject to the reasonable written approval of City;

(iii) adequate storage space on the Property convenient to the Premises for materials and tools used during construction, installation, and maintenance of the System if such storage space is available and does not unreasonably interfere with the use of the Property by City and its guests, invitees, employees, agents and the general public. Provider shall be responsible for storing any such materials or tools in a safe manner.

(iv) water, drainage, electrical, ethernet and internet connections on the Premises for use by Provider in installing, operating and maintaining the System.

(c) City shall maintain the Property in good condition and repair. Prior to Provider's installation of the System, Provider shall have inspected the Premises and satisfied itself that the Premises are in a condition ready for Supplier's installation of the System.

(d) Subject to the terms and conditions of the PPA, City shall have the right to enter and use the Premises at any time provided that City does not interfere with the operation of the System.

ARTICLE 3.
TERM

(a) The term of this Easement Agreement shall commence on the Effective Date ("Commencement") and shall end ("Expiration") not later than ninety (90) days after expiration or earlier termination of the Power Purchase Agreement (the "Term").

(b) No later than the Expiration, Provider shall remove the System and record a quit claim deed to City of any and all of its right, title and interest in and to the Property by the Expiration. Provider shall return the Premises to its original condition as set forth in the Power Purchase Agreement. Provider shall be entitled to remove the System or any part thereof from the Premises at any time not prohibited by the terms of the Power Purchase Agreement.

ARTICLE 4.
INGRESS AND EGRESS

City agrees to maintain all existing roads, driveways and walkways that are now located in and around the Premises or on the grounds of the Property that are necessary for proper ingress and egress to and from, and occupancy of, the Premises, in a manner consistent with City’s standard operating and maintenance procedures. Provider will observe all speed limits and other rules and regulations established by City with respect to such roads and driveways existing on the Premises.
ARTICLE 5.
PREMISES UTILITIES

For the purpose of Provider’s construction, installation, maintenance, repair, replacement and operation of the System, Provider’s use of the Premises shall include the non-exclusive appurtenant right to the use of water lines, sewer lines, storm water lines, power lines, fuel lines, telephone and communication lines, pipelines, conveyors and drainage ditches. Provider shall maintain and repair all utilities running from the System up to the point of interconnection, connected to electrical infrastructure of the building or facility (the “Point of Delivery”), and City shall maintain and repair all utilities, including all pipes, conduits, ducts, electric or other utilities, sinks or other apparatus through which any utility services are provided, at and from the Point of Delivery, in a manner consistent with City’s standard operating and maintenance procedures, through the remainder of the Property. City is not required to purchase or install additional utilities.

ARTICLE 6.
PROPERTY RIGHTS

City acknowledges and agrees that the System constitutes personal property, Provider is the exclusive owner of the System, Provider is the owner of the energy generated by the System until such energy reaches the Point of Delivery, and that the System may not be sold, leased, assigned, mortgaged, pledged or otherwise alienated or encumbered with the fee interest of, or leasehold rights to, the Property. City agrees that this Easement Agreement and the other rights established or granted in this Easement Agreement shall run with the Property and survive any transfer of the Property. City represents and warrants to Provider that as of the date hereof there are no matters which interfere with the rights of Provider under this Easement Agreement, including the rights of any lien holder, lessor, or creditor. City shall not suffer or permit the System to become subject to any lien or encumbrance for debt of any kind that may be owed by or demanded of City that could have a material adverse impact in relation to the installation, operating, maintenance, improvement and replacement of the System.

ARTICLE 7.
QUIET ENJOYMENT

City covenants and agrees that Provider shall lawfully and quietly have, hold, occupy and enjoy the Premises and the appurtenant rights thereto in accordance with the terms hereof throughout the Term free from any claim of any entity or person of superior title thereto, without hindrance to, interference with or molestation of Provider’s use and enjoyment thereof, whether by City or any of its agents, employees or independent contractors or by any entity, person or persons having or claiming an interest in the Premises.

ARTICLE 8.
ASSIGNMENT

(a) This Easement Agreement and all of its provisions will be binding upon and inure to the benefit of the Parties and their respective successors and assigns. This Easement Agreement and the rights and obligations of Provider under it may be assigned by Provider upon
written notice to and approval by City. This Easement Agreement and the obligations and rights of City under it may be assigned by City only upon written notice to, and approval by Provider.

(b) Notwithstanding the foregoing, (i) City acknowledges that Provider may finance the acquisition and installation of the System through financing from lenders, System lessors and/or investors and that Provider’s obligations may be secured by, among other collateral, a lien on or encumbrance of the easement established hereunder, and/or a pledge or collateral assignment of this Easement Agreement. In order to facilitate any such transaction, and with respect to any such lender, System lessor and/or investor of which Provider has notified City in writing, City hereby consents to the lien on or encumbrance of the easement established hereunder, the collateral assignment by Provider to the lender, System lessor and/or investor of Provider's right, title and interest in and to this Easement Agreement. Provider shall be entitled to otherwise assign its right, title and interest in and to this Easement Agreement to an affiliate, Investor or other person to whom the Power Purchase Agreement is assigned with notice to and with the prior written consent of City.

ARTICLE 9.
MISCELLANEOUS PROVISIONS

9.1 Applicable Law. This Easement Agreement shall be interpreted and governed by the laws of the State of California. Any Dispute shall be resolved in accordance with the applicable provisions of the Power Purchase Agreement.

9.2 Interpretation Rules. Titles and headings are included in this Easement Agreement for convenience only, and shall not be used for the purpose of construing and interpreting this Easement Agreement. Words in the singular also include the plural and vice versa where the context requires.

9.3 Severability. In the event that any provisions of this Easement Agreement are held to be unenforceable or invalid by any court or regulatory agency of competent jurisdiction, City and Provider shall use good faith efforts to negotiate an equitable adjustment in the provisions of this Easement Agreement with a view toward effecting the purposes of this Easement Agreement, and the validity and enforceability of the remaining provisions shall not be affected thereby.

9.4 Counterparts. This Easement Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

9.5 Amendments and Waivers. Any waiver or amendment of this Easement Agreement must be in writing. Either Party’s waiver of any breach or failure to enforce any of the terms of this Easement Agreement shall not affect or waive that Party's right to enforce any other term of this Easement Agreement.
9.6 **Further Assurances.** Either Party shall execute and deliver such further instruments as may be reasonably requested by the other Party or any title company designated by a Party in order to carry out the terms of this Easement Agreement, including but not limited to any memoranda of this Easement Agreement to be recorded pursuant to Section 9.7 below.

9.7 **Recordation.** The parties hereto acknowledge that this Easement Agreement, or a memorandum thereof, may be recorded by City, Provider, or any title company or agent designated by the Provider, in the official records of the county in which the Property is located.

9.8 **Non-Disturbance Agreement.** City covenants that it will obtain a non-disturbance and attornment agreement ("NDA") from any third party who now has or may in future obtain an interest in the Property, including, without limitation, any lenders to City, which NDA shall provide that such third party (a) acknowledges and consents to Provider’s rights in the Premises, (b) acknowledges that the third party has no interest in the System and shall not gain any interest in the System by virtue of the Parties’ performance or breach of this Easement Agreement, and (c) agrees not to disturb the easement interests hereof in any manner in connection with any foreclosure proceeding or other actions pursued by such third party.

9.9 **Estoppel.** Either Party, without charge, at any time and from time to time, within fifteen (15) days after receipt of a written request by the other Party, shall deliver a written instrument, duly executed, certifying to such requesting Party, or any other person, firm, or corporation specified by such requesting Party: (i) that this Easement 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 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 Easement Agreement and, if so, specifying the same and also whether the other Party has observed and performed all of the terms, covenants and conditions on its part to be observed and performed, and of not, specifying the same; and (iii) such other information as may be reasonably requested by a Party hereto. Any written instrument given hereunder may be relied upon by the recipient of such instrument.

9.10 **No Liens.** City will not cause any liens of whatever type to be filed, lodged or attached to the System (other than those created by Provider or its creditors). If any such liens are filed, lodged or attached to the System, City will do all acts and things at the City’s expense to remove such liens and agrees to fully indemnify Provider for any loss and damage that Provider suffers as a result of a lien on or over the System. Provider shall be entitled to, and is hereby authorized to, file one or more precautionary UCC financing statements which are consistent herewith, in such jurisdictions as it deems appropriate with respect to the System in order to protect its rights in the System.

**ARTICLE 15. NOTICES**
Except as otherwise provided in this Easement Agreement, or as the addressee may later specify in a written notice, all notices or other communications hereunder shall be in writing and deemed given if delivered via electronic mail at the applicable email addresses below, personally or to a nationally recognized express mail service, addressed as follows:

If To Provider:

__________, LLC
5050 Laguna Blvd 112-460
Elk Grove, California 95757
(916) 826-7030

With a copy to:

Go Green Consultants, LLC
5050 Laguna Blvd 112-460
Elk Grove, California 95757

If to City:

[Remainder of Page Intentionally Left Blank]
IN WITNESS WHEREOF, Provider and City have executed this Easement Agreement as of the date first above written.

PROVIDER:

____________________, LLC, a California limited liability company

By: ____________________________

Name: ____________________________
Title: ____________________________

CITY:

________________________

By: ____________________________

Name: ____________________________
Title: ____________________________
Easement Exhibit A

Need to Complete Final Design in order to Finalize Easement Exhibits
EXHIBIT H

FORM OF OPINION OF CITY COUNSEL
(To be completed on Counsel letterhead)

Date:

Financing Institution
Address

Re: Power Purchase Agreement and Solar Easement and License Agreement
pertaining to the System Site(s) listed on Exhibit A hereto

Ladies and Gentlemen:

As counsel for the City of ____________________________ (the "City"), I have
examined (i) the Power Purchase Agreement listed on Exhibit A, (the “PPA”) by and between City
and ______________, LLC, a California limited liability company,____________________
(the “Provider”), (ii) the Solar Easement and License Agreement listed on Exhibit A, (the
“Easement Agreement”), by and between the City and the Provider; and (iii) the Acknowledgment
and Confirmation dated as of ____________, attached hereto as Exhibit B, issued
with respect to the site by and between City and Provider for the benefit of Financing Institution
(collectively, with the PPA and the Use and Occupancy Agreement, the “Agreements”) and the
records of proceedings taken by the governing body of City to authorize on behalf of City the
execution and delivery of the Agreements.

Based upon the foregoing examination and upon an examination of such other documents
and matters of law as I have deemed necessary or appropriate, I am of the opinion that:

1. City is duly organized and legally existing as a governmental department under the laws
of the State of California with full power and authority to enter into, and perform its
obligations under, the Agreements.

2. The Agreements have been duly authorized, executed and delivered by City, and constitute
the legal, valid and binding obligation of City, enforceable against City in accordance with
their terms, except to the extent limited by State and federal law affecting creditors’
remedies and by bankruptcy, reorganization, moratorium or other laws of general
application relating to or affecting the enforcement of creditors’ rights.
3. City has complied with any applicable property acquisition laws and public bidding requirements in connection with the Agreements and the transactions contemplated thereby.

4. To the best of my knowledge, there is no litigation or proceeding pending or threatened before any court, administrative agency or governmental body that challenges: the organization or existence of City; the authority of its officers; the proper authorization, approval and execution of the Agreements or any documents relating thereto; the appropriation of monies to make payments under the Agreements; or the ability of City otherwise to perform its obligations under the Agreements and the transactions contemplated thereby.

5. The resolution adopted by City’s governing body authorizing the execution and delivery of the Agreements and certain other matters was adopted at a meeting that was held in compliance with all applicable laws relating to the holding of open and public meetings.

6. The entering into and performance of the Agreements do not and will not violate (i) any judgment, order, law or regulation applicable to City, (ii) result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance upon any assets of City or on the System (as such term is defined in the Agreements) pursuant to any indenture, mortgage, deed of trust, bank loan or credit agreement or other instrument to which City is a party or by which it or its assets may be bound or (iii) require the consent or approval of any third party except for those consents or approvals that have already been obtained.

5. The correct legal name of City for purposes of the Uniform Commercial Code in effect in California is__________________________.

Very truly yours,
Schedule I

PPA Construction Schedule Milestones

Schedule is tentative pending receipt of all information from City outlined in the Agreement and all sites are permitted in a timely manner. Project Final Completion shall be achieved no more than 365 calendar days from the date of receipt of the final construction permit for each site.
Preliminary Feasibility Assessment

For

Energy Assets Management Program

Prepared by
Go Green Consultants, LLC

September 12th, 2019
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EXECUTIVE SUMMARY

Go Green Consultants is excited with the progress of the proposal we have developed for the City of Cudahy. We have prepared a prioritized Scope of Work to include Solar, LED Lighting Retrofits, other Energy Conservation Measures, and Capital Improvements. Go Green will utilize an internal best value competitive bidding process with multiple subcontractors to ensure that we are offering the best quality and pricing options. As a result, we are offering a proposal that can create a net cost benefit starting year 1 and offers savings throughout the term of the agreements, with opportunity to include overdue deferred Capital Improvements.

Go Green, along with its financing partners, proposes to create a special purpose entity for delivering an energy savings project for the City, allowing the City to sign an Energy Services Agreement (ESA) to pay for the proposed energy conservation measures via calculated savings. The ESA creates substantial savings which will allow us to include deferred maintenance and mission-critical capital improvements. The City can also repair several deferred maintenance projects for all City facilities, over mutually agreed-upon terms utilizing the cost savings generated by this project.

Our current assessment has identified Energy Conservation Measures (ECMs) that were reviewed and developed based on the City’s needs. All identified opportunities proposed by Go Green will be fully developed with City Staff during an Investment Grade Audit (IGA) and energy cost savings will be analyzed for an Energy Services Agreement (ESA), which will include an energy performance contract that is guaranteed. The IGA will reduce the risk assessment to ensure that the City is maximizing the benefits of the project and minimizing any risks. The Audit will also be used in the CEC loan application Go Green will be assisting the City in applying for some of the mutually agreed upon ECMs.

The recommend scope of work for this project represents a recommended set of measures with the following results:

- Total estimated cost of $3.5M in Energy Conservation Measures and Capital Improvements
- First year Utility cost savings of $93,705, or 73.81% of the annual billing for the Sites and Facilities affected with Solar, Light Retrofits, Transformer Replacement
- First year net cost savings of $3,060, or 2.41% of the annual billing for the Sites and Facilities affected with Solar, Light Retrofits, Transformer Replacement, and 1 Rooftop Capital Improvement (Estimated cost of $176,000)
- Reduce annual electric consumption from SCE by approximately 74% for all of the City’s electrical consumption
• Estimated $895,449 cumulative savings over the 25 year term with the Capital Improvement recommendations included
• A total cost savings of 18.1% to the City over the term of the project

The ECMs include:

• Installation of Interior and Exterior Lights across 3 Facilities with similar or higher quality light output
  o City Hall
  o Clara Park
  o Lugo Park
• LED Retrofit to approximately 280 Streetlights, with similar or better light quality and brightness
• Transformer at the City Hall
• 203 kW Carport/Roof Mounted Solar System across 3 sites
  o City Hall
  o Clara Park
  o Lugo Park
• All ECMs include a savings guarantee with an option for insurance coverage

Furthermore, we also recommend utilizing the savings to the City from the project to finance and include a roof repair at one of the facilities, City Hall. HVAC unit replacements at 3 of the City’s facilities, and replacement of the other two facility rooftops will be included in our analysis with recommendations to the City. The current condition of the rooftops is severely deteriorating due to previous deferred maintenance and is highly recommended. Likewise, the HVAC units have exceeded their useful life and the deferred maintenance cost is going to increase as more time goes by as increased repairs and maintenance are required.

The proposed Capital Improvements include:

• HVAC Replacement at 3 Facilities with new and higher efficiency units
  o City Hall
  o Clara Park
  o Lugo Park
• Roof Repair and Replacement at 3 Facilities
  o City Hall
  o Clara Park
  o Lugo Park
The City would be able to receive all of the benefits of having the financial package included in the project, and would pay for the project through an Energy Services Agreement (ESA) for the Solar System and ECMs. Our proposal includes a turnkey solution that provides all of the Installation, Operations & Maintenance, Measurement & Verification, and Financing Mechanisms that allow for no out-of-pocket expenses to the City, and the advantage of one payment to our project company. Go Green will create a Project Special Purpose Entity (Project SPE) to allow for the financing of the project on a long term basis, removing the necessary large initial cost expense. The City itself does not qualify for the Investment Tax Credits or other tax benefits. By accepting Go Green’s Proposal, we are able to make the possible tax incentives work to the advantage of the City by reducing the cost of the system, favorably lowering the payments. These payments would be less than what the City saves with installing the project, and the savings mentioned before include these payments.

Another advantage to this proposal is that all operations and maintenance for the Solar System would be provided by the project owner. Savings for the ECMs will include a Savings Guarantee and part of this proposal will overview the Measurement & Verification Plan included. Go Green will also include an additional option for an Insurance Policy to insure the Energy Savings and Solar Production at an additional cost not to exceed 6% of the cost of the insured ECM scope, and can be included upon mutual agreement with the City. Optional insurance cost, guaranteed savings, and guaranteed production will be calculated based on the completion of the IGA and more details can be found in Appendix A.

City’s 1st Year Costs and Savings would be as follows.

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Street Light Retrofit Savings</td>
<td>$17,068</td>
</tr>
<tr>
<td>Interior/Exterior Light Retrofit, Transformer Retrofit Savings</td>
<td>$16,161</td>
</tr>
<tr>
<td>Solar Savings</td>
<td>$60,476</td>
</tr>
<tr>
<td><strong>Total ECM Savings</strong></td>
<td><strong>$93,705</strong></td>
</tr>
<tr>
<td><strong>Rooftop Deferred Maintenance</strong></td>
<td><strong>$35,214</strong></td>
</tr>
<tr>
<td><strong>ECM + 1 Rooftop Costs</strong></td>
<td><strong>($125,860)</strong></td>
</tr>
<tr>
<td><strong>Total Annual Savings with one Capital Improvement Included</strong></td>
<td><strong>$3,059</strong></td>
</tr>
</tbody>
</table>

This payment includes all costs associated with the Solar Production, Streetlight Retrofits, Interior/Exterior Lighting Retrofits, Transformer Replacements, and Roof Replacement. Go Green will seek to get all of the ECMs to be funded by applying for the CEC Energy Efficiency Loan Program, and if approved, those funds will be utilized to pay for the Street and Interior/Exterior Light Retrofits, Transformer Replacement, and partial HVAC Replacement. Go Green has alternative financing in the event the CEC loan becomes unavailable that will still generate savings to the City.
Benefits

There are major benefits for the City to implement this Go Green energy savings program now, which will include various proven methods to reduce utility costs, while at the same time improving energy efficient infrastructure over the project term of cost savings. Savings drastically increase for the remainder of the life of the system at the conclusion of the ESA.

The City will become a leader for Sustainability in the community as required by Senate Bill 100 (2018), which requires that at least 60% of electricity be generated for CA by 2030 from eligible renewable energy resources (solar, wind, geothermal, biomass, small hydro, renewable methane, ocean wave or thermal, or fuel cells using renewable fuels). This Bill set the direction and commitment to continuous energy asset management while the City opens the door for future best practices of implementing cost-effective Energy Conservation Measures.

The City will gain more savings if Utility rate increases, as is historically evident due to the spread between the Utility rate and our proposed rate delivered via an ESA, which will include a Power Purchase Agreement (PPA). Energy prices have been steadily increasing for the last 30 years and will continue to do so in the future.

Additional benefits to the City are delivered via a turn-key approach to achieve energy efficiency and renewable energy opportunities for all City facilities. Our Energy Asset Management Program prioritizes energy efficiency in combination with renewable energy generation. It streamlines the design process, enables the City to engage and help prioritize and define project goals, proactively participate in the design process, and recommend subcontractors and equipment vendors to accomplish the scope of work. Our Design-build procurement method integrates the project design and pricing/bidding process, this enables the City to significantly streamline and reduce the time it takes to move from design to construction. The design process will define the project’s mission-critical scope of work in priority, develop detailed engineering documentation and specifications, and engage subcontractors and equipment vendors to verify project constructability and pricing to include product warranties. Go Green and City will work together for the term of the project development; identifying construction issues and potential project pitfalls.

Optional Savings Guarantee

One of the reasons for the Investment Grade Audit was to create a baseline and establish a model to accurately Measure & Verify the projected savings from the implementation of the ECMs. Part of the ongoing operations and maintenance of the Project SPE will be to ensure that the savings that were promised to the city are being realized.
Insured Savings

As part of the financial package, Go Green can offer the City an insurance package to insure the savings from the ECMs in addition to the Energy Savings Company guarantee. This insurance would be added to the cost of the project and reduce the savings annually. More information regarding this optional insurance is included in Appendix A.

Go Green is very appreciative of your consideration, and we have provided more information in the following pages. If there is any additional information that would help expedite the process, we are available and more than happy to help with anything that needs further clarification.

*Note: The pricing, savings calculations, scope of work, rates, or any other information contained in this preliminary feasibility assessment are considered to be rough estimates based on industry experience and standards. This information contained is not considered to be final or to be included in our contract. The Final Investment Grade Audit will indicate final scope, pricing, savings, and terms.
Introduction

Go Green Consultants, LLC was formed to promote and produce effective and efficient energy solutions to Municipalities including Cities, Counties, and School Districts and commercial businesses by blending public sector needs with private sector solutions.

As the project developer, Go Green has assembled a team of solar installers, energy savings companies, government relations, and financing professionals. This team has the capabilities and experience needed to design, build, manage, and operate our proposed systems and that the project schedule is adhered to and delivered in a timely and cost effective manner.

The Chairman for Go Green, Mr. Cruz Bustamante, brings 30 years of state and federal government experience. As the former Speaker of the Assembly and Lt. Governor for the State of California, his historic rise into statewide politics brings a wealth of knowledge including over 10 years each on the boards as Trustee for the California State University system and as Regent for the University of California campuses.

Go Green has partnered with BioStar Renewables for the Energy Savings portion of this project. BioStar is a leading nationwide provider of turnkey energy-efficiency solutions. They are dedicated to lowering cities' operational costs through demand-side energy reduction strategies, along with renewable energy projects. BioStar provides whole building energy assessments and implements lighting upgrades, control system enhancements, variable frequency drive (VFD) upgrades, HVAC enhancements, and other utility savings measures to help commercial, industrial, institutional, government, school district and utility customers meet their sustainability goals.

PROJECT DESCRIPTION

The City of Cudahy has many opportunities to achieve major savings on their City's electrical utility costs. Go Green has utilized the preliminary assessment provided to us to develop this strategic proposal to present to the City to move forward with installing an effective Solar PV System and Energy Conservation Measures (ECMs). These measures were selected on expected cost savings as well as the City's current needs. All identified opportunities will be fully developed after the acceptance of this proposal and Go Green will work directly with the City's staff to ensure the design and implementation will be in accordance with the City's priorities, timeline, and specifications.
The ECMs identified in this report capture and combine projected implementation costs and projected savings to maximize the financial benefit and provide the City with a self-funding program with no out-of-pocket costs. This approach leverages the energy savings by combining longer payback capital improvement items with shorter payback measures – in turn giving the City the flexibility to tailor the selection to achieve shorter paybacks, greater energy independence, or other objectives as the City sees fit.

The ECMs recommended will provide the City of Cudahy with the ability to accomplish the following:

- Reduce annual electric consumption from SCE by approximately 74%
- Offset capital improvement and operational budgets by replacing equipment at or near the end of their useful life, specifically the transformer and pool pump replacements

Go Green has worked with the following objectives in mind for the City of Cudahy:

- Reduce annual energy and maintenance costs associated with the City of Cudahy facilities.
- Provide a self-funded means to upgrade critical infrastructure that has exceeded its useful life.
- No out of pocket capital costs for the City.
- Project is paid back over 25 years with cost savings with no impact to the General Fund.
- Achieve long-term sustainability goals through clean energy generation.

Additional benefits to the City of Cudahy will include:

- Work will be performed under a normal, properly planned and executed schedule and not under an emergency replacement situation.
- Procurement is not subject to low bid process for goods and services - provides best value in lieu of lowest cost.
- Guarantees quality engineering, construction and long-term performance under a turnkey approach.
In addition to reducing energy consumption, these turnkey improvements give the City the opportunity to reduce its carbon footprint, reducing harmful environmental impacts. The positive impact this project will have on the environment is quantifiable. Most of the energy generated by power plants in the United States comes from burning fossil fuels. By reducing energy consumption, fewer fossil fuels are consumed which means less pollution. For the City, the project will reduce greenhouse gases by about 414 metric tons of CO2 each year. **Figure 1** illustrates the reduction in greenhouse gases each year in terms of equivalencies of familiar items.

**Figure 1 - Green House Reduction Annual Equivalencies**

- 88 Vehicles off the Road
- 959 Barrels of Oil Consumed
- Power for 49 Homes

Funding for this project includes operations and maintenance for the Solar PV system for the entire 25 year term of the Energy Services Agreement.

Savings to the City are estimated based on current City usage and current blended SCE rates. SCE adjusted its TOU in March of 2019 but it has been taken into account in our modeling. Actual savings may vary with changes in consumption, but part of the financial package is a savings guarantee from the Energy Savings Company doing the ECMs and production guarantees for the solar production.
<table>
<thead>
<tr>
<th>Year</th>
<th>Baseline Cost</th>
<th>ECM Cost</th>
<th>Total Costs</th>
<th>No Project Maintenance</th>
<th>ECM Savings</th>
<th>Annual % Savings</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
<td>0.0%</td>
</tr>
</tbody>
</table>

**Table 1: Savings Summary**

- Baseline Costs: Initial investment required for energy efficiency measures.
- ECM Costs: Costs associated with energy efficiency measures.
- Total Costs: Combined cost of baseline and ECM.
- No Project Maintenance: Assessment of potential savings without implementing ECM.
- ECM Savings: Savings achieved through energy efficiency measures.
- Annual % Savings: Percentage of annual savings from implementing ECM.
Energy Conservation Measures & Capital Improvements

Go Green has analyzed 4 facilities for the implementation of Energy Conservation Measures and Capital Improvements.

A summary of which facilities are affected is provided in the table below.

**Table 2: Facility Summary**

<table>
<thead>
<tr>
<th>ECM</th>
<th>City Hall</th>
<th>Clara Park</th>
<th>Lugo Park</th>
<th>Streetlights</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interior LED Lighting Upgrades &amp; Controls</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Exterior LED Lighting Upgrades</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Streetlighting Upgrades</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>HVAC Replacements</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Transformer Replacements</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Roof Replacements</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Solar Photovoltaics</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>
ECM #1 – Interior LED Lighting Upgrades & Controls

<table>
<thead>
<tr>
<th>Total Annual Utility Savings</th>
<th>Total Annual O&amp;M Cost Savings</th>
<th>Implementation Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>$6,821</td>
<td>$1,232</td>
<td>$76,008</td>
</tr>
</tbody>
</table>

Facilities Affected

This ECM will be complete at the following locations:
- City Hall
- Clara Park
- Lugo Park

Observation

During the preliminary site walkthrough, we have gathered some key data on the existing lighting systems at each facility. Throughout each building, the majority of the lighting consists of mainly T8 and T12 fixtures, with individual lamp wattages ranging from 32-40W. Standard wall-mounted light switches are utilized in the majority of areas, with tamper-proof switches utilized in certain assembly areas.

Savings Summary

A city-wide exterior LED upgrade would lead to substantial energy and cost savings. The majority of savings is based upon a reduction in the wattage of the fixtures needed to provide adequate light levels. Additional savings will occur in applicable areas where Title 24, Part 6 Energy Code required occupancy sensors are installed to further reduce lamp burn time. Maintenance cost savings will occur based upon the increased lifetime of the new LED fixtures, which will not require the same frequency of replacement as the existing fluorescent lamps and ballasts and creating additional cost savings from reduces maintenance costs.
ECM #2 – Exterior LED Lighting Upgrade

<table>
<thead>
<tr>
<th>Total Annual Utility Savings</th>
<th>Total Annual O&amp;M Cost Savings</th>
<th>Implementation Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>$5,719</td>
<td>$1,120</td>
<td>$69,137</td>
</tr>
</tbody>
</table>

Facilities Affected

This ECM will be complete at the following locations:
- City Hall
- Clara Park
- Lugo Park

Observation

During the preliminary site walkthrough, we gathered some key data on the existing lighting systems at each facility. Lighting technology consists of mainly high intensity discharge (HID) fixtures. Various areas have previously been retrofit with LED fixtures. Lighting controls consist of a combination of photocells, programmable timeclocks, and manual twist timers.

Savings Summary

A city-wide exterior LED upgrade would lead to substantial energy and cost savings. The majority of savings are based upon a reduction in the wattage of the fixtures needed to provide adequate light levels for each space. Additional savings will occur in areas where occupancy sensors are installed to further reduce lamp burn time. Maintenance cost savings will occur based upon the increased lifetime of the new LED fixtures, which will not require the same frequency of replacement as the existing HID lamps and ballasts.
ECM #3 – City Owned Street Lighting LED Upgrade

<table>
<thead>
<tr>
<th>Total Annual Utility Savings</th>
<th>Total Annual O&amp;M Cost Savings</th>
<th>Implementation Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>$14,848</td>
<td>$2,220</td>
<td>$145,927</td>
</tr>
</tbody>
</table>

Facilities Affected

This ECM will be completed to all City Owned Street Lighting.

Observation

Street lighting consists of an estimated 800 total fixtures, of which the City owns approximately 280. Of the estimated 280 city owned street lights, the majority are metered under the LS-3 rate structure. An inventory of street lighting fixture wattages has not been compiled and assumptions have been made for a preliminary analysis.

Savings Summary

A city-wide exterior LED upgrade would lead to substantial energy and cost savings. Savings are based upon a reduction in the wattage of the fixtures needed to provide adequate light levels for each space. Maintenance cost savings will occur based upon the increased lifetime of the new LED fixtures, which will not require the same frequency of replacement as the existing HID lamps and ballasts.
ECM #4 – Transformer Replacement

<table>
<thead>
<tr>
<th>Total Annual Utility Savings</th>
<th>Total Annual O&amp;M Cost Savings</th>
<th>Implementation Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1,269</td>
<td>$0</td>
<td>$24,070</td>
</tr>
</tbody>
</table>

Facilities Affected

This FIM is applicable for HVAC units associated with the following facilities:

- City Hall

Observation

During the preliminary site walk one older transformer was noted as a good candidate for replacement. This transformer wastes energy, and the cost for waste is included on the utility bill. It was noticed that this 75-kVA transformer is warm to the touch. The heat which makes this transformer warm is wasted energy and thus is an area for potential savings.

Recommendation

Go Green recommends replacing one existing transformer with a premium efficiency transformer. Premium efficiency transformers have cores made of low-loss silicon steel with copper windings or amorphous steel with copper windings. Copper windings have lower resistance per cross-sectional area than aluminum windings. Thus, copper windings require smaller cores that produce lower no-load losses and offer greater reliability. Transformer manufacturers have reduced the no-load losses of silicon steel transformers by over 60 percent in the last 30 years.

Premium-efficiency transformers with cores made of amorphous steel with copper windings have even lower no-load losses than silicon steel transformers. Transformers with amorphous steel in their cores lose 70-80 percent less energy in their core than silicon-core transformers. Manufacturers also reduce core losses by using thinner laminations in the core and by using step-lapped joints. Rather than butting the laminated joints, they interleave laminations and increase the amount of steel that bridges the joint gap. This reduces the resistance between the laminations and thus reduces eddy current losses.
ECM #5 – Transformer Replacement

<table>
<thead>
<tr>
<th>Total Annual Utility Savings</th>
<th>Total Annual O&amp;M Cost Savings</th>
<th>Implementation Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>$60,476</td>
<td>$0</td>
<td>$627,814</td>
</tr>
</tbody>
</table>

Facilities Affected

This FIM is applicable to the following facilities:
- City Hall
- Lugo Park
- Clara Park

Observation

Various city owned parking lots provide adequate space for solar PV carport canopy installations.

Recommendation

Go Green recommends installing solar carport canopies at the three facilities listed above to produce 203 kW of peak DC power. The proposed solar PV systems shall offset site energy by approximately 55% at City Hall, 95% at Clara Park, and 95% at Lugo Park. The presented cashflow assumes scheduled panel cleaning shall be conducted by City maintenance staff. Further, it is assumed that a 25-foot offset from building structures is feasible and sprinkling systems shall not be required.

Savings Summary

Savings associated with installed Solar PV system are through two means:
- Energy savings through reduced peak demand
- Energy savings by utilizing energy production from the solar array to reduce the energy bought from the utility provider.
Capital Improvement #1 – Roof Infrastructure Replacement

<table>
<thead>
<tr>
<th>Total Annual Utility Savings</th>
<th>Total Annual Deferred Maintenance</th>
<th>Implementation Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0</td>
<td>$148,000</td>
<td>$925,000</td>
</tr>
</tbody>
</table>

Facilities Affected

This Capital Improvement will be complete at the following locations:
- City Hall
- Lugo Park
- Clara Park

Observation

During the site visit, our team observed older packaged roofing materials that are in desperate need of replacement.

Savings Summary

Minimal energy savings shall be obtained from replacement of the roofs, and estimates have not been calculated.

Annual O&M savings have been estimated by assuming roofs have a remaining expected useful life of 5 years. The cost to replace the roofs have been distributed and escalated over the remaining 5 years of equipment life.
Capital Improvement #2 – HVAC Unit Replacement

<table>
<thead>
<tr>
<th>Total Annual Utility Savings</th>
<th>Total Annual O&amp;M Cost Savings</th>
<th>Implementation Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>$10,295</td>
<td>$75,680</td>
<td>$700,614</td>
</tr>
</tbody>
</table>

*O&M costs are only applicable over the first (5) years of the Energy Services Agreement.

Facilities Affected
This Capital Improvement will be complete at the following locations:
- City Hall
- Clara Park
- Lugo Park

Observation
During the site visit, our team observed older packaged roof top units (RTUs) that have exceeded their useful life. A summary of units targeted for replacement are provided in the table below.

<table>
<thead>
<tr>
<th>Site</th>
<th>System Type</th>
<th>Cooling Capacity (tons)</th>
<th>Quantity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clara Park</td>
<td>Gas/Electric Packaged RTU</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>Clara Park</td>
<td>Gas/Electric Packaged RTU</td>
<td>7.5</td>
<td>4</td>
</tr>
<tr>
<td>Lugo Park</td>
<td>Gas/Electric Packaged RTU</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>Lugo Park</td>
<td>Gas/Electric Packaged RTU</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>City Hall</td>
<td>Split System Heat Pump</td>
<td>5</td>
<td>3</td>
</tr>
<tr>
<td>City Hall</td>
<td>Split System Heat Pump</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td>City Hall</td>
<td>Packaged Heat Pump</td>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td>City Hall</td>
<td>Packaged Heat Pump</td>
<td>10</td>
<td>4</td>
</tr>
</tbody>
</table>

Savings Summary
Cost savings can be obtained from both energy savings and maintenance savings by replacing these older units with new units. Energy savings are based upon the improved operating efficiencies of the new equipment and have been determined using ASHRAE standard comparison calculations for climatic conditions. Only cooling performance improvements have been considered using pre-and post-performance estimates; no significant heating savings are anticipated. As HVAC equipment ages, performance levels decrease due to general wear of motors, compressors, heat exchangers, actuators and linkages. In our energy calculations, we have assumed that the base level performance has decreased for the existing units.

Annual O&M savings have been estimated by assuming HVAC units have a remaining expected useful life of 5 years. The cost to replace the HVAC units has been distributed and escalated over the remaining 5 years of equipment life.
Financing Options Moving Forward

Go Green has worked with finance partners to bring multiple options for financing the project that will let the City of Cudahy choose the option that most suits their goals, both short and long term. This project is intended to be a complete package of work to include all of the ECMs within this proposal, and the only difference in the options below is in how much and when the City makes payments.

The City of Cudahy is interested in applying for the California Energy Commission (CEC) 1% loan. Go Green can be authorized via the Council approval to work with the City Manager to get an Application filed. CEC Loan applications are considered on submittals via a first come, first serve basis. Maximum loan amount is $3 million per application. All ECMs in the preliminary assessment are eligible for loan through the CEC. If approved by the CEC, the loan can fund a large portion of the project cost within the term provided in this proposal.

All of the options proposed have the same reduction in Electrical Consumption by the City of Cudahy. The offset from solar generation would take 314,650 kWh from the City of Cudahy and be added back to the Grid. The Energy Conservation Measures would reduce consumption by the City in the amount of 252,354 kWh, just by installing more efficient equipment.

The combination of the Solar Generation and Energy Conservation Measures would net a total reduction of 567,004 kWh annually, for a 25 year total of over 14,175,100 kWh.
Option #1 – CEC Loan Package Financed

If the City decided they want Go Green to bundle everything together and make one monthly payment for the PPA and one for the CEC Loan, then this option is the best way to go. Everything is handled by Go Green and the ESCo.

This includes:

1. Go Green Finance Partners
   a. Solar
   b. Roof Repairs
   c. HVAC Replacements

2. CEC Loan
   a. Interior Lighting Upgrades
   b. Exterior Lighting Upgrades
   c. LS2 & LS3 Streetlight Retrofits
   d. Transformer Replacements

Savings for the City would be the same as in the Proposal as seen in Table 1.
Option #2 – Non-CEC Loan Package Financed

If the City decided they want Go Green to bundle everything together and make one monthly payment for the ESA and the ESCo work included, then this option is the best way to go. Everything is handled by Go Green and the ESCo, SmartWatt.

This includes:

1. Go Green Finance Partners
   a. Solar
   b. Roof Repairs
   c. HVAC Replacements
   d. Interior Lighting Upgrades
   e. Exterior Lighting Upgrades
   f. LS2 & LS3 Streetlight Retrofits
   g. Transformer Replacements

The savings would be slightly less due to having to finance the ECMs with a higher interest rate.
Option #3 – Shorter Term for Capital Improvements

If the City decided they want to reduce the term of paying for the Capital Improvements, and utilize more of the savings for the payments, then we can adjust the Agreements to reflect this. Currently, we can shorten the payment term for the Capital Improvements down to 10 years instead of the recommended 17 years to match the CEC Loan for the ECMs. This will reduce short term savings, but increase long term savings overall.

This includes:

1. Go Green Finance Partners
   a. Solar
   b. Roof Repairs
   c. HVAC Replacements

2. CEC Loan
   a. Interior Lighting Upgrades
   b. Exterior Lighting Upgrades
   c. LS2 & LS3 Streetlight Retrofits
   d. Transformer Replacements

The savings would be slightly less due to having to finance the Capital Improvements with a shorter term.
Appendix A – Optional Energy Savings and Production Insurance

Savings for the ECMs will include a Savings Guarantee to the City that the Project owner would have to reimburse for any underperformance by the Energy Conservation Measures and Solar Production. Go Green will also include an additional option for an Insurance Policy to insure the Energy Savings and Solar Production at an additional cost, and can be included upon mutual agreement with the City. This insurance option will cost no more than 6% of the project costs within the scope of the insurance coverage, to be mutually agreed upon with the City. Insurance cost, guaranteed savings, and guaranteed production will be calculated based on the completion of the IGA.

Below are companies and policies we are currently working with in regards to insuring the Energy Savings and Solar Production.

Energi Insurance

Energy Savings Warranty, Solar Installation and Performance Warranty

Energi is a leading provider of specialty risk management solutions, including insurance and reinsurance, to certain sectors of the Energy Industry. Founded in 2005 by accomplished insurance professionals and energy industry leaders, Energi’s competitive strengths include the ability to attract quality value-oriented clients and the development of proprietary loss prevention, claims management, and risk selection techniques. Energi’s programs are offered in all 50 states, Canada, and Puerto Rico. Energi has expanded its offerings to provide solutions for alternative energy segments and now, energy efficiency by way of Energy Service Companies and the projects they undertake.

A focused division within Energi, Alternative Energy Solutions aims to provide advanced risk management policies to alternative energy companies and warranty assumption for energy products. Utilizing Energi’s risk management and renewable energy professionals, Alternative Energy Solutions extends our penchant for comprehensive underwriting and industry expertise into new and emerging sectors.

The Energy Savings Warranty (ESW) program ensures energy savings guarantees issued by high quality energy efficiency contractors who perform energy retrofits. Energi’s warranty product serves as a strong insurance backstop to the energy savings guarantees provided by contractors to end customers, who may range from schools and other municipal buildings to commercial facilities.
Energi’s Warranty program provides product warranties and extended warranties to high quality energy companies who manufacture, distribute, or supply energy products. Eligible companies include manufacturers, distributors or suppliers of wind turbines, solar equipment, batteries, engine retrofits, biofuel, biomass, heating and cooling equipment, energy efficient construction materials, or other energy efficiency solutions. Warranty policies are issued through a world-leading reinsurance company.

**Munich RE’s HSB Engineering Insurance**

**Energy Savings Warranty, Solar Installation and Performance Warranty**

HSB Engineering Insurance, part of Munich Re, recognize the importance of providing the right insurance covers to protect energy efficiency projects. HSB Engineering Insurance has developed a policy to meet the needs of organizations investing in energy saving technology and energy service companies working with them.

Energy efficiency insurance removes the technical uncertainty for the lender allowing them to concentrate purely on credit risk. Insuring the performance of the project with a highly rated insurer can also help to reduce the financial exposure. This results in improved credit worthiness and may lower interest rates and funding costs.

Our policy is specifically designed for investors in energy conservation measures, ESCOs, and those financing energy saving projects. It provides cover for the assets installed, revenue generated by projects and shortfalls in energy savings realized each year.

The policy is available for periods of up to five years and provides cover for the following:

**Material damage**
Covers physical damage, including breakdown, to equipment and materials installed as part of an energy saving project with the aim of saving or generating energy. Replacement of equipment is on a new for old basis.

**Business interruption**
Covers loss of gross revenue and increased cost of working following insured damage to equipment. Revenue is income generated under an energy service contract and incentives received for the production of renewable energy.

**Asset performance**
Covers the annual shortfall in energy savings compared to the amount of savings insured by the policy. It covers shortfall caused by deficiencies in the design or implementation of energy saving measures and does not require damage to have occurred to the equipment. The cover is subject to a project audit.
Attachments

1. Background Information
2. Special Purpose Entity Information
3. Draft Staff Report
4. Form Energy Services Agreement
Project Partners

This project proposal will be developed and supported by a project partnership of innovative leaders in the sustainable energy industry. Detailed information on each project partner is included in the following sections. No employees working on this project have ever been convicted of a felony.

Go Green Consultants, LLC

Go Green Consultants, LLC was formed to promote and produce effective and efficient energy solutions to school districts and commercial business by blending public sector needs with private sector solutions, and is the lead for this proposed solar initiative. As the project developer, Go Green has assembled a team of habitat restoration, solar installation, government relations and financing professionals for the SOLAR Initiative. This team has the capabilities and experience needed to design, build, manage, and ensure that the research goals and objectives for the SOLAR Initiative are achieved and that the project schedule is adhered to.

Cruz Bustamante is Chairman of Go Green Consultants LLC, as well as a 30-year public servant with a distinguished career in the State of California. As a public servant he has served as California's Lt. Governor and Speaker of the California Assembly. In addition, Cruz excelled in his position as Co-chair with the "California's Building for the 21st Century Commission". Throughout his career in public service Mr. Bustamante has championed environmental causes. His efforts within the Environmental Industry have been recognized through his appointment as "The Most Environmentally Friendly Elected Official" by the California Coastal Commission in the state's history. In addition, he was honored as a "Coastal Hero" by Coastkeepers and Robert Kennedy Jr. His commitment to the environment has increased with the founding of Go Green Consultants.

As the President of Go Green Consultants LLC., Paul E. Galindo has become one of California's most sought after renewable energy consultants. His insights into the renewable energy industry, work force development and the new "green economy" are shared and respected as editor of the Online Broadcasting System (OBS) news green section. Mr. Galindo has earned National recognition, such as Young Californian of the Year Award for 2006 and the National Hispanic Heritage Award through PBS. As Go Greens Senior consultant, Paul has worked with leading renewable energy companies in expanding their businesses within local, state and federal procurement opportunities. His collaboration with solar module manufacturers provides him with the edge needed to keep abreast of the developing solar markets, and allows him to find solutions that best leverage all opportunities for clients.

Joel Huppe serves as the Project Finance & Development Director, having spent the last 9 years in the renewable and energy conservation field working with developers to bring projects from the concept phase to a financeable package that is ready for the start of construction. Through his experience with cities, financers, and the various contractors in the energy projects he has worked on, Joel is an integral part of the project development process. His expertise with the intricacies of energy contracts, utilities, and project development/management is invaluable. His grasp of complex financing and tax strategies allows Go Green to utilize his skill set throughout the entire process of project development and integration. He is now utilizing this experience to structure project financing by combining the current opportunities and market for tax benefits with traditional government subsidies.

Go Green Consultants, LLC, most recently worked with SDSU as the developer for the Santa Margarita Ecological Reserve SMER 1 Solar Project, and developed the habitat restoration project with a Solar System size of 3.6 MW. As a result, our team understands how this project can support and integrate into the goals of the RCHCA.
BioStar Renewables, LLC

Originally formed in 2005 as a private equity firm, has been a lead equity investor, or an equity participant, in over a dozen transactions valued at $150+ million dollars. In 2009, the Company began a strategic migration to the renewable energy sector. BioStar provides a "conduit-to-market" for strategic investors looking to deploy capital or monetize tax incentives in renewable energy infrastructure projects. Our principals’ extensive expertise in design/build construction provides the highest quality Engineer, Procure & Construct (EPC) services for the best value and fastest delivery. As long-term owners of energy assets, BioStar takes a long-term perspective for project value.

BioStar both originates and partners with early stage developers in projects that utilize proven technologies that have an extensive useful life, maintain long-term offtake agreements with creditworthy counterparties, and generate stable and predictable cash flow streams. BioStar has strategic and economic partnerships with its construction partners such that all parties' interests are aligned to both create and deliver long-term economic value. BioStar typically seeks co-development projects that are in the later stages of development, but in need of additional work to get the projects financed and built at NTP (Notice to Proceed) through COD (Certificate of Delivery). BioStar's financing partners provide the company with the full range of capital for energy projects: Predevelopment Capital; Construction lending at Notice to Proceed NTP; Investment Tax Credit (ITC) Monetization; Sponsorship Equity; Long-term Debt Financing; and Rec monetization including S-Rec's, RIN's and LCF's.

BioStar Solar, a division of BioStar, is a full service solar development company with extensive experience to build, own and operate customized turnkey solar solutions. The company shares principals and employees with its sister company, E-Light Electric. They have built projects for some of the largest solar developers across the U.S. - leveraging industry best practices.

Bill Love, CEO, originally an electrician by trade, is a Senior Level Executive with over 35 years of professional experience in electrical, energy, construction, project development and financing and has significant expertise in acquisitions. He is personally involved in the acquisition of more than 30 companies and growing investments in early stage businesses and was an active investor and advisor to management working with over a dozen companies through venture funds. He is the founder emeritus for Faith Technologies, a $500M+ annual revenue, top 20 U.S. electrical contractor, and a director and shareholder of E Light Electric, a top three, U.S. solar contractor and strategic partner in the BioStar Renewables family.

Lee Ullman, Managing Director-Structured Finance entered the LED lighting industry in 2010 as a co-founder of BioStar Lighting. As a partner in BioStar Renewables, Lee utilizes his financial and legal background to structure renewable energy and energy efficient lighting projects. Lee leads corporate & project financing for all BioStar projects. He is very adept at financing Power Purchase Agreements (PPA's) and Investment Tax Credit (ITC) related transactions. Prior to joining BioStar, Lee was involved in numerous real estate transactions as an attorney, consultant, and active partner using traditional and non-traditional methods to finance transactions.

Andy Stancati, President & COO - Solar, has managed and installed over 100MW of solar across the country. In 2014, Andy was the project manager of a Fortune 500 client portfolio that consisted of 88 commercial solar projects built over the course of seven months, across seven states, totaling over 5MW. His direct management of these projects includes site selection, engineering and design, and construction and has experience managing ground mount and rooftop commercial and utility scale markets with projects ranging from 30kW to 40MW.
A WORD FROM THE CEO.

We are pleased to provide this overview of BioStar Renewables. Our company is a culmination of our team’s decades of professional experience, building and developing infrastructure projects and assets in the billions of dollars. We believe in taking a long-term view to project development and ownership, which in our experience is the best route to long-term capital appreciation.

Our company playbook, including key levers and fundamental strengths, is the foundation of our strategy. We provide our customers with a complete 100% of project financing stack, and we have core in-house capabilities in the areas of development, construction and financing. BioStar is strategically positioned to help our customers reduce and produce kWh by implementing the best value add solutions. We are technology agnostic, focusing on what works for the project.

We strive to create an energetic, fun, empowering culture while adhering to a deeply rooted belief in business ethics: Tell the truth early, underpromise and overdeliver. We believe you will enjoy our professional team and our positive culture.

From our team to yours, we are grateful for the support of our clients, partners and stakeholders. We enter 2019 at a key industry inflection point in what is sure to be an exciting future together.

William (Bill) Love
CEO
BioStar Renewables, LLC
October 17, 2018
OUR MISSION

Lead a global transition to cost effective renewables, creating a sustainable earth.

ETHICS
Tell the truth early. Underpromise and Overdeliver.

WHO WE ARE
A full-service, clean-energy company providing complete, turnkey project implementation from engineering and financing, through construction and operations.

BioStar Renewables is redefining "energy-services" by delivering solutions that both produce and reduce kilowatts for the new energy economy. We have monetized all types of incentives in over $250M in transactions in 35 states, in addition to building over 1,500 MW of solar installations with our sister company, E Light Electric.

HOW WE DO IT
Develop renewable energy investment projects with:

- Best of Class, Tier 1 Equipment & Technologies
- Long-term Power Purchase Agreements
- Monetization of Incentives into Complete Capital Stack
- Long-term Cost of Ownership, Risk Reduction
KEY LEVERS & CORE COMPETENCIES

BioStar Renewable's sales, development, engineering and financing team, of approximately 30 people, possess the specialized skill sets needed to deliver results.

- Complete Capital Stack for Renewable Energy Projects
- Turnkey Project Implementation EPC (Engineering, Procurement & Construction)
- Pre-Development Capital
- ITC, S-REC, RINS and LCFS Credit Monetization
- Energy Trading
- Extensive Development & Construction Expertise

AWARD-WINNING RECOGNITION

2016 DOE Better Buildings Challenge Winner
2016 DOE Lighting Energy Efficiency in Parking Garages Winner
2017 Thinking Bigger Business 25 Under 25 Small Business Winner
BioStar Renewables, originally formed in 2005 as a private equity firm, has been a lead equity investor, or an equity participant, in over a dozen transactions valued at $150+ million dollars. In 2009, the Company began a strategic migration to the renewable energy sector. BioStar provides a “conduit-to-market” for strategic investors looking to deploy capital or monetize tax incentives in renewable energy infrastructure projects. Our principals’ extensive expertise in design/build construction provides the highest quality Engineer, Procure & Construct (EPC) services for the best value and fastest delivery. As long-term owners of energy assets, BioStar takes a long-term perspective for project value.

BioStar Solar is a full service solar development company with extensive experience to build, own and operate customized turnkey solar solutions. The company shares principals and employees with it’s sister company, E-Light Electric. They have built projects for some of the largest solar developers across the U.S. – leveraging industry best practices each time.
BioStar Organics is a waste-to-energy company. Its primary business is focused on converting organic material through anaerobic digestion, including livestock manure into biogas, electricity and premium organic fertilizers. The resulting fertilizers are the first pathogen-free, food safe liquid organic fertilizers, approved for use on produce for human consumption, lawns and golf courses. The anaerobic digestion process works similar to an animal’s natural digestive system, where enzymes break down organic matter in the absence of oxygen. Methane and ammonia are two primary by-products of the process. The methane biogas RNG (Renewable Natural Gas) is used for fuel or, electricity.

BioStar looks for opportunities where there is a high amount of nitrogen in the form of ammonia in the effluent, along with the other macro and micronutrients. That nitrogen rich effluent is processed through BioStar’s patented nutrient recovery process into organic fertilizer products. Bacteria and pathogens in manure are eliminated, so the resulting fertilizer is safe to handle and safe to use on food crops, and is OMRI (Organic Materials Review Institute) listed for organic use with no restrictions.

Clean water is also a by-product of BioStar’s nutrient recovery system, reducing water pollution in the surrounding ecosystem.

In mid-2017, BioStar Organics, LLC formed a partnership with Perfect Blend, an Organic Fertilizer manufacturer and distributor located in Othello, Washington to install and operate a facility that produces BioStar’s Super Six 6-0-0 Liquid Organic Fertilizer – utilizing BioStar’s patented technology. The facility will produce approximately 500,000 gallons of product annually and has contracted to sell all of the production for the next five years.
BENEFITS OF BIOGAS DIGESTERS

• Diversion of organics from landfills provides methane emissions reduction
• Waste-to-Energy (WtE) is either natural gas or electricity
• Sealed tanks without oxygen (anaerobic) provide excellent means of odor suppression
• Recovery of valuable nutrients from our ecosystem
• Sustainable management for all types of organic waste

FEEDSTOCK

The "fuel" the drives a food-waste-to-energy facility is organic waste or, generically referred to as "feedstock". Feedstock can be comprised of a variety of materials and sources and may include:

• Organic materials rich in carbon, oils, proteins, sugars, and other food-related materials
• Expired food, produce, groceries, and other food that would normally be disposed of
• Fats, oils, grease (FOG) from food production facilities and restaurants
• Industrial and commercial food packing facilities waste
• Residential and institutional food waste
• Animal Manure

Stellar J Anaerobic Digestion Project.  
SUEZ Plant Digester.
BioStar Leasing provides financing to customers for turnkey energy savings and electrical generation projects, allowing them to be cash flow positive at the flip of a switch with savings exceeding the lease payments.

BioStar both originates and partners with early stage developers in projects that utilize proven technologies that have an extensive useful life, maintain long-term offtake agreements with creditworthy counter parties, and generate stable and predictable cash flow streams. BioStar has strategic and economic partnerships with its construction partners such that all parties’ interests are aligned to both create and deliver long-term economic value. BioStar typically seeks co-development projects that are in the later stages of development, but in need of additional work to get the projects financed and built at NTP (Notice to Proceed) through COD (Certificate of Delivery). While BioStar is capable of doing the O&M, it typically hires 3rd party operators. BioStar’s financing partners provide the company with the full range of capital for energy projects:

- Predevelopment Capital
- Construction lending at Notice to Proceed NTP
- Investment Tax Credit (ITC) Monetization
- Sponsorship Equity
- Long-term Debt Financing
- Rec monetization including S-Rec’s, RIN’s and LCF’s

BioStar provides both capital and operating leases, which may, or may not include ITC monetization.
**E LIGHT ELECTRIC, LLC**

_E Light Electric_ is a sister company to BioStar Renewables, sharing mutual employees as well as common director/ownership with CEO Bill Love. E Light is a $100M annual revenue full services electrical contracting firm, based in Englewood, CO, and has installed over 1.5 GW of solar installations on a national basis.

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**PROJECT EXPERIENCE**

**INDUSTRY EXPERIENCE IN 27 STATES**

<table>
<thead>
<tr>
<th>Region</th>
<th>Projects</th>
<th>Total Contract Value</th>
<th>Total Power Production in kW</th>
<th>Total Energy Reduction in kWh</th>
</tr>
</thead>
<tbody>
<tr>
<td>West</td>
<td>85</td>
<td>$277,244,222</td>
<td>429,000</td>
<td>13,012,828</td>
</tr>
<tr>
<td>Central</td>
<td>54</td>
<td>$22,713,000</td>
<td>175</td>
<td>12,694,605</td>
</tr>
<tr>
<td>East</td>
<td>24</td>
<td>$70,536,000</td>
<td>173,336</td>
<td>5,259,996</td>
</tr>
</tbody>
</table>

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*Image of electrical equipment and a map of the United States.*
<table>
<thead>
<tr>
<th>PROJECT NAME</th>
<th>SIZE (kW)</th>
<th>YEAR</th>
<th>STATE</th>
<th>CONTRACT AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Desert Sunlight</td>
<td>260</td>
<td>2015</td>
<td>CA</td>
<td>$77,900,000</td>
</tr>
<tr>
<td>Regulas</td>
<td>65,200</td>
<td>2014</td>
<td>CA</td>
<td>$22,598,000</td>
</tr>
<tr>
<td>Quinto</td>
<td>105,000</td>
<td>2014</td>
<td>CA</td>
<td>$18,168,000</td>
</tr>
<tr>
<td>Fed Center Ground &amp; Carport PV</td>
<td>3500</td>
<td>2010</td>
<td>CO</td>
<td>$13,331,000</td>
</tr>
<tr>
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## Solar Financing

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## Organics

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## Mechanical

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<tr>
<td>Roberts Chevrolet Buick</td>
<td>2014</td>
<td>MO</td>
<td>$13,000</td>
<td>121,606</td>
<td>$96,000</td>
</tr>
<tr>
<td>Buffalo Springs Apt</td>
<td>2017</td>
<td>TX</td>
<td>$20,000</td>
<td>203,000</td>
<td>$89,000</td>
</tr>
<tr>
<td>Hendrick Honda</td>
<td>2017</td>
<td>NC</td>
<td>$18,000</td>
<td>150,000</td>
<td>$87,000</td>
</tr>
<tr>
<td>Forward Air</td>
<td>2018</td>
<td>MO</td>
<td>$22,810</td>
<td>233,620</td>
<td>$85,000</td>
</tr>
<tr>
<td>Orizon Aerostructures</td>
<td>2016</td>
<td>OK</td>
<td>$54,607</td>
<td>682,596</td>
<td>$82,000</td>
</tr>
<tr>
<td>Phoenix Academy</td>
<td>2015</td>
<td>NC</td>
<td>$8,000</td>
<td>76,380</td>
<td>$80,000</td>
</tr>
<tr>
<td>University Academy</td>
<td>2015</td>
<td>MO</td>
<td>$14,000</td>
<td>132,246</td>
<td>$78,000</td>
</tr>
<tr>
<td>Tech Industries</td>
<td>2016</td>
<td>KS</td>
<td>$9,000</td>
<td>87,619</td>
<td>$76,000</td>
</tr>
<tr>
<td>US Toy Offices</td>
<td>2015</td>
<td>MO</td>
<td>$8,843</td>
<td>85,000</td>
<td>$71,000</td>
</tr>
<tr>
<td>Plaza Manor</td>
<td>2016</td>
<td>MO</td>
<td>$12,868</td>
<td>110,000</td>
<td>$68,000</td>
</tr>
<tr>
<td>Tutera-Monterey Park</td>
<td>2018</td>
<td>MO</td>
<td>$12,573</td>
<td>107,466</td>
<td>$67,077</td>
</tr>
<tr>
<td>Lee's Summit Honda Lot</td>
<td>2017</td>
<td>MO</td>
<td>$12,104</td>
<td>121,042</td>
<td>$67,000</td>
</tr>
<tr>
<td>Highland Rehabilitation</td>
<td>2016</td>
<td>MO</td>
<td>$29,000</td>
<td>200,000</td>
<td>$65,000</td>
</tr>
<tr>
<td>Locarno Apartments</td>
<td>2016</td>
<td>MO</td>
<td>$16,099</td>
<td>85,000</td>
<td>$58,000</td>
</tr>
<tr>
<td>Summit Shopping Centers</td>
<td>2016</td>
<td>MO</td>
<td>$7,713</td>
<td>16,000</td>
<td>$58,000</td>
</tr>
<tr>
<td>Lockwood High School</td>
<td>2017</td>
<td>MO</td>
<td>$9,500</td>
<td>66,500</td>
<td>$55,000</td>
</tr>
<tr>
<td>Boardwalk Square</td>
<td>2016</td>
<td>MO</td>
<td>$13,000</td>
<td>119,283</td>
<td>$51,000</td>
</tr>
<tr>
<td><strong>Total LED Lighting Projects</strong></td>
<td></td>
<td></td>
<td><strong>$2,156,708</strong></td>
<td><strong>22,073,552</strong></td>
<td><strong>$12,850,232</strong></td>
</tr>
</tbody>
</table>
BioStar’s executive management team brings together seasoned professionals with expertise in sourcing, structuring, managing and monetizing investments as institutional fiduciaries of third party capital. The executive team collectively has 100+ years of professional global experience with leading firms in private and tax equity, investment banking, solar energy operations, and real asset development.

**WILLIAM (BILL) LOVE JR. | BOARD MEMBER | CEO**

Bill, originally an electrician by trade, is a Senior Level Executive with over 35 years of professional experience in electrical, energy, construction, project development and financing and has significant expertise in acquisitions. He is personally involved in the acquisition of more than 30 companies and growing investments in early stage businesses and was an active investor/advisor to management working with over a dozen companies through venture funds. He is the founder emeritus for Faith Technologies, a $500M+ annual revenue, top 20 U.S. electrical contractor, and a director and shareholder of E Light Electric, a top three, U.S. solar contractor and strategic partner in the BioStar Renewables family.

**JOHN MARTIN | BOARD MEMBER | PRESIDENT & COO - ORGANICS**

John was CEO of a $600M annual revenue construction company and has 42 years of professional experience in construction development planning and management. He has a proven ability to develop and implement corporate strategic plans, perform up front due diligence and complete operations including construction development, structuring, negotiating financing and joint venture transactions. John oversees the Company’s development, construction, operation and sales functions for BioStar Organics; his focus is on the Waste- to-Energy sector in the family of BioStar Renewables.

**LEE ULLMAN | BOARD MEMBER | MANAGING DIRECTOR - STRUCTURED FINANCE**

Lee entered the LED lighting industry in 2010 as a co-founder of BioStar Lighting. As a partner in BioStar Renewables, Lee utilizes his financial and legal background to structure renewable energy and energy efficient lighting projects. Lee leads corporate & project financing for all BioStar projects. He is very adept at financing Power Purchase Agreements (PPA’s) and Investment Tax Credit (ITC) related transactions. Prior to joining BioStar, Lee was involved in numerous real estate transactions as an attorney, consultant, and active partner using traditional and non-traditional methods to finance transactions.

**ANDREW (ANDY) STANCATI | PRESIDENT & COO - SOLAR**

Andy has managed and installed over 80MW of solar across the country, as well as, coordinated the installation of more than 40 lighting projects, saving over 5,000,000 kWhs annually. In 2014, Andy was the project manager of a Fortune 500 client portfolio that consisted of 88 commercial solar projects built over the course of seven months, across seven states, totaling over 5MW. His direct management of these projects includes site selection, engineering and design, and construction and has experience managing ground mount and rooftop solar projects in the commercial and utility scale markets with projects ranging from 30kW to 40MW.
DAVID SMART | PRESIDENT & COO - ENERGY REDUCTION

Graduated with a Management degree from Indiana's School of Public and Environmental Affairs at Indiana State University, David’s background includes various entrepreneurial and sales endeavors starting with the founding of his first company in 2009, Smart ‘n’ EZ Apparel, a custom apparel company providing promotional goods for numerous campus organizations. After college, he began developing energy efficiency projects with a focus in LED lighting at BioStar. As VP of Sales, his experience includes negotiating purchasing agreements, sales and development, project management and utility consulting.

913.369.4112

BRIAN HUME | V.P. PROJECT DELIVERY

Brian joined BioStar in 2018 as VP Project Delivery, and is responsible for all project delivery and asset management activities focusing on the solar and waste-to-energy market segments. Prior to joining BioStar, Brian had accumulated over 20 years of Power Generation - Product, Project and Operations leadership experience - with both domestic and international high value/highly engineered equipment supply and full Engineering Procurement Construction projects working for Rolls-Royce Energy Systems, Echogen Power Systems and ProEnergy Services. Brian has led and delivered significant energy sector Product Management, Product Standardization, cost reduction and business transformation initiatives.

913.369.4111

LISA HANSEN | VICE PRESIDENT & GENERAL COUNCIL

Lisa was the leader of the Tax/Tax Credit/Employee Benefits Practice Group at Lathrop Gage and handled all aspects of federal income taxation, including entity formation and dissolution, corporate reorganization, partnership and limited liability company issues and issues affecting charitable and tax-exempt organizations. She has extensive experience with state income, franchise, sales and tax issues, and litigation as well as advising clients with respect to transactions that qualify for federal and state tax credits and new market tax credits. Lisa previously served as an adjunct instructor in business law for the Bloch School of Business, University of Missouri-Kansas City.

913.369.4112

AARON MCDONALD | V.P. PRE-CONSTRUCTION - E LIGHT & BIOSTAR

Aaron McDonald joined E Light / BioStar in 2002 and is responsible for establishing project construction costs. Aaron has been active in the construction industry since 1999 and has been in project management for over 15 years. He is a results oriented estimator and project manager with a proven record of estimating and capturing over 500 Megawatts of solar on many utility scale solar projects, ranking E Light Electric the 3rd largest solar contractor in the United States, 2nd largest utility solar contractor, and #1 solar contractor in Colorado. He is a Master Electrician and has an Advanced Battery-based Photovoltaic Design Certificate. Aaron continues to stay current through advanced industry-related training courses.

913.369.4113

DANA GORDON | VICE PRESIDENT - ADMINISTRATION

Dana has worked in the lighting sector, focusing on energy efficient lighting, since 2008 where she began as National Account Manager at MIROR Lighting until being hired as Director of Business Development at Optimum Energy Solutions. She was quickly promoted to Vice President, where she oversees all aspects of their energy efficient lighting business including audits, design, proposals, purchasing, shipping, installation, warranty administrations and marketing. Dana's comprehensive knowledge of energy efficient lighting has built a strong supply chain of LED lighting products to fit any application from manufacturers providing top-quality fixtures. She is a Certified Apartment Supplier with the National Apartment Association and received her Bachelor of Science in Journalism from the University of Kansas.

913.369.4127
Addition Board Members

Missy Love | Board Member | Managing Director, Marketing

Missy Love, President of Alaskan Fur, is the third generation to lead the privately held Alaskan Fur Company, one of the nation’s oldest and largest furriers. Missy joined Alaskan Fur Company in 1984 as advertising manager and was named president in 1992. Missy’s main focus on staying current with changing media trends, especially with the onset of social media, website enhancements, along with an increase in email blasts and social posts, have been added during her tenure at both Alaskan Fur and BioStar. Operating from a position of “building from” rather than “clinging to” tradition, Missy’s expertise and experience will prove equally beneficial to the long term growth of BioStar Renewables.

Joe Chinnici | Board Member | President & COO - Osborn Infrastructure

As President and COO, Joe is responsible for strategy, capital, investor relations, business and corporate development for BioStar Infrastructure. Joe is also President and CEO of Osborn Infrastructure, a joint venture with Osborn Engineering, which is developing a nationwide network of data distribution infrastructure assets in support of technologies such as ATSC 3.0, Single Frequency Networks, Next Gen Broadcast and Data Centers. Previously, Joe was a senior member of the Business and Corporate Development team with Cincinnati Bell Technology Solutions and also served as Managing Director with Keybanc Capital Markets and was a member of the Capital Commitment and Investment Underwriting committees.

Ray Harris | Board Member

Ray Harris has 35+ years of experience in the electric utility infrastructure business. Ray received a Bachelor of Science in Civil Engineering from Auburn University and throughout his career, has held senior leadership positions leading energy development companies and projects, both domestically and in Asia. He has experience in green field development of both gas and coal power plants, gas fired generation, Engineering/Procurement/Construction (EPC) sales opportunities, and renewable energy, primarily wind, solar and biomass. In 2009 Ray became President of MasTec, a publically traded utility infrastructure construction company. Ray retired from MasTec in 2012 and started Endevco, a utility infrastructure development company with primary focus on water and power.

Bram Walters | Board Member

Bram is the Founder and Managing Partner of Euclid Capital, a private equity investor focused on renewable energy and other alternative investments. Prior to Euclid Capital, Bram was Managing Partner, Energy & Renewables, at Forum Equity Partners, a real assets private equity investor with $1.3B of assets under management. As a member of the Investment Committee, Bram oversaw all of Forum’s Power & Renewables investments, and was a board member of Empire State Connector and United Wind. Prior to joining Forum, Bram was Director and Head of Canadian Mining and Metals at Standard Chartered Bank; A partner at the Toronto office of Gryphon Partners; Held roles in M&A and corporate finance at National Bank Financial, CIBC World Markets and IBM. Bram earned an MBA from York University’s Schulich School of Business and a Bachelors in Economics from McGill University.
PAUL GALINDO | PRESIDENT | GO GREEN CONSULTANTS, LLC

As the President of Go Green Consultants LLC., Paul E. Galindo has become one of California's most sought after renewable energy consultants. His insights into the renewable energy industry, workforce development and the new "green economy" are shared and respected as editor of the Online Broadcasting System (OBS) news green section. Mr. Galindo has earned National recognition, such as Young Californian of the Year Award for 2006 and the National Hispanic Heritage Award through PBS. As Go Greens Senior consultant, Paul has worked with leading renewable energy companies n expanding their businesses within local, state and federal procurement opportunities. His collaboration with solar module manufacturers provides him with the edge needed to keep abreast of the developing solar markets, and allows him to find solutions that best leverage all opportunities for clients.

CRUZ BUSTAMANTE | BOARD CHAIRMAN | GO GREEN CONSULTANTS, LLC

Cruz Bustamante has a 30-year public servant with a distinguished career in the State of California. As a public servant he has served as California’s Lt. Governor and Speaker of the California Assembly. In addition, Cruz excelled in his position as Co-chair with the "California’s Building for the 21st Century Commission". Throughout his career in public service Mr. Bustamante has championed environmental causes. His efforts within the Environmental Industry have been recognized through his appointment as "The Most Environmentally Friendly Elected Official" by the California Coastal Commission in the state’s history. In addition, he was honored as a "Coastal Hero" by Coastkeepers and Robert Kennedy Jr. His commitment to the environment has increased with the founding of Go Green Consultants Underwriting committees.

MATTHEW EDWARD RAHN, PHD, MS, JD | CONSULTANT

Dr. Rahn has over two decades of experience in applied sciences and policy, with an emphasis on environmental science, renewable energy, and public policy. He has considerable experience in developing and implementing large-scale planning and development efforts in the private, public, and academic sectors. As a researcher and educator, Dr. Rahn has led a diverse cross-section of programs and projects related to renewable energy development, water quality and watershed management, air quality, waste and hazardous pollutants, endangered species, and ecosystem management, and wildfire science. He has designed and implemented nationally recognized large-scale research projects with a strong foundation in science, policy, economics, and statistics. Dr. Rahn is currently serving as a City Council Member and is the past Mayor for the City of Temecula (2018).

ELIAS CORTEZ | CHIEF INFORMATION OFFICER

Eli, a key member of the Governor’s Cabinet, served as CIO for the State of CA and Cabinet Secretary over Information Technology, where he directed the highly successful State Y2k project and reduced state tech project failures to zero. He directed an IT budget of $2.2B and over 5,000 tech professionals and support staff. He worked close to the governor and legislative leaders to aggressively advance the use of technology to improve government services, known as E-Government. For his efforts, he received a commendation by the state senate for his extensive experience in both the private and public sectors. Eli currently serves as President / CIO of CIOpro, an advanced technology consulting business, and has more than thirty years of IT experience. He’s also the past treasurer of SHPE-LA, a non-profit organization that supports and invests in the future Hispanic Engineers in the USA.
ORGANIC ENERGY SOLUTIONS TEAM

GARY LEE | TECHNICAL CONSULTANT
Mr. Lee has more than 48 years of engineering experience with sustainable infrastructure projects including landfill design and remediation, municipal, agricultural, and industrial wastes. He has specific experience in zero waste facilities producing renewable attributes inclusive of energy, fertilizers, minerals, and other products. He has in-depth experience in the design and execution of public awareness and participation programs including the development of multi-participant alliance coalitions that are often critical to the success and acceptance of statewide projects. Liaison experience in developing financial strategies to facilitate funding relationships between local and state/federal programs. He is knowledgeable in both private and public financing alternatives including taxable and tax-exempt bonding, leasing, and privatization/public private partnerships.

MICHAEL BROWN P.E. | TECHNICAL AND FINANCIAL CONSULTANT
Mr. Brown has more than 35 years of engineering experience with climate change, energy efficiency, and renewable energy projects including wind, solar, biomass, landfill gas, municipal, agricultural, and industrial wastes as well as traditional fossil fuels. He has extensive experience with developing new business in the waste processing and renewable energy fields. His current and recent clients include more than thirty public sector waste water agencies in the US and Mexico focusing on procurement of new biosolids management technologies, renewable energy and energy efficiency. He has been involved with raising over $3 billion in capital for energy and environmental projects. Mr. Brown is a licensed mechanical engineer and holds a Bachelor’s Degree in Environmental Engineering and a Master’s Degree in Business Administration.

SERGIO PEREZ | CO-MANAGER | ORGANIC ENERGY SOLUTIONS
As the President of OES, Mr. Perez provides the vision and direction for OES. He is directly responsible for all technical, financial, environmental, and business activities of the company. Mr. Perez has more than 25 years of experience with food waste recovery and processing in American South West, Mexico and Central America. He has long standing relationships with virtually all the food industries in these markets. Mr. Perez began his career in this field in 1990 as a sales representative for Advantage Foods, a company specializing in marketing virgin foods ingredients and food waste recovery. Mr. Perez began the Company’s efforts in bio digestion in 2005 where he developed a proprietary process to blend food waste materials with organic constituents of the food industry wastewater to create a high strength bio slurry for co-digestion with biosolids at publicly owned wastewater treatment plants.

L. SCOTT ROGERS P.E. | PRINCIPAL
Mr. Rogers has over 30 years experience as a civil engineer, primarily in water and wastewater treatment. Mr Rogers has been involved in the analysis, design, upgrade or operations for over 160 treatment facilities. He is known for his ability to improve and upgrade water and wastewater systems for minimal cost. His expertise is in operations consulting, water reuse, instrumentation design, pumping systems and biosolids reuse and disposal. He was the project engineer for the first MBR facility in Utah, which won the ACEG Grand Award for Water and Wastewater. Scott is also project manager for the Wasatch Resource Recovery project and has extensive experience in the design of anaerobic digesters including Foodwaste digesters. He is the principal of Aqua Engineering Group. He received his B.S. and M.E. in Civil Engineering from Brigham Young University.
STAFF REPORT

Date: October 1, 2019
To: Honorable Mayor/Chair and City Council/Agency Members
From: Jose E. Pulido, City Manager/Executive Director
By: Office of the City Attorney
Subject: Approve First Reading of Ordinance No. 702 Amending Sections 2.04.070, 2.12.030, and 2.20.010 of the Cudahy Municipal Code Relating to the Authority of the City Manager to Appoint the City Clerk for the City of Cudahy

RECOMMENDATION

The City Council is requested to approve first reading of Ordinance No. 702 amending Sections 2.04.070, 2.12.030, and 2.20.010 of the Cudahy Municipal Code relating to the authority of the City Manager to appoint the City Clerk for the City of Cudahy.

BACKGROUND

1. On April 4, 1988, the City Council adopted Ordinance No. 381, designating certain powers and duties of the City Manager. Under that ordinance, the City Manager was empowered to appoint all employees of the City, except the City Attorney, City Clerk and City Treasurer, and to supervise, order and give directions to all heads of departments, subordinate officers and employees of the City, except the City Attorney, City Clerk and City Treasurer.

2. On July 13, 1993, the City Council adopted Ordinance No. 476, establishing the duties and compensation of the City Clerk.

3. On November 7, 2000, the City Council adopted Ordinance No. 565, establishing certain powers and duties of the City Manager, including the City Manager’s authority over all heads of departments and employees of the City under his jurisdiction, with the exception of the City Attorney, City Clerk, and City Treasurer, as well as the City Manager’s authority to effect administrative reorganization of officers under his direction, subject to approval of the City Council.
4. On February 16, 2018, the City received a letter from the California State Auditor explaining it will continue monitoring City progress toward specific activities. One such activity included adopting a strategic plan and policies for its city clerk. (See attachment B)

**ANALYSIS**

Pursuant to Government Code Section 34856, in cities where the office of City Clerk is appointive, the City Council is the appointing authority for the City Clerk unless the City Council enacts an ordinance to delegate the appointing authority to the City Manager.

Currently, subsection (1) of Section 2.04.070 (Appointment Authority) of Chapter 2.04 (City Council) of the Cudahy Municipal Code provides in relevant part:

> The city council shall appoint the city manager, city clerk, city treasurer, and city attorney. In its discretion, the city council may appoint one person to serve as both city manager and city clerk. All other employees of the city shall be appointed by the city manager.

Subsection (2) of Section 2.12.030 (Powers and Duties) of Chapter 2.12 (City Manager) of the Cudahy Municipal Code further provides:

> Authority Over Employees. It shall be the duty of the city manager, and he shall have the authority to control, order, and give directions to all heads of departments and to subordinate officers and employees of the city under his jurisdiction with the exception of the city clerk, treasurer and city attorney who are directly appointed and directed by the city council.

As there is currently no City ordinance delegating the appointing authority to the City Manager, the City Council would be the appointing authority for the appointment of any future City Clerk. Thus, in order to authorize the City Manager as the appointing authority for the City Clerk position, the City Council must enact an ordinance delegating the appointive authority to the City Manager (see Attachment “A”). Such ordinance would be consistent with Government Code Section 34856, which states that “[w]hen the offices of city clerk and city treasurer are made appointive, appointments to such offices shall be made by the city council unless the city council vests such appointing power in the city manager by ordinance.” This change would also be consistent with the California State Auditors’ request to formalize a strategic plan and policies for the City Clerk’s office. The City Clerk position would be accountable to all City policies, procedures, and normal hiring processes that all other City officials go through, rather than having a special set of policies due to being an independent branch from the City Manager and City staff.
CONCLUSION

Based on the foregoing, staff recommends that the City Council approve first reading of Ordinance No. 702 amending Sections 2.04.070, 2.12.030, and 2.20.010 of the Cudahy Municipal Code relating to the authority of the City Manager to appoint the City Clerk for the City of Cudahy.

FINANCIAL IMPACT

There are no financial impacts anticipated by this requested action.

ATTACHMENT

A. Ordinance No. 702
B. Letter from the California State Auditor
ORDINANCE NO. 702


WHEREAS, the City of Cudahy (“City”) is a general law city under Government Code Section 34102; and

WHEREAS, pursuant to Government Code Section 34856, in cities where the office of City Clerk is appointive, the City Council is the appointing authority for the City Clerk unless the City Council enacts an ordinance to delegate the appointing authority to the City Manager; and

WHEREAS, City Council now desires to enact an ordinance authorizing the City Manager to appoint the City Clerk.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CUDAHY, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

Section 1. The recitals stated above are true and correct and incorporated herein.

Section 2. Notwithstanding any prior ordinance of the City, and through the authority of Government Code 34586, subsection (1) of Section 2.04.070 (Appointment Authority) of Chapter 2.04 (City Council) of the Cudahy Municipal Code is hereby amended to read as follows:

(1) The city council shall appoint the city manager, city treasurer, and city attorney. All other employees of the city shall be appointed by the city manager.

Section 3. Notwithstanding any prior ordinance of the City, subsection (2) of Section 2.12.030 (Powers and Duties) of Chapter 2.12 (City Manager) of the Cudahy Municipal Code is hereby amended to read as follows:

(2) Authority Over Employees. It shall be the duty of the city manager, and he shall have the authority to control, order, and give directions to all heads of departments and to subordinate officers and employees of the city under his jurisdiction with the exception of the city treasurer and city attorney who are directly appointed and directed by the city council.

Section 4. Notwithstanding any prior ordinance of the City, subsection (1) of Section 2.20.010 (Powers and Duties) of Chapter 2.20 (City Clerk) of the Cudahy Municipal Code is hereby amended to read as follows:
(1) Duties. The city clerk shall serve at the pleasure of the city manager and shall perform the duties provided by law and as shall be fixed by order of the city council from time to time, as well as those duties required by the city manager.

Section 5. Severability. Should any section, clause, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity of any other portion of this Ordinance and, to that end, the provisions of this Ordinance are severable.

Section 6. Inconsistency. Any provision of the Cudahy Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to implement the provisions of this Ordinance.

Section 7. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption pursuant to Government Code Section 36937.

Section 8. Certification and Publication. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause it to be posted according to law.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Cudahy on this ___ day of ___________ 2019.

__________________________
Jose R. Gonzalez
Mayor

ATTEST:

__________________________
Richard Iglesias
Assistant City Clerk
I, Richard Iglesias, Assistant City Clerk of the City of Cudahy, hereby certify that the foregoing Ordinance No. 702 was introduced for a first reading on the 1st day of October, 2019 and approved for a second reading and adopted by said Council at its regular meeting held on the ___ day of __________, 2019 by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____________________________________
Richard Iglesias
Assistant City Clerk
February 16, 2018

Chris Garcia, Mayor
City of Cudahy
5220 Santa Ana Street
Cudahy, California 90201

Dear Mayor Garcia:

Government Code section 8546.10 authorizes the California State Auditor to establish a high-risk local government agency audit program (local high risk program) to identify local government agencies—including but not limited to, counties, cities, and special districts—that are at high risk for the potential of waste, fraud, abuse, and mismanagement, or that have major challenges associated with their economy, efficiency, or effectiveness.

On November 22, 2017, my office informed the city of Cudahy (city) that it exhibited certain risk factors—in particular general fund imbalances, weak internal controls over financial and administrative procedures, and a past incident of corruption—that would warrant an initial assessment under our local high risk program. The purpose of the initial assessment was to better understand these risk factors and to identify the city’s current and planned response. My staff has interviewed city officials, reviewed available documentation, and has completed the initial assessment.

As a result of our initial assessment, we have concluded that the city is taking reasonable steps to address the risk factors previously described, and as a result, we will not be seeking approval from the Joint Legislative Audit Committee (Audit Committee) to perform an audit. We will continue to monitor the city’s progress, and that monitoring will include the following activities:

- Reviewing the city’s fiscal year 2016-17 audited financial statements, unaudited statements for fiscal year 2017-18 when available, and other fiscal documents, to determine whether the city’s general fund shows signs of sustained recovery.
- Determining whether the city adopted a strategic plan and policies for its city clerk.
- Determining whether the city has strategies for addressing its pension obligations.

Depending on the conclusions we draw from monitoring the city’s progress, we may consider performing additional work, including conducting future assessments and seeking approval from the Audit Committee to perform an audit, if necessary. Should we plan to perform additional work, we will notify you at that time.

We greatly appreciate your city officials’ cooperation during the initial assessment. If you have any questions, please feel free to contact John Lewis, Audit Principal, at (916) 445-0255.

Sincerely,

Elaine M. Howle

ELAINE M. HOWLE, CPA
California State Auditor

cc: Jose Pulido, City Manager